

# **Fostering Procedures, Policies and Practice Guide**

**December 2010**

**Commencement:**

**These policies and procedures will come into force on January 1<sup>st</sup> 2011.**

**Review:**

**To be reviewed on an annual basis**

**Training Implications:**

**All relevant staff in the Adoption and Fostering Team and Children and Families Services will require to be trained in relation to these policies and procedures prior to them being implemented**

---



---

## Contents

|  |            |
|--|------------|
| <b>Introduction</b>  | Page 6-7   |
| <b>Section A</b>   | Page 8-10  |
| <b>Planning and Managing the Service</b>   |            |
| A1 Purpose   |            |
| A2 Relevant legislation, regulations and care standards                                |            |
| A3 Key policy and practice issues  |            |
| A4 Procedures  |            |
| A4.1 Annual information gathering and review   |            |
| A4.2 Disseminating information and reports   |            |
| A4.3 Professional and managerial issues for service provision                          |            |
| <b>Section B</b>   | Page 11-12 |
| <b>Professional Competence and Management of the Foster Care Service</b>               |            |
| B1 Purpose   |            |
| B2 Relevant legislation, regulations and care standards                                |            |
| B3 Key policy and practice issues  |            |
| B4 Procedures  |            |
| B4.1 Appointment of staff  |            |
| B4.2 Delivering the service  |            |
| <b>Section C</b>   | Page 13-14 |
| <b>Making Placements – Linking and Matching</b>  |            |
| C1 Purpose   |            |
| C2 Relevant legislation, regulations and care standards                                |            |
| C3 Key policy and practice issues  |            |
| C4 Procedures  |            |
| <b>Section D</b>   | Page 15-16 |
| <b>Arrangements with Voluntary, Not-for-Profit Organisations</b>                       |            |
| D1 Purpose   |            |
| D2 Relevant legislation, regulations and care standards                                |            |
| D3 Key policy and practice issues  |            |
| D4 Procedures  |            |
| <b>Section E</b>   | Page 17-19 |
| <b>Reporting Significant Incidents, including the Death of a Child or Young Person</b> |            |
| E1 Purpose   |            |
| E2 Relevant legislation, regulations and care standards                                |            |
| E3 Key policy and practice issues  |            |
| E4 Procedures  |            |
| E4.1 Notification of occurrences   |            |
| E4.2 Notification of a death   |            |
| E4.3 Media   |            |
| E4.4 Support to Carers and others  |            |

**Section F**

Page 20-23

**Foster Carer Recruitment and Initial Information**

- F1 Purpose
- F2 Relevant legislation, regulations and care standards
- F3 Key policy and practice issues
- F4 Procedures
  - F4.1 Ongoing public information
  - F4.2 Publicity campaigns
  - F4.3 Responding to enquiries
  - F4.4 Monitoring
  - F4.5 Preparation of staff
  - F4.6 Information
  - F4.7 Criteria for applicants
- F5 Useful resources

**Section G**

Page 24-27

**Preparation and Assessment of Foster Carers**

- G1 Purpose
- G2 Relevant legislation, regulations and care standards
- G3 Key policy and practice issues
- G4 Procedures
  - G4.1 Stage 1: Initial checks
  - G4.2 Stage 2: Preparation
  - G4.3 Stage 3: Full assessment
- G5 Useful resources

**Section H**

Page 28-33

**The Fostering Panel, Approval and Non-Approval**

- H1 Purpose
- H2 Relevant legislation, regulations and care standards
- H3 Key policy and practice issues
- H4 Procedures
  - H4.1 Statutory and other functions of the panel
  - H4.2 Establishment of the fostering panel
  - H4.3 Business meetings
  - H4.4 Presentation of foster carer applications to panel
  - H4.5 Decision by Agency Decision Maker, approval or non-approval
  - H4.6 Panel procedures for reviews
  - H4.7 Panel procedures for appeals or reconsiderations

**Section I**

Page 34-36

**Foster Carer and Foster Placement Agreements**

- I1 Purpose
- I2 Relevant legislation, regulations and care standards
- I3 Key policy and practice issues
- I4 Procedures
  - I4.1 Foster Carer Agreement (FCA)
  - I4.2 Foster Placement Agreement (FPA)

**Section J**

Page 37-39

**Payment of Carers**

- J1 Purpose
- J2 Relevant legislation, regulations and care standards
- J3 Key policy and practice issues
- J4 Procedures
  - J4.1 Placement start
  - J4.2 Placement end
  - J4.3 Carer time out
  - J4.4 Birthday, holiday and Christmas allowance payments

**Section K**

Page 39-41

**Training and Support for Carers after Post Approval**

- K1 Purpose
- K2 Relevant legislation, regulations and care standards
- K3 Key policy and practice issues
- K4 Procedures
  - K4.1 Agreements and general matters
  - K4.2 Training
  - K4.3 Support

**Section L**

Page 42-44

**Record Keeping about Foster Carers**

- L1 Purpose
- L2 Relevant legislation, regulations and care standards
- L3 Key policy and practice issues
- L4 Procedures
  - L4.1 Establishment and maintenance of records
  - L4.2 Access to records

**Section M**

Page 45-47

**Review of Carers' Approval**

- M1 Purpose
- M2 Relevant legislation, regulations and care standards
- M3 Key policy and practice issues
- M4 Procedures
  - M4.1 Information and preparation for reviews
  - M4.2 Reviews
  - M4.3 After reviews
  - M4.4 Rights of appeals

**Section N**

Page 48-50

**Termination of Approval – De-registration of Carers**

- N1 Purpose
- N2 Relevant legislation, regulations and care standards
- N3 Key policy and practice issues
- N4 Procedures
  - N4.1 Preparation and panel review
  - N4.2 After panel
  - N4.3 After any termination of approval

---

---

**Section O**

Page 51-54

**Appeals, Reconsiderations, and Representations and Complaints by Carers**

- O1 Purpose
- O2 Relevant legislation, regulations and care standards
- O3 Key policy and practice issues
- O4 Procedures
  - O4.1 General matters
  - O4.2 Complaints and representations
  - O4.3 Appeals and reconsiderations
  - O4.4 Appeals procedures

**Section P**

Page 55-57

**Complaints and Allegations Against Carers**

- P1 Purpose
- P2 Relevant legislation, regulations and care standards
- P3 Key policy and practice issues
- P4 Procedures
  - P4.1 Child protection complaints or allegations
  - P4.2 Other complaints or allegations

# Introduction

## Background to the provision of the Fostering service

All Local Authorities are required to provide accommodation for children and young people who they are looking after and who are not able to live with their birth parents for whatever reasons, whether for short or long periods of time. This is provided for in s.26 of the **Children (Scotland) Act 1995**. One of the ways in which accommodation may be provided is foster care, s.26(1)(a)(iii).

This is the public fostering service which is mentioned in s.2 (14) (a) and (15) of the **Regulation of Care (Scotland) Act 2001**. All fostering services have to be registered with, and inspected by the Care Commission under the 2001 Act. Registration for public fostering services operated by local authorities is under Part 2 of the 2001 Act. It is important to distinguish between the public fostering service and the Council's duties under private fostering legislation, the Foster Children (Scotland) Act 1984 and the Foster Children (Private Fostering (Scotland) Regulations 1985). **These Procedures do not cover private fostering.**

The 1995 and 2001 Acts are very important for the legal background to the service, but there are other Acts and regulations which are important too, along with Guidance and National Care Standards. Section A lists most of these provisions and each section of the procedures has a note of what is particularly relevant for its subject. Councils should be aware of the recent, forthcoming and ongoing changes to fostering services arising from the:

- Implementation in April 2007 of the **Equality Act (Sexual Orientation) Regulations 2007, (S.I. 2007/1263) made under the Equality Act 2006;**
- **Adoption and Children (Scotland) Act 2007** and the regulations etc to be made under it;
- **National Fostering and Kinship Care Strategy;** and
- **Protection of Vulnerable Groups (Scotland) Act 2007**, which will largely replace the Protection of Children (Scotland) Act 2003 (POCSA) when it comes into force.
- **Looked After Children (Scotland) Regulations 2009.**
- **Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.**
- **Adoption Agencies (Scotland) Regulations 2009**

## Philosophy and values

All Councils, when taking on the role of parent whatever the legislative basis for placements, must provide a safe environment, one which helps children and young people have their educational, emotional and developmental needs met and which takes account of their traumatic/damaging life experiences and missed opportunities. There must be opportunities for children and young people to maintain appropriate contact with their birth families, provided it is in their interests, in terms of s.17(1)(c) of the 1995 Act. In placing a child or young person, the Council must take account of religious, cultural and ethnic factors in children and young people's backgrounds, in terms of s.17(4)(c) of the 1995 Act. And the views of children and young people, and of their families, must be taken account of in terms of s.17 (3) and (4) of the 1995 Act.

In recruiting, assessing, supporting, monitoring and training foster carers to undertake this role, Councils must be mindful of the need for safety and to keep children and young people safe from harm and abuse.

## The Particular Needs of Children being looked after and accommodated

Children and young people placed in foster care have a lot of specific and individual needs. All will experience loss, trauma, disruption and dislocation of, and from, everything that is familiar.

This will be so, even if there are aspects of their home circumstances which have been very detrimental and traumatic.

Some will have had experience of physical, emotional and sexual abuse and neglect. They will have experienced a combination of trauma and inconsistency in the provision of positive experiences. These experiences will often be seen in their behaviours.

It is important that foster carers understand the very special tasks that are involved in caring for a child with these experiences.

**Acknowledgement:** Comhairle Nan Eilean Siar would wish to acknowledge that these procedures are based on the work of BAAF and the West of Scotland Consortium, and would also thank South Lanarkshire Council for making their draft procedures available for use by the Comhairle as part of the twinning arrangement agreed through SWIA..

# Section A

## Planning and Managing the Service

### A1 Purpose

- To ensure that the Fostering Service of the Comhairle fulfils all the requirements of legislation, regulation and standards in relation to foster care;
- To establish, monitor and review the Comhairle's philosophy, policy, and strategy in relation to the recruitment, preparation, assessment, and approval of foster carers;
- To establish plans to develop and maintain sufficient high quality family based placements for children and young people looked after and accommodated by the Comhairle;
- To plan and monitor how the Comhairle carries out its role and responsibilities for family based care for children accommodated and looked after by them.

### A2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 19, 20, 25, 26, 31 and 86 to 89.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Information legislation:
  - Data Protection Act 1998;
  - Freedom of Information (Scotland) Act 2002 (only applies to public authorities and their services).
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standard 13.
- Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, S.S.I. 2002/114, particularly regs. 9 and 13.
- Regulation of Care (Requirements as to Care Services) (Scotland) Amendment Regulations 2004, S.S.I. 2004/94.
- Scottish Social Service Council: Code of Practice for Social Service Workers **and** Code of Practice for Employers of Social Service Workers, both 2005. These are available on the SSSC's website: [www.sssc.uk.com](http://www.sssc.uk.com)

### A3 **Key policy and practice issues**

The list detailed below represents some of the key issues in the management of the service:

- Implementing corporate parenting and other responsibilities for looked after and accommodated children and young people.
- Monitoring provision and outcomes for children and young people accommodated by the Comhairle in family based care.
- Monitoring provision and outcomes for foster carers.
- Obtaining and incorporating the views of service users.
- Ensuring the professional competence and management of the service – (see Section B).

### A4 **Procedures**

#### A4.1 **Annual information gathering and review**

The Comhairle will, on an annual basis, review the information it holds and provides about the fostering service. This is a requirement for the Comhairle's Fostering Registration with the Care Commission, the Comhairle will continue to collect and collate its figures in a format that will meet this need, as well as for informing the development and strategic planning of the fostering service. The responsibility for this is vested in the Adoption and Fostering manager.

Areas to be included in information gathering will be:

- Profile of children and young people currently in foster care;
- Number and detail of number of requests for foster care during the year;
- Number of children and young people in foster care needing long term fostering placements, permanency or adoption;
- New carers recruited and approved;
- Foster carers leaving the service;
- Number of children and young people waiting to be accommodated;
- Number and details of children and young people inappropriately placed;
- Number of families approved and awaiting placements - including details of type of resource and matching criteria;
- Number of children and young people returned home, placed for adoption or moved to other care settings;
- Review of Foster Carer training and support;
- Outline of the recruitment strategy for the year;
- Interpretive reports from Adoption Panel, Fostering Panel, Family, Adoption and Fostering Team, and Children and Families Team;
- External reports and statistics from for example the Scottish Government, including information on the whole of Scotland;
- Update on Comhairle activity in relation to any key documents or legislation affecting the foster care service;
- Input from service users and from staff;
- Review of staffing and management, and any issues arising during the year.

The purpose of this annual process is to review the operation of the Comhairle's fostering service over the preceding year and conclude:

- Whether the service has met the fostering needs of children and young people in the Western Isles;
- Whether there is a shortfall in the availability of family based placements for children and young people looked after and accommodated:
- The nature and extent of such shortfall;
- Whether the authority has carers who are not being used;

- Whether the material publicly available and produced by the Comhairle needs to be altered or updated;
- The nature of recruitment needed in the coming year and any financial and staffing considerations;
- Whether there are concerns about the quality of service that needs to be addressed, or new developments in practice that should be incorporated, and if so, how?

#### A4.2 **Disseminating information and reports**

The information gathered under A4.1 above will be made available to the Director of Education and Children's Services and :

- Head of Children's Services
- Children and Families Service Manager;
- Adoption and Fostering Manager;
- Children and Families Team Leaders;
- Legal Services;
- Elected members;
- Chair of Fostering/ Adoption/Permanence Panel;
- Children's Panel Advisory Committee and Area Panel Chair.

In addition, a summary report on the conclusions of this process will go to the Education and Children's Services Committee, and be circulated to relevant staff, panel members etc.

The annual report will cover the period from 1<sup>st</sup> April to 31<sup>st</sup> March each year, and will usually report to the June Committee cycle.

#### A4.3 **Professional and managerial issues for service provision**

These are dealt with in Section B.

## Section B

# Professional Competence and Management of the Foster Care Service

### B1 Purpose

- To provide an appropriately trained, supported and qualified foster care service to meet the needs of children and young people looked after.
- To ensure that recruitment and appointment processes for staff are robust and thorough, including appropriate checks.
- To ensure that staff are appropriately trained and supported.
- To ensure that the service is appropriately managed and monitored.
- To ensure that service development is based on sound information and practice knowledge.
- To fulfil the Comhairle's statutory obligations.

### B2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26, 31 and 53.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- Protection of Children (Scotland) Act 2003.
- Protection of Vulnerable Groups (Scotland) Act 2007
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standard 13.
- Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, S.S.I. 2002/114, particularly regs. 9 and 13.
- Regulation of Care (Requirements as to Care Services) (Scotland) Amendment Regulations 2004, S.S.I. 2004/94.
- Scottish Social Service Council: Code of Practice for Social Service Workers **and** Code of Practice for Employers of Social Service Workers, both 2005. These are available on the SSSC's website: [www.sssc.uk.com](http://www.sssc.uk.com)

### **B3 Key policy and practice issues**

- To ensure that the Human Resources policies and procedures incorporate the requirements of child protection and child care legislation and procedures.
- To ensure that staff development for staff in post have supervision and appraisal systems in place and that these are monitored.
- To ensure that lines of accountability are clear.
- To ensure that legal advice is available to staff in relation to child care issues.
- To ensure that there are review systems for the service which include feedback from, and the involvement of, all involved in the service.
- To ensure that there is clarity on the financial issues in relation to service delivery.
- To ensure that recording systems are clear and checked.
- To ensure that the professional and support systems are adequate for service aspirations
- To ensure that the management and delivery of the service is underpinned by legislation, guidance and Standards about the quality of planning, knowledge and competence to be provided in work with, and for, children and young people; in the assessment and approval of carers; by the Fostering Panel; and in the handling of all representations, complaints and reconsiderations.

### **B4 Procedures**

#### **B4.1 Appointment of staff**

- The professional requirements of the service will be combined with robust Human Resources procedures.
- Advertising, interviewing, references, and appropriate checks will be robustly and professionally managed.
- Appointees will have appropriate experience and capacity to undertake the range of tasks involved in delivering the Comhairle's fostering service.

#### **B4.2 Delivering the service**

- Staff appointed to the family placement service will be given training opportunities to keep them up-to-date with theory, practice and legislation.
- Staff will have annual appraisals which will include an assessment of their training and development needs.
- There will be recognition that the training needs of staff delivering the fostering service are diverse. There will be some training that can be done jointly with carers; other opportunities which will involve working with colleagues in other disciplines and with colleagues who are placing children in foster care.

## Section C

### Making Placements – Linking and Matching

#### C1 Purpose

- To ensure that the Comhairle makes the most appropriate placements for all children and young people who require them.

#### C2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 19, 20, 25, 26, 31 and 86 to 89.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 1 to 4.

#### C3 Key policy and practice issues

- Balancing the need for crisis placements and planned placements and appropriate use of resources.
- Questions of how many placements are appropriate for a carer.
- Dilemmas about "asking carers to exceed approval categories".
- Learning from disruptions.
- Having good and appropriate information at the time of each placement, or as soon as possible.
- Effecting good Foster Placement Agreements (FPA) for each child and young person through the use of Day to Day Placement Agreements, Essential Core Record and Placement Agreements and when necessary risk assessments.
- Achieving placements of sibling's together, assessing suitability of placing together and recognising that once separated, it can become difficult to re-unite.
- Having appropriate information to assess whether it is possible to place when there is another child already in the foster home.

## **C4 Procedures (see also Section I)**

All requests for a planned fostering resource should be made in the first instance to the Fostering Manager. Where it has not been possible to plan a placement, the Fostering Manager or link support worker for the placement should be invited to the first review.

There is a need to gather good information about any child being referred for foster care. Individual children's Social Workers will be responsible for ensuring that all the necessary information about the child or young person is gathered, noted and incorporated into her/his Foster Placement Agreement (FPA). (See section I for detailed information) This will include:

- Circumstances of the need for accommodation;
- Siblings;
- School;
- Ethnicity;
- Diet;
- Special physical needs;
- Religious and cultural needs;
- Medical needs;
- Views of the child;
- Views of the parents and any other family carers;
- Reasons why they should not be placed with other children;
- Any particular behavioural issues;
- Any pets;
- Any circumstances about the child's family that may affect a match?

Where it is possible to plan a placement, there should be introductions at the start of the process and the Foster Placement Agreement, will be drawn up before the child or young person moves. The Essential Core Record and Placement Agreement and Day to Day Placement Arrangement documentation which form the FPA will be completed.

Where a child or young person has to be placed on an emergency basis, the Comhairle will expect foster carers to fulfil their duties and responsibilities to the child or young person and to the Comhairle as outlined in their Foster Carer Agreement.

The child's social worker and the link worker will work together to gather the information necessary for the Essential Core Record and Placement Agreement and Day to Day Placement Arrangements, within 72 hours. There should also be a review within this period.

However, any immediate necessary information about the child or young person, such as diet and health needs, **must** be given to the carers at the time of placement, even if only verbally.

The Team Leader Children and Families will be responsible for ensuring all placements have a Foster Placement Agreement.

More detail and information about Foster Placement Agreements etc. is given in Section I.

## Section D

# Arrangements with Voluntary, Not-for-Profit Organisations

### D1 Purpose

- To ensure that the Comhairle meets the needs of the children and young people they are looking after.
- To ensure that when making arrangements to place children and young people with voluntary, not-for-profit organisations, the Comhairle fulfils its statutory responsibilities.
- To ensure that the Comhairle has appropriate arrangements to manage placements with non-Comhairle foster carers.

### D2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26, 31 and 93(1) for definition of 'voluntary'.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Regulation of Care (Scotland) Act 2001, particularly s.7 (6).
- National Care Standards – Foster Care and Family Placement Services, revised March 2005.

### D3 Key policy and practice issues

- To be clear about the nature of the agreements and arrangements made and that any contract/agreement is for an individual placement.
- To be clear that the Comhairle remains responsible for all looked after children and young people and their welfare, and for all the arrangements for them including Foster Placement Agreements, notifications, records, education and issues around medical consent.
- To have a clear system for establishing the capacity of the organisation to provide appropriate care for children and young people. ( eg Business Planning Process, Self Evaluation)

### D4 Procedures

- The Comhairle will, when necessary, consider making an arrangement for a child or young person to be fostered by a voluntary, not-for-profit organisation.
- Referrals for a place out with the Comhairle's own resources with a voluntary organisation will be discussed at the Mainland Placement Panel which has the authority to authorise exploration of the resources and agree funding.
- The Comhairle remains responsible for all looked after children and young people placed with voluntary organisations, including for:

- their welfare;
  - the Foster Placement Agreements;
  - case management of placements;
  - notification of placements;
  - record keeping for the children and young people; and
  - any other matters such as arrangements for education and medical consent issues.
- The manager of the fostering service will maintain a record of all placements made with voluntary organisations.
  - The Team Leader Children and Families will be responsible for organising the Foster Placement Agreements for all placements with voluntary organisations.
  - Social Workers will continue to hold responsibility for the children and young people placed with voluntary organisations.
  - In particular, they will be responsible for visiting and supporting the children and young people as they would be for those placed with Comhairle foster carers.
  - Looked After Children's Reviews are the responsibility of the Comhairle
  - Managers and supervising social workers of the relevant voluntary organisations will be invited to these reviews.
  - In terms of reg.48/49 of the Looked After Children (Scotland) Regulations 2009:
    - where possible the child or young person's social worker or senior will visit her/him within 14 days of any request by the voluntary organisation to do so;
    - when possible the child or young person's social worker or line manager will visit as soon as possible and in any case within 3 days if and when any questions are raised about the welfare of the child or young person;
    - the manager of the fostering team will be kept informed of all such visits;
    - a record will be kept, by the social worker for the child, of all concerns raised in terms of reg. 17.
    - arrangements will be reviewed at intervals of no more than 12 months.
    - no fostering service shall be permitted to place a child outside the UK.

## Section E

# Reporting Significant Incidents, including the Death of a Child or Young Person

### E1 Purpose

- To ensure the welfare and protection of children and young people for whom the Comhairle has responsibility.
- To ensure the Comhairle carries out the responsibilities placed on it in looking after children and young people.
- To fulfil the Comhairle's statutory responsibilities.
- To ensure that the death of any looked after child or young person is notified by the Comhairle to Social Work Inspection Agency (SWIA), for the Scottish Ministers, and is fully investigated and a report presented to the Scottish Ministers.
- To ensure that the death of any looked after child or young person is notified by the Comhairle to the Care Commission.

### E2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25 and 26.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly the underlying principles.
- Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, S.S.I. 2002/114, particularly reg.21. (2002 Regs)
- Regulation of Care (Requirements as to Care Services) (Scotland) Amendment Regulations 2004, S.S.I. 2004/94.

### E3 Key policy and practice issues

- Clear processes for reporting specific significant incidents in relation to looked after children and young people:
  - absences by a child or young person;
  - serious injury or illness of a child or young person when that is likely to be fatal or lead to serious disability;
  - the death of a child or young person.
- Clear policy and guidelines;
- Clarity of responsibilities and systems;
- Clarity about support to those affected and involved.

### E4 Procedures

#### E4.1 Notification of occurrences

- When a child or young person is looked after and placed away from home, including in foster care, there are events which must be notified by carers to the Comhairle and by the Comhairle to parents and anyone else with parental responsibilities.
- The events are:
  - absences by the child or young person from the foster placement;
  - serious injury or illness to the child or young person when that is likely to be fatal or lead to serious disability;
  - the death of the child or young person.
- If the event is the death of the child or young person, the procedures in E4.2 must be followed.
- If the event is another one in the list, and the child or young person is in foster care, the foster carer (whether a Comhairle or a voluntary organisation carer) must notify as soon as possible, her/his link social worker, the child's social worker or the Out of Hours Service where appropriate.
- The worker who first receives the information should contact the child's social worker/duty social worker
- The Children and Families Team Leader will co-ordinate other necessary immediate action as appropriate.
- The parents and anyone else with parental responsibilities will be notified by the Team Leader of the event, so far as is reasonably practicable.

#### E4.2 Notification of a death

- If **any** looked after child or young person dies (whether s/he was living at home or was placed) the Comhairle must notify the Scottish Ministers (formerly the Secretary of State). This is done by advising SWIA, whose contact details are:

Social Work Inspection Agency

Ladywell House

Ladywell Road

Edinburgh, EH12 7TB.

Pone: 0131-244 4735

Fax: 0131-244 5496

Website: [www.swia.gov.uk](http://www.swia.gov.uk)

- The Care Commission must also be given notice of the death and its circumstances 'without delay', as required in reg.21 (1) of the 2002 Regs.
- If the child or young person was in foster care, the foster carer (whether a Council or a voluntary organisation carer) must notify as soon as possible her/his link social worker, the child's social worker or the Out of Hours Service.
- The worker who first receives the information will, at once, contact:
  - his/her senior/supervisor and the child's social worker;
- The Team Leader or Children's Services Manager will, as soon as possible, inform the Head of Children's Services; Director of Education and Children's Services and the Chief Social Work Officer and co-ordinate other necessary immediate action.
- This action will include:
  - notifying the parents and others with parental responsibilities;
  - notifying SWIA immediately, which must be within 1 working day. This should be done by for example or fax or e-mail and confirmed in writing;
  - notifying the Care Commission 'without delay';
  - deciding whether the Comhairle needs to be involved in funeral arrangements/expenses, including finding out when funeral arrangements can be made, for example following a post-mortem.
- The Head of Children's Services should send a written report to SWIA (or elsewhere as directed by them) within 28 days.

#### E4.3 **Media**

No staff should make comments to the media about any of the events listed, and in particular about the death of a child or young person. All enquiries should be referred to the Head of Children's Services

#### E4.4 **Support to carers and others**

- When there has been a death of a child or young person, it will have an impact on the carers, their family and other children and young people placed with them, whatever the circumstances.
- As soon as possible following a death, the link worker with responsibility for the carers and their family will, ensure that the social workers for other children and young people in placement are informed and that consideration is given to the support needs of all involved.
- When one of the other events has occurred, it may also have an effect on the carers, their family and other children and young people placed with them, particularly if there has been a serious incident leading to injury and/or disability.
- The Fostering Manager with responsibility for the carers and their family must ensure that support as needed is provided to them and to other children and young people placed with them.

## Section F

# Foster Carer Recruitment and Initial Information

### F1 Purpose

- To implement the philosophy, policy and strategies of the Comhairle in the recruitment of foster carers.
- To ensure there is a sufficient pool of approved, well-prepared foster carers to meet the diverse needs of the children and young people who are, or may be, looked after and accommodated by the Comhairle
- To ensure that the pool of foster carers is able to meet the religious, cultural, and ethnic needs of children.
- To ensure that, whenever possible, for children and young people separated from their birth families and who have care plans actively focused to achieve their return home, there should be foster carers to provide accommodation as close as possible to the home localities.
- To ensure that the Comhairle fulfils its responsibilities to the children and young people who require the commitment, consistency and security of long-term or permanent foster carers, by recruiting appropriately to meet their needs.
- To keep the local communities in the Western Isles informed about the needs of children and young people who are looked after and accommodated.

### F2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 44.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - All supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - The above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, including Standards 1.2; 1.3; 5.2 and 12.11.

### F3 **Key policy and practice issues**

- Raising public awareness of the fostering service and the need for carers.
- Developing and maintaining good administrative systems.
- Partnership working between family placement staff and children and families workers.
- Consideration of possible co-operative initiatives with neighbouring authorities.
- Ensuring and developing clear communication skills and effective presentation of the information being given to enquirers.
- Development and maintenance of a clear recruitment strategy.
- Monitoring the effectiveness of the recruitment programme in terms of quantity and quality of response and feedback from those responding.

### F4 **Procedures**

#### F4.1 **Ongoing public information**

There will always be people who enquire or seek information about fostering, unprompted by any specific publicity or initiative by the Comhairle and it will always be important to have up-to-date and appropriate information available. It will be the responsibility of the Fostering Manager to ensure that this material is reviewed and updated at least annually or whenever there has been a significant change in the Comhairle's policy in relation to carers.

All staff should know of the contact point for enquirers.

#### F4.2 **Publicity campaigns**

These will normally be planned well in advance as part of an annual strategy. Such campaigns may be:

- Planned independently by the Comhairle;
- Timed to coincide with wider publicity throughout Scotland or the UK.

Normally, those sections of the Comhairle likely to be affected by these campaigns will have been consulted in their planning and organisation and will therefore be aware of the impact on the service. However, before publicity appears, information should circulate around the Comhairle, briefing staff about what is happening, indicating possible implications and spin offs, how to handle responses from the public and requirements regarding monitoring etc.

Targeted and specific recruitment in fostering is likely to be issue based, for example age, disability, etc, and not focused on particular children. However, it is important for those organising such recruitment to be aware of the policies on profiling children and young people.

#### F4.3 **Responding to enquiries**

Information should be sent out by the Adoption and Fostering Team to any person enquiring within 5 working days. The initial information may include some, or all, of the following:

- Information on the children and young people who need foster care;
- What being a carer will involve;
- Guidance on requirements; Comhairle criteria; accommodation needed; checks which will be undertaken; any previous convictions; and matters which it would be helpful to discuss at an early stage, for example health;
- Allowances and payments;
- How applicants will be prepared;
- A clear statement about the application process and the point at which enquirers will formally apply;

- What to do next – Information on how to respond, and who to contact.

#### F4.4 **Monitoring**

All enquiries should be logged on Care First by the member of the admin team taking the enquiry or the relevant social worker in the Adoption and Fostering Team who has dealt with the enquiry

#### F4.5 **Information**

Information should be held and updated at the contact point for enquirers about the Comhairle services and for translating into other languages or formats. Where enquirers indicate particular communication issues at the outset, these should be immediately passed on to the family placement team for consideration, as they may have implications for handling any subsequent application.

The initial information will include clear information about the next step. A prospective applicant will be invited to attend an initial interview within 4 weeks.

The initial interview with a social worker in the Adoption and Fostering Team will:

- Expand on information already given about the children and young people who need placement;
- Endeavour to establish a link between those needs and the expectations of those who have enquired;
- Be clear about the criteria for application: legal (for example regulations) and any agency criteria that apply (for example bedroom space or a home based carer);
- Explain the next step and the processes – possible preparation group, checks, references, home study and panel;
- Provide an opportunity for questions and any personal issues. If this is a home visit, these may be discussed then.

#### F4.6 **Criteria for applicants**

Almost anyone can apply to be considered as a foster carer. Foster carers can be single, married or in a long-term stable relationship. They can own or rent their homes. They do require to have the space (for example bedroom(s)), and be over 21 years old. Children under 5 years old will not be placed in carers households who smoke.

## F5 **Useful resources**

The following list is a small selection of materials available which will be helpful to those developing and implementing a recruitment campaign and strategy.

- BAAF Good Practice Guide: *Recruiting, assessing and supporting lesbian and gay carers and adopters*, G P Mallon and B Betts, 2005
- BAAF Good Practice Guide: *Recruiting black and minority ethnic adopters and foster carers*, G Rule, 2006
- BAAF Practice Notes: 35 *Working with the Media*, 1998  
41 *Profiling Children*, 2002
- *Code of Practice: Scotland*, The Fostering Network, 2004.
- *Delivering Foster Care*, J. Triseliotis, M Borland and M Hill, BAAF, 2000

Details of materials are available on BAAF and TFN websites: [www.baaf.org.uk](http://www.baaf.org.uk) and [www.fostering.net](http://www.fostering.net)

## Section G

# Preparation and Assessment of Foster Carers

### G1 Purpose

- To ensure that all assessments of departmental carers are carried out in accordance with legislation, regulations, guidance and National Care Standards.
- To provide family-based care options for children and young people who are looked after and accommodated which are safe and meet their health and developmental needs.
- To give prospective carers sufficient opportunity and information to consider the impact on themselves and their family of caring for a vulnerable child or young person.
- To give prospective carers enough information to begin the process of assessment, and to form a basis for providing care for looked after and accommodated children and young people.
- To provide the basis of future training.
- To provide a framework within which the Comhairle can develop and maintain a high quality family-finding service.

### G2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - All supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - The above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 5 and 6.

### G3 Key policy and practice issues

It is expected that workers undertaking preparation and assessment of carers will be familiar with the key elements of adult learning and models of assessment.

There should be clarity regarding the general and detailed information prospective carers need throughout the preparation and assessment process:

- The process that will be followed;
- Carers' relationship with the Comhairle;
- Key elements of theory that will begin to help applicants understand the needs of this group of children and young people.

## G4 Procedures

### G4.1 Stage 1: Enquiry and Initial Interview

Following the enquiry being received an initial interview with a social worker in the Adoption and Fostering Team will be organised within 4 weeks. It is the policy to advise the applicants that certain checks will be undertaken as soon as the assessment begins before inviting applicants to attend the Preparation Group and this should be clearly explained to applicants.

A Preparation Group will be run on an annual basis to coincide with any recruitment campaign. Depending on the cycle, individual applicants can be asked to wait until the next planned preparation group. Nevertheless, assessments can be completed out with the cycle although workers need to be aware of the increased complexity of a single assessment.

### G4.2 Stage 2: Preparation

The purpose of this stage is to ensure that applicants/prospective foster carers have sufficient information to make a decision about whether to make an application and move forward to assessment, or not. This includes:

- In-depth work about why and how children and young people enter the care system.
- The implications of this for carers' families.
- How applicants' capacity to understand this and offer care will be assessed.
- The Comhairle's expectations of carers in relation to: discipline; provision of care that meets defined standards; safe caring; openness and honesty in talking with children and young people about their circumstances; capacity to work with birth parents; and capacity to work with a range of professionals and systems.
- How the Comhairle will deal with issues arising from checks, references, medicals.
- Details of what is involved following the completion of an application.

#### **And prospective applicants need to know that**

The Comhairle will have to establish whether there is any reason why it should not accept an application from the prospective applicant. Reasons may include:

- Concerns raised at this early stage about the quality of care or safety of children and young people.
- The reality of being able to place a child or young person, given the knowledge of those needing placement and their expressed hopes and expectations.

Much of this stage can be undertaken as part of a group preparation process which may include, amongst others, experienced carers and the perspectives of young people who have experience of foster care. Where applicants have relevant and previous experience and/or are out with the annual recruitment then an assessment may begin prior to preparation being completed.

Preparation group staff will make it clear to those attending that there will be feedback on participants' involvement which will be included in their assessment. Where issues arise applicants will be invited for interview to discuss and decide the way forward.

#### G4.3 **Stage 3: Full assessment**

Following the group preparation process, attendees will be asked whether they wish to continue with a full application and homestudy process. Where people wish to proceed, full application forms will be completed and the homestudy process will begin. This involves:

- Remaining checks will be completed – referees, schools (if the applicants have children), previous spouses and/or partners and employers.
- Completion of Form F Part 1B which gives permission for initial Checks; Disclosure, Local Authority, Health, Proof of Identity.
- Applicants will complete a full factual history and chronology to date.
- Discussions with the applicants will cover:
  - their own life experiences;
  - their motivation to foster;
  - their experience of child rearing;
  - racial, cultural, language issues;
  - experience of difference and discrimination;
  - attitudes to health and mental health;
  - approaches and attitudes to discipline and punishment;
  - sexual attitudes;
  - caring for children and young people not born to you;
  - working with birth families;
  - the needs of children and young people who are accommodated;
  - impact on other members of the household and family, particularly children and young people;
  - understanding of attachment theory;
  - understanding of, and feelings about, child abuse; emotional, physical and sexual;
  - how they parent, were parented, want to parent;
  - what experience do they have of working in partnership and as part of a team;
  - what sort of family are they, for example open, closed, hospitable;
  - Education, their experiences of it and how they approach learning.
- Schedule 3 of The Looked After Children (Scotland) Regulations 2009 has the statutory list of matters to be covered.
- Visits to the applicants' home will include an assessment of space, condition, cleanliness, and health and safety issues.
- Children, young people and others living in the household will be met and talked with about the foster care task, their views about the application, and how it might affect them.
- It is the practice of the Comhairle that, where a worker identifies potential difficulties in relation to an assessment, and following discussion the fostering manager, an interim report will be prepared for presentation to the panel. The applicants will be invited to attend for part of such a panel and it can offer advice on how to proceed.
- The final report will include descriptive information and an assessment of how the applicants meet the competencies required for fostering. It will also clearly describe the assessment process and the meetings with the applicants and others in the household. It will outline strengths and vulnerabilities, offer an assessment of future learning and training needs

and identify gaps in competencies and how these will be filled.

- The assessor will make a clear recommendation in relation to approval or non-approval and summarise the evidence for this. If the recommendation is for approval, it will also indicate the number, age and gender of children and young people who can be cared for and whether the applicants can care for are any special needs attaching to the children and young people.

The report prepared for the applicants will be shared with them in full, including the recommendation(s) but excluding third party confidential information.

The procedures for arranging a panel meeting and preparing the applicants for this are set out in Section H4.4.

## G5 Specialist Foster Carer Scheme

The details of the Specialist Foster Carer Scheme are to be found in the report to Education and Children's Services Committee in August 2010. The expectation is that those people applying to become Specialist Foster Carers will already have some experience in foster or residential care and have suitable qualifications. (eg SVQ 3 in Child Care). The assessment will pay particular attention to the applicant's ability and experience of dealing with challenging behaviour.

## G6 Useful resources

- *A Child's Journey through Placement*, V Fahlberg, BAAF 2004
- BAAF Good Practice Guide: *Recruiting, assessing and supporting lesbian and gay carers and adopters*, G P Mallon and B Betts, 2005.
- BAAF Good Practice Guide: *Recruiting black and minority ethnic adopters and foster carers*, G Rule, 2006.
- BAAF Practice Notes: 40 *Undertaking Competence Assessments*, 1998;  
43 *Checking Applicants to Foster or Adopt in Scotland*, 2003  
44 *Assessing Lesbian and Gay Foster Carers and Adopters*, 2003.
- *Fostering Unaccompanied Asylum Seeking and Refugee Children: a training course for foster carers*, S Kidane and P Amerena, BAAF 2004
- *Part of the Family: Pathways through foster care*, G Schofield, BAAF 2003.
- *Providing a Secure Base in Long-Term Foster Care*, M Beek and G Schofield, BAAF 2004.
- *The Skills to Foster*, The Fostering Network, 2003.

Details of these are available on both the BAAF and TFN websites: [www.baaf.org.uk](http://www.baaf.org.uk) and [www.fostering.net](http://www.fostering.net)

# Section H

## The Fostering Panel, Approval and Non-Approval

### H1 Purpose

- To comply with the statutory responsibility of the Comhairle in its operation of its Foster Care Service.
- To ensure that there is transparency and accountability in relation to the Comhairle's approval of foster carers.
- To ensure that the panel reflects the community the Comhairle's serves.

### H2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 19, 20, 25, 26, 31 and 86 to 89.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - All supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - The above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 6, 11 and 12.

### H3 Key policy and practice issues

- Appropriate and adequate membership of the panel to fulfil the requirements;
- Training and information for panel members;
- Good administrative support;
- Good professional support and oversight;
- Clarity about the panel's mandatory tasks;
- Clarity about additional tasks undertaken by the panel: consultation, reviews, etc.

## H4 Procedures

### H4.1 Statutory and other functions of the panel

The statutory functions of the fostering panel are to make recommendations to the Agency Decision Maker (Head of Children's Services) on:

- Whether to recommend the approval of applicants as foster carers or not to recommend them;
- Whether the panel could be continued for further information.
- If recommending approval, the remit of the carers, that is whether the approval is for
  - a particular child or children;
  - any child; or
  - certain categories of children.
- Where the recommendation is for certain categories, it should list:
  - the age of children and young people to be fostered;
  - the number of children and young people to be fostered;
  - any time-limits such as short-term, long-term, permanent, etc
  - whether for respite care/shared care.

There is a duty that all first "annual reviews" of carers must be considered at the fostering panel and every 3 years thereafter. This is in line with the Looked After (Scotland) Regulations 2009. See section M for detail of carer's annual reviews.

In addition to these statutory functions, the Fostering Panel should be used for:

- Consideration of any changes in registration approval;
- Consideration on continued registration/ re-approvals where there have been concerns;
- Consideration of the annual reviews of carers;
- Recommendations in relation to termination of approval;
- Giving advice on linking and placement of children in particular circumstances where the panel's expertise would be helpful; and
- Consideration of applications by foster carers for orders under s.11 of the 1995 Act.
- Consideration of applications from foster carers about permanency.

### H4.2 Establishment of the fostering panel

- Responsibility for overview of the functioning of the panel and panel membership will lie with the Head of Children's Services.
- Panel members, apart from the medical and legal adviser should be appointed for a period of 3 years. The Head of Children's Services will ensure that, for consistency, not all panel members rotate off at the same time.
- In order to ensure that individual panels have a breadth of experience, the pool of panel members should normally be at least 6 members, not including medical and legal advisers. Every effort should be made to maintain a gender balance, diversity of backgrounds, a mix of professional members and service users and others within the community who have relevant experience and knowledge.
- It is important that panel membership reflects the cultural, social, religious, and ethnic background of the children and young people who will be using the foster care service and of foster carers and the community generally.

- Prior to becoming a panel member or chair, potential members/chair should be provided with a job description which includes the expectations and responsibilities. This should be accompanied by a person specification which reflects a broad range of expected experience, competence and knowledge. This should allow scope both for professional knowledge and expertise and also for different perspectives related to the separation of children from their birth families, including those with direct experience of fostering and those who use, or have used, foster care services
- The chair should be appointed by Head of Children's Services. A depute chair should also be appointed.
- The Agency Decision Maker will not be the chair, depute chair or panel member.
- Prospective panel members/chair should provide written information about the skills and experience they bring to the task together with a reference. The Head of Children's Services should ensure that all panel members/chair have been the subject of enhanced Disclosure Scotland and local authority checks. On the basis of the information provided by prospective panel members/chair, the Head of Children's Services should aim to achieve a balance of skills across panel members and continue to monitor this as individuals leave or join the panel.
- When appointed to the panel, all members including the chair should receive a letter of appointment and be required to sign an agreement outlining expectations of attendance at panels, appropriate preparation for and participation at panel meetings and, in particular, about confidentiality.
- New panel members should have the opportunity to observe at least one panel before becoming full members.
- On joining, members/chair should have access to information about the Integrated Children's Services Plan, agency fostering procedures and any additional practice guidance particular to the Comhairle, for example health considerations. This information should include:
  - the general criteria provided to all enquirers wishing to foster;
  - further information about the criteria on which applicants are assessed;
  - the nature and models of assessment used in assessing and preparing foster carers; and
  - the nature and models of assessment used in the assessment of children's needs and of their birth parents.
- Following initial induction, members may request further training opportunities. They will also be expected to participate in any panel training offered.
- The medical adviser will be appointed by Comhairle. When he/she are in attendance, he/she will not be part of the quorum for making statutory recommendations but will be a voting member of the panel. The medical adviser has a specific role, namely to interpret medical information and advise on its relevance for children's placements and on applicants' suitability to foster and on their possible remit.
- The medical adviser is not required to attend every panel meeting but the panel will have access to information from the medical adviser if not present.
- The legal adviser to the panel neither counts towards the quorum for the panel nor is a voting member.
- The legal adviser is not required to attend every panel meeting. S/he need only attend if a worker, a senior, or the chair requests that s/he do so or if s/he feels it appropriate to do so. The legal adviser will have been contacted, where appropriate, for advice.

- Individual panel meetings should normally include the depute/chair, minute taker and at least three other members. It is important that a gender balance is maintained.
- Panel members who have been directly involved in a case, or have, or have had, line management for a case, will not be considered part of the quorum although they may be able to contribute to discussion. Where the Comhairle is of the opinion that any member of the fostering panel is unsuitable or unable to remain a member they may terminate membership at any time by giving notice in writing with reasons.
- Similarly, any panel member with personal knowledge of individuals in a case should declare that in advance so that an alternative panel member can be identified. Anyone with a more peripheral knowledge of a case should indicate this at the time and this will be noted in minutes along with the conclusion of the chair about whether it affects objectivity.

#### H4.3 **Business meetings**

All panel members will meet twice a year for a business meeting. This meeting will consider relevant areas of the annual review of the fostering service. Panel members will get an overview of all the business that has come before the panel: feedback from workers and carers; numbers of carers recruited and leaving the service; and particular issues facing the service. There will be an opportunity for panel members to highlight any areas of concern they have and discuss their training needs as panel members. Staff will signpost any significant research or practice development issues which relate to the panel's work.

On a routine basis, workers presenting cases to the panel and service users attending the panel should be asked to complete a feedback form about their reception at the panel, the appropriateness of the areas explored, the thoroughness of the process and suggestions for improvement. These should be kept and reviewed by the manager and incorporated into the annual review.

#### H4.4 **Presentation of Foster Carer Applications to Panel** **Pre-panel**

- Workers are responsible for booking a panel date for each application, and having all necessary paperwork to the administrative support to the panel 2 weeks before the date of the panel.
- Applicants should be invited to the panel meeting considering their application (Standard 6.1), and they will receive a written invitation 2 weeks ahead of the panel date.
- The worker undertaking the assessment has the responsibility of preparing applicants for the panel. This includes advising them about the format, the recommendation and decision making processes and the process for any appeal.
- As part of the assessment process, applicants will have contributed to the completed homestudy. However, if they do not agree with the recommendation of the worker, or other parts of the report, they should be supported in preparing their views and putting them in writing, and told how these will be discussed with them at panel meeting.
- Where there are particular issues in relation to an application coming to panel meeting, the chair should be alerted in advance by the manager with responsibility for panel business. Where possible, this will be done well in advance so that panel business can be planned accordingly. Workers

presenting assessments should flag issues to their immediate seniors and then plan appropriately.

### **Panel meeting**

- In considering any application, the panel meeting will normally want time as a group to draw together issues from the reports provided, an opportunity to check third party information with the presenting worker and a chance to consider any sensitive areas prior to applicants joining the panel.
- Panel members should be clear about the purpose of applicants' attendance at panel, in particular that they are not being assessed on their 'performance'. This is the applicants' opportunity to speak to their assessment and comment on any issues arising from their report. It is not a legal requirement that they attend and recognising the daunting nature of the panel meeting, non-attendance should not disadvantage them.
- At the end of applicants' attendance, it is the responsibility of the chair to remind them that the panel meeting can only make a recommendation which is passed to the Agency Decision Maker (Head of Children's Services) who makes the final decision and will write to them within 21 days.
- Where applicants already have children in their family, special attention should be paid to ensure that these children have had an opportunity to express their views and to how they have been prepared. Clearly, this will depend on their ages and stages of development and will be an important part of any assessment. For older children, however, it may be relevant to consider additional written contributions by them and on occasion there may also be a request for them to attend. Any such requests will require additional planning and should be discussed with the chair, both in allowing sufficient timing on agendas, and in handling the meeting.
- Where additional issues have arisen in relation to children and young people (whether under or over 16) in the applicants' family, the worker and the panel members need to be aware of the range of consent and confidentiality requirements relating to obtaining and sharing any extra information gathered in respect of these matters.
- Once the panel meeting has made its recommendation, it will be shared immediately with the presenting social worker and the applicants unless they are absent. If applicants are absent they should be informed within 24 hours.
- Where the panel meeting is not recommending approval, particular attention should be paid to articulating the reasons for this conclusion, both to inform the Agency Decision Maker and for careful and considerate feedback to the applicants. It will only be in very exceptional circumstances that areas of concern have not already been identified in advance with the applicants by the assessing worker.
- Confidential information offered by third parties should normally already have been addressed during the assessment process, and where necessary and/or possible, brought to an earlier panel. But such information may arise late in an assessment and form part of the final assessment and recommendation to the panel.
- The panel minutes should clearly identify the reports presented to the panel, the issues raised as a result of these, how they were addressed and resolved and the basis on which the panel reached its conclusion. Each voting panel member should be asked whether s/he recommends approval and the minutes should make it clear whether the recommendation was unanimous or on a majority basis. The reasons for any divergence of views among the panel members should be laid out for the Agency Decision Maker.

- The recommendation will include comment on whether the parameters of the approval coincide with those in the assessment report/Form F, for example in relation to age range, number of children who may be placed, etc.

#### H4.5 **Decision by Agency Decision Maker (Head of Children's Services), approval or non-approval**

- The Agency Decision Maker will reach a decision on the recommendation as soon as possible and in any case, in time for the letter with the decision being sent to the applicants within 21 days of the panel meeting.
- The standard procedure in the Comhairle is for the Agency Decision Maker to have the reports considered by the panel meeting and the minutes within 7 days of the panel and to be able to discuss this with the panel chair if necessary.
- Where the Agency Decision Maker agrees with a recommendation to approve the applicants, the letter to the applicants confirming their registration approval will detail: the children, age, number of placements for which they are approved and any particular issues and needs identified during the assessment.
- Where the Agency Decision Maker agrees with a recommendation from a panel not to approve the applicants, or otherwise decides that the applicants will not be approved, the letter sent to applicants should include information about:
  - the Comhairle's complaints procedure;
  - the Care Commission's complaints procedure; and
  - the process for reconsideration/appeal of decision not to approve applicants.
- This information should be clear about the difference between a complaint regarding the handling of an application and a request to reconsider/appeal the conclusion reached by the panel on the suitability of the applicants.

#### H4.6 **Panel procedures for reviews**

- See **Section M** for more details about reviews and **Section N** for more details about terminations of approval/ registration
- The panel will consider:
  - all first annual reviews for carers and every three years thereafter;
  - reviews which are required as a result of a significant incident or change in a carer's circumstances; and
  - reviews where the recommendation is to terminate approval for whatever reason, including where the carer wishes to 'retire'.
- Every carer's approval must be reviewed each year and should be reviewed when there is a significant incident or change. This should be an internal review which would make a recommendation as to whether the review decisions needed to be considered at the panel.
- Where the panel deal with a review, the carer will be invited to attend the meeting.
- The panel recommendation will be given to the carer at the panel unless the carer is absent from the panel. If so carers will be advised within 24 hours. The minutes and reports considered at the panel will be passed to the Agency Decision Maker for the decision, within 21 days of the panel.

#### H4.7 **Panel procedures for appeals or reconsiderations**

- See **Section O** for details about appeals or reconsiderations, including panel procedures in appeal cases.

- The procedures in Section O are provided for prospective carers or applicants and for approved carers.
- Prospective carers and approved carers may appeal or seek reconsideration of the Agency Decision Maker's decision:
  - not to approve;
  - to vary approval;
  - or to terminate approval.
- Where a panel meeting is dealing with such an appeal/reconsideration, it should not have the same members as the one which made the original recommendation, and the chair should be a different person.

# Section I

## Foster Carer and Foster Placement Agreements

### I1 Purpose

- To ensure clarity about the difference between Foster Carer Agreements (the contract arrangements between carers and the Comhairle) and Foster Placement Agreements (arrangements and information about each individual child or young person placed with carers).
- To ensure clarity in relation to Regulations, Standards and Council policy and procedures about the two types of Agreements and their purposes.
- To ensure clarity about the mutual responsibilities of Comhairle and carers in both agreements, in order that carers have a full understanding of what is expected of them and what they can expect from the Comhairle both in relation to their contract with the Comhairle as carers, and when a child or young person is placed with them.
- To give information to all carers about their general duties and responsibilities and those of the Comhairle.
- To give information to carers about each particular placement and the tasks involved in relation to each individual child or young person.

### I2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly s.17.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009, particularly Regulation 24 and Schedule 6, Regulation 27 and Schedule 4, and Regulation 36.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 7 and 8 (for carers); and 2 to 4 (for children and young people)

### 13 Key policy and practice issues

To have a general style for Foster Carer Agreements, for all carers to enter into with the Comhairle at the point of their approval. This should include:

- The responsibilities to the carer in terms of fees, payments, conditions, training support and supervision, including legal liability insurance provided by the Comhairle;
- the general care expected for any child or young person placed with the carer, including treating them as if part of the family and promoting their welfare;
- procedures for review of approval;
- procedures for handling any complaints against the carer. This will include full information about the Comhairle procedures if a complaint or allegation is made against the carer and the support system for the carer in those circumstances.
- provision that there will be an Agreement for each child or young person placed and what that will cover, including financial arrangements, legal liabilities which might arise and how the carer may make representations to a placing authority or agency.
- carer's responsibilities to the Comhairle in relation to the changes that must be notified to the Council, for example change of address, employment, household composition, etc, and any criminal charges or convictions.
- carer's obligation not to use corporal punishment for any placed children;
- carer's duty to keep confidential all information about placed children and young people;
- carer's responsibility to notify the Comhairle of any significant incident, illness, injury, unauthorised absence, death of a child or young person and clear information about how to do this;
- carer's general responsibilities in relation to contact, report writing etc;
- carer's obligation to allow placed children and young people to be moved from the house when placements end;
- carers should receive and have in their possession a Handbook which gives Comhairle policy and information on all aspects of the foster care task;
- the FCA will be placed in the carer's file and a copy given to the carer.
- The terms of the FCA will be regularly reviewed, considered and updated with the carer in a forum or other meeting looking at the carer conditions of service;
- carer's obligation to notify the Comhairle of any outcome of any application made by them to any other foster care agency
- At the time of each placement of a child or young person, to have an individual Foster Placement Agreement signed with the carers. This is made up of the three documents. The Essential Core Record and Placement Agreement and the Day to Day Placement Arrangements
- When a placement is made on an emergency basis, to ensure that the Foster Placement Agreement is made as quickly as possible thereafter.
- To review the process by which carers can meet with senior members of the Comhairle and give input on the development of the service for themselves and the children and young people they care for.
- To have a good and up-to-date carer handbook outlining expectations of foster carers, requirements of them and the Council and available resources.

## 14 Procedures

### 14.1 Foster Carer Agreement (FCA)

At the time of carer approval, the Comhairle will enter into a written agreement with the foster carer in terms of reg. 24 and Schedule 6 of The Looked After Children (Scotland) Regulations 2009.

### 14.2 Foster Placement Agreement (FPA)

- At the time of each placement of a child or young person, a Foster Placement Agreement (FPA) will be made between the Comhairle and the carer, using the Day-to-Day Placement Arrangements and Essential Core Record and Placement Agreement documentation.
- The FPA will be as complete as possible so that effective plans may be made for each child or young person.
- When the placement is planned, the FPA will be signed and provided in advance of, or at the time of the placement.
- When the placement is an emergency one, the FPA will be signed and provided within 72 hours of the placement.
- The Team Leader Children and Families is responsible for ensuring FPAs are in place.
- Where the FPA is signed and does not contain all the information about the child or young person as required in Schedule 4, this will be provided to the carer within 14 days of signing.
- The FPA will include any specific tasks about support and respite arrangements for the child or young person.
- This FPA will be considered at each Child Care Review and amended as appropriate.
- The matters in Schedule 4 of The Looked After Children (Scotland) Regulations 2009, to be covered in the FPA, are:
  - all information which the Comhairle thinks is necessary for the carer to have to care for the child or young person, particularly:
  - the care plan for the child or young person and the placement objectives;
    - details of the child or young person's legal status, including any supervision requirement, court orders, etc;
    - the personal history, religious persuasion, cultural and linguistic background and racial origin of the child or young person;
    - the health and medical needs of the child or young person and her/his GP; and
    - the educational needs of the child or young person.
  - financial support arrangements for the child or young person;
  - details about who consents to medical treatment etc and to activities etc for the child or young person;
  - when it will be necessary to obtain advance Comhairle approval for the child or young person to live away from the carer's home or for someone else temporarily to care for her/him;
  - arrangements for Comhairle visits to the child or young person and the frequency of visits and reviews;
  - contact arrangements for the child or young person;
  - compliance by the carer with the terms of her/his FCA;
  - co-operation by foster carer with arrangements made by the Comhairle.

# Section J

## Payment of Carers

### J1 Purpose

- To ensure that the Comhairle has an appropriately qualified, trained and supported foster care service to meet the needs of looked after and accommodated children and young people.
- To ensure that the system of payment reflects the Comhairle's acknowledgement of the actual cost of caring for children and young people.

### J2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 19, 20, 25, 26, 31 and 86 to 89.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009, particularly Regulation 33.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 9 and 10.

### J3 Key policy and practice issues

- In relation to allowances, the following areas need to be considered:
  - there are policies on periods of respite where fees will be paid to the carer;
  - good clear information for carers and workers on payments, entitlements, special schemes, holiday payments, respite and expenses;
  - the Comhairle pays a fee to some specially recruited carers.
  - information is available to carers regarding their responsibilities for payment of Income Tax and National Insurance;

All systems will require:

- Appropriate forms and systems for commencing and ceasing payments;
- Agreed and clear guidelines for the start of fee payments (where appropriate) and for the start of payment of allowances;
- Clear designation of administrative staff to deal with carers' finance matters;

- Systems and support staff to problem solve difficulties and answer carers' queries about financial matters;
- Clear systems for dealing with over-payments without being punitive in their application;
- Annual reviews of fees and allowances and appropriate involvement of Comhairle Committees.

## J4 Procedures

### J4.1 Placement start

Whenever a child or young person is placed in foster care, the link worker social worker for the carer will complete a change of circumstances form. If the placement is a planned one, then *the* form will indicate the beginning of the full time placement.

All changes of circumstance will be registered on the same form, for example respite, following the same process as placement starts.

### J4.2 Placement end

When a child or young person leaves a placement, the link worker will complete a change of circumstances form which will indicate the end of placement.

Where the end of placement is different from the date on which the child physically moves, this will normally have been agreed through a Child Care Review or Children's Hearing. The dates need to be recorded on the change of circumstances form.

Where a placement needs to be held open for a child, with the continuation of payments, then this must be discussed and agreed with the Children's Services Manager and if possible validated at a Looked After Review.

### J4.3 Respite

Fee paid carers will be able to take up to 6 week's respite per year.

During this period, a fee will continue to be paid. The allowance will transfer with the young person. Non Fee Paid Carers would not normally receive an allowance during any period of respite unless regular respite/home leave is agreed as part of a child or young person's care plan, allowances could then continue for the carers.

The carer's link worker will complete the change of circumstances form with the relevant dates for each respite period.

### J4.4 Birthday, holiday and Christmas allowance payments

#### J4.4.1 Holiday allowance

A payment equivalent of 2 weeks' allowance is paid per child or young person to cover holiday expenses. This payment is made in June of each year

#### J4.4.2 Birthday Allowance

A payment equivalent to 1 week's allowance is paid in the month of the child or young person's birthday.

#### J4.4.3 Christmas allowance

A payment of 1 week's allowance per child or young person in placement is made in the Christmas pay period.

J4.5 An annual report will be submitted to the Education and Children's Services Committee and the Policy and Resources Committee which will recommend the level of fees and allowances to be paid to carers for the subsequent year.

# Section K

## Training and Support for Carers after Post Approval

### K1 Purpose

- To develop carers' capacities to meet the needs of the children and young people they care for.
- To ensure that carers are updated in relation to all legislative and practice developments and to Comhairle standards, policies and guidelines;
- To ensure that carers are appropriately supported to undertake the tasks for which they are approved or aspire to.
- To ensure that carers have the practical support they need to care for children and young people.

### K2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 31.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 8, 9 and 11.

### K3 Key policy and practice issues

- The development of effective working relationship between carers, supervising social workers and link workers.
- Clarity about the range of support services available to carers, including opportunities for ongoing training and development.
- Clear processes by which carers can access support, including respite care, aids, adaptations, out-of-hours support services and membership of Fostering Network (TFN).
- Comprehensive annual training and development programmes to build on initial preparation courses.

- A commitment to an ethos of continuing professional development for both carers and family placement staff.
- Opportunities for carers to register for accredited training programmes.
- Consideration of the specific training and development needs of gay and lesbian carers, single carers, black and minority ethnic carers and carers with disabilities.
- Carers' annual reviews to include consideration of training needs and how these have been met.
- Clarity about mandatory and optional training.
- Recognition that multi-disciplinary and multi-agency training creates positive opportunities for collaboration and mutual learning.

## K4 Procedures

### K4.1 Agreements and general matters

- Carers must each have a Foster Carer Agreement (FCA) with the Comhairle (*see Section 1*) and this covers their contract, role and relationship with the Comhairle; their general responsibilities as carers; the Comhairle's responsibilities and those of its staff; and general processes and procedures.
- Carers also have Individual Foster Placement Agreements (FPAs) in relation to each child or young person placed with them (*see Section 1*) and these include information on working relationships with the child or young person and the family; the responsibilities of carers in relation to the specific placements.
- These Agreements should be used as part of the support mechanisms for carers in their general work and in relation to individual placements.
- Training and support will cover the issues listed in Section K.3.

### K4.2 Training

- The foster carers support group is the main forum for foster carer training. Separate arrangements need to be made for carers based in the southern isles.
- The foster carers support group will be consulted in the preparation of an annual training programme for carers.
- Some training will be provided by Comhairle staff and some by external trainers or consultants.
- Opportunities will be provided for joint staff and carer training.
- Fee paid carers are required to attend some specific training and carer support groups
- Link Workers will prepare a training and development programme with and for each of their carers, which will be monitored and reviewed during supervision visits. Carers' training and development programmes will take into consideration any recommendations from their Foster Carer Review.
- These programmes will be informed by the needs of the children being placed, current research and needs identified by carers and workers.
- A record will be kept of training offered, undertaken, and feedback on it.
- This information will form part of carers' annual reviews.
- Information on the training programme will be part of the Annual Report on the Fostering Service.

### K4.3 Support

- Day-to-day support will be provided by the carers' nominated link social worker.
- Membership of Fostering Network will ensure that carers can be supported independently, particularly in the event of allegations or complaints against,

or, by them.

- Peer support will be provided by Foster Carer Support Group and an optional buddy system. There will also be opportunities for consultation, where workers will be able to discuss policy and strategy and inform planning.
- Good and adequate financial underpinning of the service is essential and fees and allowances will be reviewed annually and carer information updated each year in May.
- Fee paid carers are self employed and responsible for their own taxation arrangements. However, the Comhairle will provide advisory statements on these matters annually and review them regularly.
- The Comhairle aspires having all information relating to carers, including finance, agreements, reviews, responsibilities in relation to record keeping etc, complaints etc, gathered together in a Carers' Handbook and to also be electronically available.
- This will be given to each carer at the time of approval.
- This will be updated as necessary in line with legislative requirements and Comhairle policy.

# Section L

## Record Keeping about Foster Carers

### L1 Purpose

- To fulfil the Comhairle's legal obligations to maintain carers' records.
- To have access to information which could be important to children and young people looked after by the Comhairle.
- To have access to information which could be important to carers.
- To have access to information which could be significant in future applications by carers to care again.

### L2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 31.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009, particularly Regulations 31 and 32.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001.
- Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, S.S.I. 2002/114, particularly regs. 9 and 13, the 2002 Regs.
- Regulation of Care (Requirements as to Care Services) (Scotland) Amendment Regulations 2004, S.S.I. 2004/94, the 2004 Regs.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 5, 9, 11, 12 and 13.

### L3 Key policy and practice issues

- To ensure that the system for making and maintaining children and young people's records are clear and simple.
- To ensure that the system for making and maintaining carers' records are clear and simple and key information is easily accessible
- To ensure confidentiality is maintained.
- To ensure that appropriate information of visits is kept by workers in children and young people's records and in carers' records.
- To ensure that information is kept in children and young people's records and in

carers' records about all reviews, incidents, allegations, investigations, representations and complaints.

- To ensure that appropriate information is contained in carers' records and that these are kept for at least 25 years from the date of termination of approval or de-registration, or until carers' death, whichever is earlier.
- To ensure clear Comhairle policy on how long carers' records will be kept after the 10 year minimum from termination of approval or de-registration.
- To ensure clear Comhairle policy on who will decide when records that have been kept for longer than required may be destroyed.

## L4 Procedures

### L4.1 Establishment and maintenance of records

- At the point of enquiry by a prospective carer a record will be opened by the relevant social worker (Adoption and Fostering Team).
- The record will contain details of the assessment, homestudy, fostering panel meeting, recommendation and decision to approve or not approve.
- The record will include:
  - the Foster Carer Agreement for Services
  - a front sheet for the carer's file that includes note of each placement made with the carer. This will include the age, sex, ethnicity and name of the child, the date(s) of the placement and reasons for ending the placement;
  - all Foster Placement Agreements for children and young people placed with the carer;
  - annual review reports;
  - updated statutory checks; and
  - a record of any information disclosed and to whom.
- The records for each carer should specifically include:
  - the carer's address and date of birth;
  - the name, address and for example number of the carer's next of kin, or of any person authorised to act on the carer's behalf;
  - the date when the service was first provided to the carer;
  - incidents detrimental to the carer's health or welfare;
  - any complaints by the carer about the service, with the outcome of the complaint and any action taken; and
  - where applicable, details of the death of the carer.
  - a chronology of significant events
- The records should reflect the key policy and practice issues outlined in L3, particularly to ensure that relevant information is cross-referenced appropriately.
- Where any information in a carer's records (or in children and young people's records) forms part of the Comhairle's or any other adoption agency's Adoption Records, this must be clearly marked. (Note Adoption Agencies Regulations 2009)
- Carer's records will be audited on an annual basis by the Fostering Services manager to ensure that records and checks are maintained.
- When a carer's approval is terminated, and s/he ceases to care, the records will be reviewed and kept for at least 25 years, or her/his death, whichever is earlier.
- When a carer's approval has been terminated because of concerns, allegations, etc, this will be clearly flagged so that files may be kept for longer if this is appropriate.

**L4.2 Access to records**

- Carers will be entitled to see their records when they request to see them under the Data Protection Access procedures, subject to any restrictions under that Act, or, under the Adoption Agencies Regulations 2009 when the information is part of an adoption agencies records.
- Any other person wanting access to open or closed carers' records should make a formal request to the Fostering Services Manager subject to any restrictions under the Adoption Agencies Regulations 2009 when the information is part of an adoption agencies records.
- Such requests should be processed following the Comhairle's Data Protection Access procedures, and a record of the information disclosed must be kept.
- Requests for access to children and young people's information and records should be dealt with under the child care, looked after and Data Protections Access procedures.
- Where any information in carers' records or in children and young people's records forms part of the Comhairle's or any other adoption agency's Adoption Records, that information is not subject to the Data Protection Access subject access rules and should only be disclosed in terms of reg.27 and 28 of the Adoption Agencies Regulations 2009.

# Section M

## Review of Carers' Approval

### M1 Purpose

- To fulfil the Comhairle's statutory review requirements.
- To ensure that carers continue to offer good quality care and receive appropriate training and support to undertake the fostering task.
- To review carers' approval and consider any changes to remits that would be appropriate.

### M2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 31.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009, particularly Regulation 25.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standard 11.

### M3 Key policy and practice issues

- All carers' approval must be reviewed at least annually in terms of Standard 11 of the National Care Standards.
- All foster carer's first annual reviews will be conducted at the Fostering Panel, thereafter at the Fostering Panel every three years, in terms of paragraph 8
- All carers' approvals should be reviewed whenever there is a significant incident or change in carers' circumstances.
- Reviews need to confirm or change the initial approval in light of experience, any changes in carers' households, or other significant matters.
- It is important that the processes of assessment and approval are seen by everyone involved as ongoing and continuing.
- The Comhairle should consider on a regular basis what processes it has for reviews.
- Carers will be invited to, and expected, to attend their reviews, whether they are review meetings or *foster* panel meetings.
- All foster carers will be reviewed internally on an annual basis and thereafter presented to the panel in line with the regulations.

- The general outcomes of all reviews will form part of the annual review report on the Fostering Service which is presented to the fostering panel. This will keep the fostering panel informed of significant issues in relation to retention of carers, changes of remit, etc.
- Review meetings and review fostering panels will require the information listed in M4.2.

## M4 Procedures

### M4.1 Information and preparation for reviews

- The link social worker for the carers will gather the required review information:
  - when necessary updated checks from Disclosure Scotland, from health services, and of health and safety in the carers' home;
  - notes about unannounced visits to the carers' homes by the link worker;
  - reports from the carers on their year;
  - reports from the carers' social worker and from placing workers;
  - comments from children and young people, birth family and other professionals who have worked with the carers;
  - records of training undertaken by the carers and the learning involved;
  - identification of the carers' future needs for training and support;
  - the outcome of any investigations where appropriate;
  - any recommendations for change of remit if appropriate.
- Throughout the year, the carers' link social workers will gather information from carers and placing workers about training attended and learning needs.
- Checks needed for the review will be initiated in good time.
- Prior to the formal review, the carers' worker will review this material, including a list of placements and feedback from them by children and young people and their families.
- The carers' worker will provide a written report and other information for consideration at the review, including information on any proposed change of remit.
- Where a review is called because of a significant incident or change, then all relevant information and the outcome of any investigation will also be available.
- Where there has been any decision or recommendation that a carer's approval should be terminated, this will be clearly documented and the formal review will be *considered* by the fostering panel, after an internal review.
- Carers will be invited and expected to attend their reviews, whether they are review meetings or fostering panel meetings.
- Carers will have access to the reports and information prepared for the review, excluding confidential third party information, two weeks in advance of the review.

### M4.2 Reviews

- Reviews may be carried out by the panel or by review meetings.
- The *foster* panel will consider certain reviews:
  - all first annual reviews for carers, and every three years thereafter;
  - reviews which are required as a result of a significant incident or change in a carer's circumstances; and where considered necessary;
  - reviews where the recommendation is to terminate approval for whatever reason, including where the carer wishes to 'retire'.

- The review panel or meeting will consider the written report and information prepared under M4.1.
- Where the review is the first annual one, the panel will have access to the original reports and the approving panel's minutes.
- The panel or meeting will review any training or developmental needs identified in previous reports, whether these have been taken forward, and identify tasks for the coming year.
- Consideration will be given to any changes that are needed in the approval.
- The review panel or meeting will make recommendations, including any changes to approval, and these will be shared at the time of the meeting.
- A record or minutes of the review panel or meeting will be made, including any comments by the carers, and will be retained as part of the carers' records.

#### **M4.3 After reviews**

- The recommendations and minutes of the review foster panel, together with the reports discussed there, will be passed to the Agency Decision Maker (Head of Children's Services) for their decision, which should be made and notified in writing to the foster carers within 21 days of the foster panel.
- When the review was not conducted by the foster panel, carers will have the right to take any recommendation with which they disagree to the panel for further consideration, thereafter for consideration by the Agency Decision Maker. Following the Agency Decision Maker's decision, the foster carers will be notified within 21 days.

#### **M4.4 Audit of Skills**

- A skills audit will be undertaken on an annual basis at the internal review.
- The audit will consider written information in the form of:
  - a report prepared by the carer's link social worker
  - any report prepared by the carers
  - the portfolio prepared by the carers

#### **M4.5 Rights of appeals**

(see **Section O** – Appeals, Reconsiderations, and Representations and Complaints by Carers)

## Section N

# Termination of Approval – De-registration of Carers

### N1 Purpose

- To ensure that the Comhairle meets the needs of the children and young people it places in foster care.
- To ensure that the Comhairle provides an appropriate standard of care throughout its foster care service and to all service users.
- To ensure that the Comhairle meets its legal requirements in its foster care service.
- To ensure that the Comhairle procedures for termination of carer approval are fair and transparent.

### N2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 31.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 7, 11 and 12.

### N3 Key policy and practice issues

- When it is necessary to terminate approval of a carer, that is, to de-register a carer, this will always be done following a recommendation of the Fostering Panel.
- All carers, whose approval is terminated, must be given information on how to complain about, or appeal against the process or the recommendation of the fostering panel or the decision of the Agency Decision Maker. This will include information about Comhairle's appeal and complaints procedures and the Care Commission complaints procedures.

## N4 Procedures

These procedures should be cross-referenced with the following sections:

H: The Fostering Panel, Approval and Non-Approval

M: Review of Carers' Approval

O: Appeals, Reconsiderations, and Representations and Complaints by Carers

P: Complaints and Allegations Against Carers

### N4.1 Preparation and panel review

- A recommendation to terminate a carer's approval **must** be made formally by the panel.
- The panel will have available reports and information from the supervising social worker, carer, and any information and preparation procedures set out in M4.1.
- Where the carer has requested termination of approval, the reasons for this will be clearly set out in the reports.
- The carer will have access to the reports and information being considered by the panel.
- The carer will be invited to attend the panel and to make representations and present any written information.
- At the start of the panel meeting, the chair will explain clearly to the carer and the review panel:
  - that the purpose of the panel is to review the carer's approval and consider terminating it;
  - the process of the panel review; and
  - the carer's rights to complain and/or appeal, with support such as from Fostering Network.
- The carer will be asked to explain her/his views and wishes as part of the review.
- At the end of the review, the panel will make its recommendation to the Agency Decision Maker.
- A record or minutes of the review panel will be made, including any comments by the carers.
- Where the carer has requested termination of approval, this will be outlined in the minutes including the reasons for the withdrawal.
- The recommendation will be shared with the carer, at the fostering panel, or if not present, as soon as practicable thereafter.

### N4.2 After panel

- The recommendations and minutes of the review panel or meeting, together with the reports discussed there, will be passed to the Agency Decision Maker for his/her decision, and the carers written to thereafter
- The Agency Decision Maker will make the decision within 14 days of the panel recommendation, deciding whether or not to terminate the carer's approval.
- The decision will be intimated in writing to the carer within 7 days thereafter.
- Where the Agency Decision Maker agrees with a recommendation from the panel to terminate the carer's approval, the letter sent to the carer should include information about:
  - the Comhairle's complaints procedure;
  - the Care Commission's complaints procedure; and
  - the process for reviewing a decision to terminate approval.
- This information should be clear about the difference between a complaint regarding the handling of an application and a request to review the

conclusion reached by the panel and Agency Decision Maker on the termination of approval.

- The information should include information about support available to the carer.
- Procedures for reviews and complaints by carers are detailed in Section O.
- Where the panel recommendation was **not** to terminate approval and the Agency Decision Maker disagrees with this, the Agency Decision Maker **may** ask the panel to reconsider its recommendation but does not have to do so.
- Such a reconstituted reconsideration panel will be arranged within 28 days of the Agency Decision Maker's request for reconsideration.
- Carers have the right to request a reconstituted reconsideration panel.
- The procedures in N4.1 for before, at, and after the panel will be followed.
- An alternative Agency Decision Maker (eg the Chief Social Work Officer) will make a decision within 14 days of the reconsideration panel's recommendation.
- Where the alternative Agency Decision Maker decides to terminate the carer's approval, whatever the panel recommendation, the letter sent to the carer should include information about:
  - the Comhairle's complaints procedure;
  - the Care Commission's complaints procedure; and
  - the Comhairle's process for reviewing a decision to terminate approval

#### N4.3 **After any termination of approval**

- Any other local authority using the carer will be informed of this as soon as possible.
- The carer's record will have the termination noted with all the reports and minutes and will be closed.

## Section O

# Appeals, Reconsiderations, and Representations and Complaints by Carers

### O1 Purpose

- To ensure the Comhairle fulfils its responsibilities in primary legislation, regulations, Guidance and Standards with regard to hearing and dealing fairly with carers' appeals, representations, complaints and views.
- To give carers the appropriate processes to make appeals, representations, and complaints on their own behalf or on behalf of a child or young person in their care regarding:
  - The Comhairle's fulfilment or failure to fulfil its legal requirements in relation to a child or young person;
  - The Comhairle's service to themselves as carers;
  - The Comhairle's approval, non-approval, review or termination of approval of them as carers.
- To engage in a dialogue with carers about the development of the fostering service, how it meets the needs of children and young people and the terms and conditions within which carers work.

### O2 Relevant legislation, regulations and care standards

- Social Work (Scotland) Act 1968, s.5B.
- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 31.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Best practice guidance for foster carers on allegations and complaints
- Human Rights Act 1998.
- Data Protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, S.S.I. 2002/114.
- Regulation of Care (Requirements as to Care Services) (Scotland) Amendment Regulations 2004, S.S.I. 2004/94.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 4 and 12.

- Best Practice Guidance: Responding to Allegations Against Foster Carers. The Scottish Government – June 2010

### O3 Key policy and practice issues

- To ensure clear processes for carers in relation to appeals, complaints and representations in relation to:
  - a child or young person in their care; or
  - themselves.
- To establish mechanisms for hearing appeals, and dealing with representations and complaints.
- To ensure that carers have clear information in writing, as part of their Foster Carer Agreement and in the Carer's Handbook, about how to:
  - appeal against decisions such as to vary or terminate approval;
  - complain within the Comhairle; and
  - complain to the Care Commission.
- To consider the support carers need when involved in these processes and how the Comhairle can help them receive this, for example through The Fostering Network, particularly when staff may be in dispute with carers.
- To establish a forum for discussion and exchange of views and concerns about the development of the service and carers' conditions of service.
- To provide a Carer's Handbook which includes clear information on these processes.

### O4 Procedures

#### O4.1 General matters

- All carers will have, as part of their Foster Carer Agreement, information on the process for making appeals, representations and complaints.
- All staff will be trained to deal with enquiries and contact from carers in relation to appeals, representations and complaints.
- A note will be kept of all appeals, representations and complaints and these will be considered and analysed annually and will form part of the Annual Review Report of the Fostering Service.

#### O4.2 Complaints and representations

- All complaints by carers for themselves or on behalf of children or young people will be dealt with under the Comhairle's Complaints Procedures.
- Where a carer is making representations for her/himself or on behalf of a child or young person, the link social worker and the child or young person's worker (when appropriate) will meet with the carer as soon as possible to discuss matters and resolve them if possible.
- Part of this meeting will be to:
  - ascertain whether the issue may be resolved;
  - ascertain whether it will be treated as a formal complaint; or
  - should it be the subject of an appeal by the carer, or be taken forward under Child Care Procedures.
- If the matter is to be treated as a complaint, the carer should be helped to make a written or formal verbal complaint, on behalf of her/himself or the child or young person, under the Comhairle's Social Work Complaints Procedures.
- It will be acknowledged within 3 working days.
- A full response must be made to the complainant within 28 days of receipt of the complaint. However the complaint will be responded to as quickly as possible.

- The Comhairle's complaints processes will be followed.
- At the conclusion of the process, the detail of the complaint, the process of investigation, and the outcome will be fully recorded and become part of the carer's file.
- Where the complaint was made on behalf of a child or young person, the detail of the complaint, the process of investigation, and the outcome will be fully recorded and become part of the child or young person's file.

#### O4.3 Appeals and reconsiderations

- These will arise where the Agency Decision Maker has:
  - refused to approve applicants to foster and they do not agree with the decision;
  - varied the terms of carers' approval and they do not agree with the decision; and
  - terminated carers' approval and they do not agree with the decision.
- The Comhairle will follow the process it has for appeals against or re-consideration of applications for approval under N4.2.
- Where the Agency Decision Maker has decided to refuse, vary or terminate approval the applicants or carers should be sent the following with the formal notification:
  - information about the reasons for this decision;
  - a copy of the Comhairle's Social Work complaints leaflet;
  - information about asking for a reconsideration of the decision;
  - an explanation of the difference between a complaint and reconsideration.
- The social worker for the applicants or carers should be informed by the Agency Decision Maker about the decision and when a letter is being sent.
- The social worker should contact the family again at this point and offer a further appointment or a meeting with his/her manager.
- At this point, they should have further opportunity to consider the reasons for the decision. The worker should also ensure that they understand both the difference between a complaint about how their case has been handled and by whom, and how this would be investigated and the separate process of appealing the decision about them.
- Where they wish to make a complaint, they should be made aware of the role of the Care Commission, as well as the Comhairle's complaints processes.
- Applicants or carers in this position may need time to consider not only the reasons for an adverse recommendation and decision, but also the evidence that was taken into account.
- In some instances, particularly for new applicants, they may recognise a need for further work or reflection on their part. In these circumstances, a request for reconsideration may include asking for extra time before their situation is reconsidered with an amended application.
- This should not be treated as an appeal but a fresh application, and should be dealt with accordingly with appropriate timescales.
- In other instances, applicants or approved carers may consider that the panel was not provided with all the information and evidence available, or that this had been misinterpreted or not fairly evaluated, or that the recommendation and decision are wrong.

#### O4.4 Appeals procedures

- If applicants or carers wish to appeal against the Agency Decision Maker's decision, they should write to the Director of Education and Children's Services within 28 days of that decision.
- S/he should reply to the applicants or carers within 14 days of receipt of their request for a review of the decision
- This should be within 28 days of the date of the letter being sent unless extra time has been requested or it is otherwise not practicable to fix the reconsideration panel within that time.
- The applicants or carers will be invited to attend the reconsideration panel.
- They may ask a person to accompany them to support them in expressing themselves at the meeting.
- The reconstituted reconsideration panel should be established on comparable lines to an adoption appeal panel but with completely different membership from the initial fostering panel and with members independent of the case.
- There should be at least one member of the appeal panel who is external to the Comhairle and a balance between professional social workers and other perspectives.
- Wherever possible, this panel should include an experienced foster carer.
- Where the reason for the original recommendation and decision relates to a medical issue, there should be a second opinion from another medical adviser.
- The legal adviser should attend to advise on any procedural matters.
- The Comhairle may consider when it might be appropriate to ask an other Council to undertake the appeal on its behalf.
- The appeal panel should have a copy of:
  - all the papers presented to the original fostering panel;
  - the minutes of that panel;
  - the Agency Decision Maker's comments;
  - an updating report from the social worker and/or a report from the team leader of the family placement team;
  - any written materials that the applicants or carers wish to submit, including any additional contributions and references relevant to the points at issue that they wish to add on their behalf.
- The applicants or carers should have the opportunity to put their point of view directly to the review panel, speaking themselves and/or with any support person who accompanies them.
- The procedures and timescales for the panel and the Agency Decision Maker's decision set out in Sections H4.4 and 5 should be followed.
- However, the recommendation, minutes and report from appeal panel should go to an alternative Agency Decision Maker using the same timescales as for other panels, as set out in Section H4.4 and 5 should be followed.
- The applicants or carers should be made aware of the recommendation within 24 hours, or as soon as practicable thereafter and should receive the Agency Decision Maker's written decision 21 days after the reconsideration panel.

## Section P

# Complaints and Allegations Against Carers

### P1 Purpose

- To ensure that complaints and allegations against carers are dealt with in a fair, clear, robust, open and accountable way.
- To ensure that the welfare and protection of children and young people remain at the centre of the process, while being fair to carers.

### P2 Relevant legislation, regulations and care standards

- Children (Scotland) Act 1995, particularly ss.17, 25, 26 and 31.
- Adoption and Children (Scotland) Act 2007
- Looked After Children (Scotland) Regulations 2009.
- Guidance on Looked After Children (Scotland) Regulations 2009, and the Adoption and Children (Scotland) Act 2007.
- Adoption Agencies (Scotland) Regulations 2009
- Best practice guidance for foster carers on allegations and complaints
- Human Rights Act 1998.
- Data protection Act 1998.
- Anti-discrimination legislation:
  - Sex Discrimination Act 1975;
  - Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, especially ss.19B and 20 of the 1976 Act;
  - Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005;
  - Equality Act 2006; and
  - all supporting anti-discrimination regulations, particularly the Equality Act (Sexual Orientation) Regulations 2007, S.I. 2007/1263.
  - the above Anti-discrimination legislation will be replaced in October 2010 with the Introduction of the Equality Act – October 2010.
- Regulation of Care (Scotland) Act 2001, Parts I and 2, ss.1 – 42.
- Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, S.S.I. 2002/114.
- Regulation of Care (Requirements as to Care Services) (Scotland) Amendment Regulations 2004, S.S.I. 2004/94.
- National Care Standards – Foster Care and Family Placement Services, revised March 2005, particularly Standards 7, 8 and 11.
- Best Practice Guidance: Responding to Allegations Against Foster Carers. The Scottish Government – June 2010.

### P3 Key policy and practice issues

- To ensure that carers and staff are clear about the Comhairle's policies and procedures when complaints and allegations are made about carers and how these operate together with the Western Isles Child Protection Procedures.
- To ensure that arrangements are in place to enable carers against whom complaints or allegations are made to access independent advice and support.
- To ensure clarity about the role of carers' supervising social worker during the course of investigations.

- To ensure agreed departmental processes for considering and dealing with situations when allegations raise questions as to whether fostered children and young people, and others also in the foster home, have to be moved, or whether investigations can be conducted with them remaining in placements.
- To ensure agreed processes for handling allegations made after children and young people have left foster homes.
- To ensure agreed processes for considering carers' own children when allegations are made.
- To ensure agreed processes for considering carers' own children when allegations are upheld.
- To ensure clarity about the processes for informing current and future employers of carers about allegations made and allegations upheld against them.
- To ensure a system for the review of each case when complaints or allegations are made, with opportunities for all staff to be de-briefed, offered support and training and to consider development issues.
- To ensure that a full record is kept of all complaints and allegations, and of the investigation processes and outcomes, and that these records are held centrally.
- To ensure that the record is placed in the file of the relevant carer.
- To ensure that information is placed in the record and file of each child or young person affected by the complaint or allegation.
- To ensure that a foster carer review is held following a completed investigation and the outcome reported to the fostering panel if required.
- To avoid foster carers experiencing financial hardship during an investigation a proportion of their usual payments should be paid from the point when they are suspended from fostering following an allegation until the suspension is lifted or a decision is made to deregister the carer(s).
- To ensure that foster carers are offered a formal opportunity to talk about the impact of the allegation and subsequent investigation and review on them and members of their family. Foster carers should have an opportunity to identify any support or other services which would help them manage the impact.

## P4 Procedures

When a complaint or allegation against a carer is received, its nature must be immediately assessed so as to determine what action is required.

### P4.1 Child protection complaints or allegations

- Whenever an allegation is made the duty social worker should be informed without delay. Within the same working day the Fostering Manager and Child and Families Team Leader should undertake discussions about the nature of the allegation and the actual or potential impact on the child.
- If the complaint or allegation involves Child Protection matters, then it will be dealt with under the Council's Child Protection Procedures.
- As soon as a decision is taken to initiate a Child Protection investigation, the Fostering Manager will inform the Agency Decision Maker and the Scottish Commission for the Regulation of Care.
- This should be fully explained to the foster carer by their link worker and arrangements made for independent support for the foster carer(s). This should also include legal advice.
- Appropriate support should continue until such times as a decision is taken to deregister the carer(s) or not.
- Any necessary steps to remove children or young people from the carer's home, including her/his own children, should be taken under the Council's Child Protection Procedures.

- If children are to be moved from a placement because of an allegation, the reasons for this should be explained carefully to them, using appropriate methods of communicating with younger children or children with special needs.
- Once the Child Protection investigation is completed, the carer's link worker will prepare a report and arrange a review meeting to discuss the outcome with the carer and others.
- Any decision to end a Child Protection investigation should result in the Agency Decision Maker, Fosters Carers, relevant staff and the Scottish Commission for the Regulation of Care being informed.
- If the investigation recommends that the carer's approval should be varied or terminated, a review fostering panel should be arranged as soon as possible.
- The procedures for Reviews and Terminations in Sections M and N should be followed.
- The procedures for Appeals in Section O if the carer is not satisfied with the outcome of the Fostering panel and Agency Decision Maker's decision should be followed.
- If the investigation indicates that a carer or member of the carer's family should be referred to the Disqualified from Working with Children list, notification should be made.
- Following an allegation there should be opportunity for family placement staff to reflect on their experiences of managing the allegation and any implications for future practice.
- Consideration should be given to arrangements for informing birth parents that an allegation has been made against the carers looking after their child. The child's social worker will normally carry out this task.

#### **P4.2 Other complaints or allegations**

- If the complaint or allegation does not require Child Protection Procedures to be activated, the matter should be investigated by the carer's link worker or other worker if that is appropriate.
- The process for this should be fully explained to the carer by the link worker and information provided to the foster carer, to allow them to access independent support and advice.
- This investigation should be carried out within 28 days of receipt of the complaint or allegation, or as soon thereafter as is reasonably practical.
- The investigating worker will prepare a significant incident report and this will be shared with the foster carer, excluding third party confidential information.
- A review should be arranged as soon as possible to discuss the report and the recommended outcomes.
- If the complaint or allegation involved a significant incident or change in the carer's circumstances, the review should be carried out by the fostering panel.
- If the investigation recommends that the carer's approval should be varied or terminated, the review should be carried out by the foster panel.
- The procedures for Reviews and Terminations in Sections M and N should be followed
- The procedures for Appeals in Section O if the carer is not satisfied with the outcome of the foster panel and Agency Decision Maker's decision should be followed.
- Following an allegation there should be opportunity for family placement staff to reflect on their experiences of managing the allegation and any

implications for future practice.

- Consideration should be given to arrangements for informing birth parents that an allegation has been made against the carers looking after their child. The child's social worker will normally carry out this task.