





Department  
for Education

# **Guide to the Children's Homes Regulations including the quality standards**

**April 2015**

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## Introduction

1.1 Children’s homes provide support and care for some of our most vulnerable children and young people. We want each child in care to be provided with the right placement at the right time, and for residential child care to be a positive and beneficial choice for the children and young people living in children’s homes.

1.2 This Guide accompanies the Children’s Homes (England) Regulations 2015 (“the Regulations”). It provides further explanation and information for everyone providing residential child care. The Regulations include Quality Standards which set out the aspirational and positive outcomes that we expect homes<sup>1</sup> to achieve. They also set out the underpinning requirements that homes must meet in order to achieve those overarching outcomes.

1.3 Many children placed in residential child care will have highly complex and challenging needs. Their abilities and individual stage of development will determine their starting point when they arrive at the children’s home and the home may need to support them through a complex and extended period of transition before they are able to positively engage and develop. This should not limit the home’s ambitions for each child. The requirements within the Regulations and the information in this Guide should be interpreted and applied in the context of each child’s individual needs.

## Who is this Guide for?

1.4 This Guide is for all those involved with the care of children (and in some cases those aged 18 or over (regulation 1(2)(b))) in children’s homes and particularly those who are subject to the Regulations.

1.5 Key settings subject to the Regulations are:

- Children’s homes;
- Children’s homes that provide short break care;
- Secure children’s homes; and
- Residential special schools or boarding schools who accommodate children for more than 295 days per year.

1.6 Some regulations have been modified or do not apply to children’s homes that provide short break care or secure children’s homes. Detail about any modifications to the Regulations, or regulations that do not apply, appear at the end of the relevant section in this Guide and are set out in regulation 52 and schedule 5 of the Regulations.

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<sup>1</sup> The term ‘home’ or ‘homes’ is used in the widest sense and includes, but is not limited to, those working in the children’s home, and the organisation who runs the children’s home.

## **The regulatory framework and legal status of this Guide**

1.7 This Guide is a statement published pursuant to section 23 of the Care Standards Act 2000 (“the 2000 Act”). It explains and supplements the Regulations (see section 23(1A) of the 2000 Act). It provides explanations of: terms used in the Regulations; what is expected for the various requirements of the Regulations to be met and signposts some of the relevant statutory and non-statutory guidance.

1.8 The registered person (see paragraph 1.9) must have regard to this Guide in interpreting and meeting the Regulations (regulation 15). Ofsted must also have regard to this Guide in regulating children’s homes.

## **Who is accountable for meeting the Regulations and information contained in the Guide?**

1.9 Most of the Regulations are drafted to make the “registered person” accountable – this means the registered provider or registered manager depending on how the home is organised, run and managed. The language of the Guide follows this approach.

## **Principles for residential child care**

1.10 The principles upon which residential child care is delivered are important elements that underpin the Regulations and this Guide. The principles below, originally drafted by NCERRC<sup>2</sup>, have been amended for use in this document following contributions before and during our consultation period by the residential child care sector. We would expect all homes to apply the principles below, and to ensure that residential child care is a positive choice for children and young people where a children’s home is the best placement to meet their individual needs.

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<sup>2</sup> National Centre for Excellence in Residential Child Care

## **Residential child care – key principles**

Children in residential child care should be loved, happy, healthy, safe from harm and able to develop, thrive and fulfil their potential.

Residential child care should value and nurture each child as an individual with talents, strengths and capabilities that can develop over time.

Residential child care should foster positive relationships, encouraging strong bonds between children and staff in the home on the basis of jointly undertaken activities, shared daily life, domestic and non-domestic routines and established boundaries of acceptable behaviour.

Residential child care should be ambitious, nurturing children's school learning and out-of-school learning and their ambitions for their future.

Residential child care should be attentive to children's need, supporting emotional, mental and physical health needs, including repairing earlier damage to self-esteem and encouraging friendships.

Residential child care should be outward facing, working with the wider system of professionals for each child, and with children's families and communities of origin to sustain links and understand past problems.

Residential child care should have high expectations of staff as committed members of a team, as decision makers and as activity leaders. In support of this, children's homes should ensure all staff and managers are engaged in on-going learning about their role and the children and families they work with.

Residential child care should provide a safe and stimulating environment in high-quality buildings, with spaces that support nurture and allow privacy as well as common spaces and spaces to be active.

## **The diversity of children's homes settings**

1.11 Children's homes provide care for children and young people with a wide range of needs in a diverse range of settings. The regulatory framework sets out high ambitions for all children living in children's homes, but recognises the acute differences between vulnerable adolescents who have had traumatic life experiences and children with complex special educational needs.

1.12 With this in mind, it is important that registered persons meet the Regulations having regard to the needs of children placed in the home and the role and aims of the home as set out in their Statement of Purpose. This Guide identifies specific regulations

where a home's approach may need to be different because of the purpose of the home and/or the needs of the children they care for.

## About the Quality Standards

1.13 The Regulations set out standards ("the Quality Standards") that must be met by homes. The Quality Standards describe outcomes that each child must be supported to achieve while living in the children's home. Each contains an over-arching, aspirational, child-focused outcome statement, followed by a non-exhaustive set of underpinning, measurable requirements that homes must achieve in meeting each standard.

1.14 The Regulations prescribe nine Quality Standards which must be met by children's homes:

- 1. The quality and purpose of care standard (see regulation 6)**
- 2. The children's views, wishes and feelings standard (see regulation 7)**
- 3. The education standard (see regulation 8)**
- 4. The enjoyment and achievement standard (see regulation 9)**
- 5. The health and well-being standard (see regulation 10)**
- 6. The positive relationships standard (see regulation 11)**
- 7. The protection of children standard (see regulation 12)**
- 8. The leadership and management standard (see regulation 13)**
- 9. The care planning standard (see regulation 14)**

1.15 Collectively these nine standards are the Quality Standards. They are referred to individually in this Guide as "the education standard", and so on.

1.16 Regulation 5 is overarching; meaning is it relevant across all the Quality Standards. It sets out the requirement that children's homes must seek to work with those in the wider system to ensure that each child's needs are met.

1.17 The Quality Standards contained within the Children's Homes Regulations, should not be confused with quality standards developed by the National Institute for Health and Care Excellence (NICE). Quality standards prepared by NICE are provided for by the Health and Social Care Act 2012. The Secretary of State and NHS England (The National Health Service Commissioning Board) must have regard to quality standards prepared by NICE in discharging their respective duties as to improvement in the quality of services provided in the health service.

1.18 The NICE, [Quality standards for the health and wellbeing of looked-after children and young people](#) define best practice in health and wellbeing for looked after children

from birth to 18 years and care leavers. They apply to all settings and services working with and caring for looked-after children and young people, and care leavers. The NICE quality standards will have relevance across the Quality Standards set out in the Children's Homes Regulations.

## How this Guide works

1.19 This Guide is divided into two sections. Section 1 covers the Quality Standards. For each standard it provides:

1. the text of the relevant regulation;
2. an explanation of specific terms in the regulation; and
3. guidance that supplements the regulation.

Section 2 provides guidance to supplement matters relating to the management and administrative regulations (Parts 3 to 7 of the Regulations).

1.20 The Guide is not a comprehensive and exhaustive set of instructions for those carrying on or managing a children's home and has intentionally been kept to a minimum. Many of the regulations speak for themselves and so the Guide does not provide further information on them. The presence or absence of a reference to any provision of the regulations in the Guide does not have any bearing on the regulation's status – the registered person of the home is required to meet all of the Regulations.

1.21 Similarly the Guide attempts to signpost to publications, research and guidance of interest. Such references are not intended to be exhaustive. It remains the responsibility of those running children's homes to seek out the relevant material to ensure that they comply with the law and provide children with the best possible care.

## Inspection

1.22 HMCI (Ofsted) is the registration authority for children's homes and as registration authority regulates and inspects children's homes.

1.23 The purpose of Ofsted's inspection of children's homes is to assess the quality of care being provided for children. Inspection focuses on the outcomes that children are being supported to achieve. It tests compliance with the relevant regulations, and has regard to this Guide.<sup>3</sup>

1.24 Ofsted are required to inspect each children's home at least twice per year. At least one of these inspections will be a full inspection. Following a full inspection, inspectors will make a number of judgements, including a judgement on the overall

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<sup>3</sup> [Ofsted framework for inspection of children's homes](#)

progress and experiences of children living in the home. The other inspection will usually be an interim inspection. From April 2015 if inspectors identify a failure to meet a regulation, Ofsted will set requirements that the registered person must meet. In determining whether a regulation has been met, Ofsted will take into account how the registered person is following this Guide. Any failure to meet regulations may lead to consideration of enforcement action. Inspectors will also make recommendations for improvement.

## **Other matters**

1.25 Regulation 3(1)(d) sets out that childcare consisting only of day care (e.g. children's nurseries with daytime sleeping accommodation) are not children's homes.

1.26 If a non-looked after child is placed in a private children's home other than by a voluntary organisation, the person carrying on the home (i.e. the registered provider) must prepare a placement plan for that child in accordance with regulations 4 and 5 of the Arrangements for Placement of Children by Voluntary Organisations and Others (England) Regulations 2011.

# The Quality Standards

## Regulation 5 - engaging with the wider system to ensure children's needs are met

### The text of the regulation

5. In meeting the quality standards, the registered person must, and must ensure that staff—
- (a) seek to involve each child's placing authority effectively in the child's care, in accordance with the child's relevant plans;
  - (b) seek to secure the input and services required to meet each child's needs;
  - (c) if the registered person considers, or staff consider, a placing authority's or a relevant person's performance or response to be inadequate in relation to their role, challenge the placing authority or the relevant person to seek to ensure that each child's needs are met in accordance with the child's relevant plans; and
  - (d) seek to develop and maintain effective professional relationships with such persons, bodies or organisations as the registered person considers appropriate having regard to the range of needs of children for whom it is intended that the children's home is to provide care and accommodation.

### Explanation of terms in the regulation

#### ***'relevant plans'***

2.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan ("EHC plan")<sup>[1]</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child's placing authority in relation to the remand or sentencing of that child.

'Relevant' thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of 'relevant plans', but a child may not have all of the plans defined as 'relevant' (for example, there will be children living in children's homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as 'relevant', but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child's plans should form the basis of their care, and providers should use their judgement as to what is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

#### ***'relevant persons'***

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<sup>[1]</sup> In some cases the child's special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

2.2 Any person, body or organisation who the registered person considers to be relevant in relation to the care, protection or safeguarding of a particular child living in the home in all the circumstances.

**‘seek to’**

These words have their ordinary dictionary meaning, which is ‘try to’.

## Guidance

2.3 Regulation 5 sets out overarching requirements that run across all of the Quality Standards. To meet the aspirations embodied in the Quality Standards, children’s homes need to connect with and be part of the wider support system for each child in their care. No children’s home will be able to meet, on its own, all of a child’s needs. It is crucial that the home works in close partnership with all those who play a role in protecting and caring for the child, but particularly the child’s local authority and statutory social worker. The registered person and the staff of the home cannot force a relevant person to engage or work productively with them and the regulation does not require this. The registered person should evidence what they have done to achieve engagement, including any actions taken to escalate concerns.

2.4 The home should play a full part in promoting the best interests of the child, proactively advocating for the child to ensure that others play their role and deliver the high quality support that is needed. Such partnership working should always take place: before a child arrives; while the child lives in the home and where the child prepares to return home, move to another setting or leave care. Where a placement is made in an emergency, the registered person should quickly engage with relevant persons to provide the best immediate care.

2.5 Regulation 5(a) requires the registered person to ‘seek to involve’ the placing authority that places a looked-after child in the home, which in practice means working primarily with their statutory social worker.<sup>4</sup> The requirement to work with social workers and other relevant people is repeated at other places in the Regulations and Guide, but in this instance the duplication is a justifiable reinforcement in light of the crucial importance of a strong working relationship between the home and the authority with parental responsibility for a child placed there. Not all children in homes are looked-after – for these children too, a close working relationship is essential with those with parental responsibility for them, usually their parents or other carers.

2.6 There will also be cases where a home needs to engage with more than one local authority. For example, where a looked-after child is placed in a home in a different local authority area, or a child accesses education or other provision in a different area to that of the home.

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<sup>4</sup> Section 23ZA Children Act 1989 and Part 5 Care Planning, Placement and Case Review (England) Regulations 2010.

2.7 Beyond local authorities, there are other people, bodies and organisations that have responsibilities towards children in children's homes. Many of these are referenced specifically in the Regulations and Guide. They might include health and education services, Local Safeguarding Children Boards, leaving care services, IROs, voluntary agencies, the police and youth offending teams. This list is not exhaustive. The important thing is that homes take the initiative in identifying others who must play a part for their children and engage with those relevant people proactively, advocating for the children in their care.

2.8 Where the placing authority or another relevant person does not provide the input and services needed to meet a child's needs during their time in the home or in preparation for leaving the home, the home must challenge them to meet the child's needs (see regulations 5(c)). Staff should act as champions for their children, expecting nothing less than a good parent would. The registered person should consider the use of an independent advocate (see paragraph 4.16) if the child's needs are not being met.

### **Children on remand or sentenced to custody.**

2.9 Where children are sentenced to custody and placed in a secure children's home, or remanded and placed in either a secure children's home or open children's home, the home should ensure that they seek to establish effective working relationships with the Youth Justice Board and relevant youth offending teams, as well as each child's parents/carers or other relevant persons.

2.10 Secure children's homes should pay particular regard to children living in secure accommodation that may have moved further from home and may be at a greater risk of disconnection with those involved in their care. It is important that these children should be supported to understand who the relevant persons involved in their care are, and what each relevant person's role is in their care.

### **Short break settings**

2.11 Regulation 5(b) does not apply to short break settings. Children are commonly only in these settings for short periods of time and their placing authority (usually their parents/carers) remains responsible for their wider care. However, short break settings should seek to build relationships with others involved in the child's care in so far as this is appropriate in relation to their role within the wider system for the child.

## The quality and purpose of care standard

### The text of the regulation

6. (1) The quality and purpose of care standard is that children receive care from staff who—
- (a) understand the children’s home’s overall aims and the outcomes it seeks to achieve for children;
  - (b) use this understanding to deliver care that meets children’s needs and supports them to fulfil their potential.
- (2) In particular, the standard in paragraph (1) requires the registered person to—
- (a) understand and apply the home’s statement of purpose;
  - (b) ensure that staff—
    - (i) understand and apply the home’s statement of purpose;
    - (ii) protect and promote each child’s welfare;
    - (iii) treat each child with dignity and respect;
    - (iv) provide personalised care that meets each child’s needs, as recorded in the child’s relevant plans, taking account of the child’s background;
    - (v) help each child to understand and manage the impact of any experience of abuse or neglect;
    - (vi) help each child to develop resilience and skills that prepare the child to return home, to live in a new placement or to live independently as an adult;
    - (vii) provide to children living in the home the physical necessities they need in order to live there comfortably;
    - (viii) provide to children personal items that are appropriate for their age and understanding; and
    - (ix) make decisions about the day-to-day arrangements for each child, in accordance with the child’s relevant plans, which give the child an appropriate degree of freedom and choice;
  - (c) ensure that the premises used for the purposes of the home are designed and furnished so as to—
    - (i) meet the needs of each child; and
    - (ii) enable each child to participate in the daily life of the home; and
  - (d) ensure that any care that is arranged or provided for a child that—
    - (i) relates to the child’s development (within the meaning of section 17(11) of the Children Act 1989) or health; and
    - (ii) is not arranged or provided as part of the health service continued under section 1(1) of the National Health Service Act 2006, (See footnote <sup>5</sup>)satisfies the conditions in paragraph (3).
- (3) The conditions are—
- (a) that the care is approved, and kept under review throughout its duration, by the placing authority;
  - (b) that the care meets the child’s needs;
  - (c) that the care is delivered by a person who—
    - (i) has the experience, knowledge and skills to deliver that care; and
    - (ii) is under the supervision of a person who is appropriately skilled and qualified to supervise that care; and
  - (d) that the registered person keeps the child’s general medical practitioner informed, as necessary, about the progress of the care throughout its duration.

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<sup>5</sup> 2006 c.41. Section 1 of the National Health Service Act 2006 was substituted by section 1 of the Health and Social Care Act 2012 (c.7).

## Explanation of terms in the regulation

### ***‘relevant plans’***

3.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan (“EHC plan”)[1]; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child’s placing authority in relation to the remand or sentencing of that child.

‘Relevant’ thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of ‘relevant plans’, but a child may not have all of the plans defined as ‘relevant’ (for example, there will be children living in children’s homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as ‘relevant’, but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child’s plans should form the basis of their care, and providers should use their judgement as to what is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

### ***‘personalised care’***

3.2 Care which meets each child’s needs and promotes their welfare, taking into account of the child’s gender, religion, ethnicity, cultural and linguistic background, sexual identity, mental health, any disability, their assessed needs, previous experiences and any relevant plans.

### ***‘physical necessities’***

3.3 Includes but is not limited to, a clean environment, continuous access to drinking water, varied and nutritious food, clothing, hot water, bedding and so on.

### ***‘resilience’***

3.4 Qualities that enable a child to cope with and withstand challenges and difficulties, both mentally and emotionally.

## Guidance

### **The Statement of Purpose**

3.5 The Statement of Purpose is of particular importance to this Standard (regulation 6(2)(a) and (b)(i)). Homes are required to develop and keep under review a “Statement of Purpose” (regulation 16 and schedule 1). The home’s Statement of Purpose should be

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[1] In some cases the child’s special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

child-focused, indicating how the home provides individualised care to meet the Quality Standards for the children in their care.

3.6 The information set out in the Statement of Purpose is an essential part of the process of agreement between the registered person and placing authority that a placement in that home is the right one for that child, and that the home will be able to respond effectively to the child's assessed needs. Emergency admissions should not be taken unless the home's Statement of Purpose and its capacity and support systems mean that it has the capability to care for children admitted at very short notice while continuing to offer high quality care to children already living in the home.

### **A welcoming environment**

3.7 Many children placed in homes may undergo a difficult transition and what should be simple aspects of their care take on a substantial significance in this context. Staff should provide a nurturing environment that is welcoming, supportive, and which provides appropriate boundaries in relation to their behaviour. Homes must also meet children's basic day to day needs and physical necessities. Staff should seek to meet the child's basic needs in the way that a good parent would, recognising that many children in residential care have experienced environments where these needs have not been consistently met – doing so is an important aspect of demonstrating that the staff care for the child and value them as an individual.

3.8 The registered person should ensure that children are provided with nutritious meals suitable for each child's needs. Where appropriate, children should be involved in choosing and preparing meals and opportunities to sit together and eat should be promoted.

3.9 For children's homes to be nurturing and supportive environments that meet the needs of their children, they will, in most cases, be homely, domestic environments. Children's homes must comply with relevant health and safety legislations (alarms, food hygiene etc.); however in doing so, homes should seek as far as possible to maintain a domestic rather than 'institutional' impression.

3.10 Just as in a family home, children should be able to access all shared areas of their home unless there are specific reasons why this would not meet a child's needs. Limits on privacy and access may only be put in place to safeguard each child in the home (regulation 21(c)(i)). Any decisions to limit a child's access to any area of the home and any modifications to the environment of the home, must only be made where this is intended to safeguard the child's welfare. All decisions should be informed by a rigorous assessment of that individual child's needs, be properly recorded and be kept under regular review. Information on restraint and deprivation of liberty is contained in the protection of children section of the Guide from paragraph 9.41.

3.11 Children will have varied pre-care experiences. A large proportion of children come into care for reasons relating to trauma, neglect and abuse. The registered person

should ensure that staff are prepared and able to listen to children who want to talk about their past experiences.

### **A safe and supportive environment**

3.12 Children's home staff should take every step to make sure that individual children and young people are not subject to discrimination, marginalisation or bullying from their peers by virtue of their gender, religion, ethnicity, cultural and linguistic background, sexual identity, mental health, disability or for any other reason.

3.13 Children in residential care may be worried about being stigmatised or bullied by their peers for being "different" because of where they live. The home's environment and care should be designed to take account of this and staff should support children to talk about and help them address any concerns they have.

3.14 The importance of understanding who we are and where we come from is recognised in good social work practice, for example through undertaking life story work or other direct work. Staff in children's homes should play a full role in work of this kind.

3.15 The relevant plan may include a strategy for a particular type of care, treatment or intervention (for example therapy relating to neglect or abuse). The care staff will need to understand the purpose of any such care and the way in which the past experiences of abuse or neglect may manifest itself in the day to day life of the child.

3.16 Any home using CCTV or other monitoring equipment should have a written policy describing how this will support the safeguarding and well-being of those living and working in the home in accordance with regulation 24. Homes must gain consent to any monitoring or surveillance by the placing authority in writing at the time of placement. The use of CCTV is regulated by the Protection of Freedoms Act 2012 and the [Surveillance Camera Code of Conduct \(Home Office 2013\)](#).

### **Providing personal space**

3.17 Children in residential care usually live in a group environment, and so it is particularly important that they can spend time away from other group members. Staff should respect children's privacy and support the other children living in the home to do so.

3.18 Each child should have their own personal space which will usually be their bedroom.

3.19 Children should be provided with appropriate furniture, such as a lockable cabinet or drawers to securely store personal items, including any personal information. Children should have separate bedrooms and should not share a bedroom with an adult. It may be appropriate for siblings of the same sex to share. Children should be given a choice about how their personal space is decorated in accordance with regulation 7(2)(a)(i).

3.20 A child's bedroom should not generally be entered without their permission, though it may be necessary to establish routines to allow for rooms to be cleaned

regularly. Usually, rooms should only be searched if the child has been informed or asked for their permission. Immediate searching may be necessary where there are reasonable grounds for believing that there is a risk to the child's or another person's safety or well-being.

### **Choice and expression of preference**

3.21 Children should be supported to express themselves as individuals and should be given an appropriate degree of freedom and choice in relation to day to day arrangements for their care, depending on their individual needs and the setting in which they are cared for. This is in relation to both activities and personal items such as clothing, technology and leisure items. Children's reasonable preferences in relation to day to day arrangements should be met with consideration given to safeguarding, particularly in relation to the use of technology. Where a child's preferences are unreasonable or cannot be met for safeguarding reasons, staff should discuss this with the child to help them understand why.

3.22 Children should be able to maintain and develop their cultural or religious beliefs as far as practicable and where appropriate, through participation and instruction, and by observing religious requirements including dress and diet.

### **Location and design**

3.23 The home should be located in an area that supports children's safety, well-being and personal development. The location of the home should support its aims, objectives and ethos, as described in the Statement of Purpose. (See paragraph 15.1 for information on assessing the location of the home.)

3.24 The design of the home should include any necessary adaptation to meet the needs of children with disabilities or specific health issues.

3.25 The design of the home should, where appropriate, enable children to develop independence skills within the supportive environment of the home, including through encouraging independent use of kitchen and laundry areas.

3.26 The design of the home should provide staff that sleep in the home overnight with appropriate accommodation and facilities to do so.

### **Transition from the home**

3.27 Staff must help each child to prepare for any moves from the home, whether they are returning home, moving to another placement or adult care, or to live independently. This includes supporting the child to develop emotional and mental resilience to cope without the home's support and, where the child is moving to live independently, practical skills such as cooking, housework, budgeting and personal self-care.

3.28 As the home will have a day to day understanding of young people's capabilities and needs, children's homes staff will have a valuable contribution to make to the

pathway planning process. They should actively seek to make the fullest contribution, working with other relevant persons.

For further information see [Children Act 1989: Transition to adulthood for care leavers](#).

### Care offered by children's homes

3.29 Where a placing authority commissions a children's home to deliver care to meet a specific health or developmental outcome outlined in a child's relevant plan (as set out in regulation 6 (2) (d)) and that care is provided or partially provided by a non NHS service, the registered person must ensure that such an arrangement meets the requirements in regulation 6 (3).

3.30 Any home offering the type of care outlined in paragraph 3.29, should have in place an assessment process for the child in advance of the placement whereby the child, the social worker and other relevant persons input is sought on the implementation and arrangements for the care.

3.31 Under regulation 6 (3) it is expected that in establishing whether the care meets the child's needs, the child will be appropriately supported throughout the care and given opportunities to discuss the impact of the care, or any changes they feel they might need to it.

3.32 Where the care provided in a children's home involves the provision of a regulated activity, the registered person should check that the provider of the service is registered with the CQC.<sup>6</sup> The relevant regulated activities are listed in the CQC and Ofsted guidance below. Not all activities that may be regarded as care are regulated activities. For example, counselling services and play therapy are not regulated activities and are not eligible for CQC registration. In these cases, the registered person should ensure that the practitioner is registered with their relevant professional body where one exists. Most importantly, the registered person must be confident that the person delivering the care will do so in a way that is safe and appropriate for the individual child (as set out in 6 (3)) The approach to delivering this type of care should be included in the Statement of Purpose (see schedule 1 - Health).

3.33 Where the type of care outlined in 3.29 is commissioned, the child's General Medical Practitioner (GP) should be kept informed of the progress of the care, including any suggested changes to that care. Where a child is also under the care of a consultant or other health professional, the GP may agree that it should be the consultant or other health professional that is kept informed of the progress of the care. It is good practice for all of those involved in the healthcare of a child, including consultants and /or health professionals to be kept informed of the progress of the care at appropriate intervals.

The CQC and Ofsted guidance, [Registration of healthcare at children's homes](#), provides further information for children's homes that provide healthcare:

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<sup>6</sup> In this context a "regulated activity" is as defined by the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010.

## Secure children's homes

3.34 The quality and purpose of care standard applies to secure children's homes. However, regulation 6(2)(b)(vii) must be applied in such a way that the home can protect the safety of all children accommodated there and maintain the secure environment.

3.35 Secure children's homes should allow children appropriate freedom and choice but this may be limited dependent on each child's risk assessment. The provision of personal items must be interpreted according to the nature of the secure setting.

3.36 Observation, monitoring or surveillance of children must not remove reasonable privacy, and should allow as much privacy as is possible, including in dressing, washing and using the toilet. A record must be kept of all observations in bedrooms to ensure that children are not subject to unnecessary invasions of their privacy.

3.37 A young person who reaches the age of 18 and is accommodated in a secure children's home because they were remanded or sentenced to youth detention may transition directly into the adult prison estate. Transition preparation for the change of environment will need to be planned in conjunction with the receiving prison, the youth offending team and other agencies involved with the young person.

3.38 [Healthcare Standards for Children and Young People in Secure Settings](#) are available from the Royal College of Paediatrics and Child Health. These standards include guidance on entry and assessment, healthcare planning, physical and mental health, transfer and continuity of care and multi-agency working. The relevant NHS England providers are expected to consider these standards when organising health care for those under 18 years old in secure settings.

3.39 When making a decision about arranging care (as described in paragraph 3.29) for children in secure children's homes, it is good practice for all the relevant people involved in the child's healthcare commissioned through NHS England to be informed so there is an integrated approach to health and wellbeing.

## Residential special schools which are registered as children's homes; and short break settings

3.40 The quality and purpose of care standard applies to residential special schools registered as children's homes and short break settings. Some of the requirements of the standard must be applied in such a way that homes are able to protect and meet the needs of all children accommodated in them (particularly in relation to children's complex special educational needs and disabilities).

3.41 Children should have the appropriate level of freedom and choice granted to them, however, for some children, ensuring their safety and welfare means that this may be limited compared with other settings.

## The children's views, wishes and feelings standard

### The text of the regulation

- 7.—(1) The children's views, wishes and feelings standard is that children receive care from staff who—
- (a) develop positive relationships with them;
  - (b) engage with them; and
  - (c) take their views, wishes and feelings into account in relation to matters affecting the children's care and welfare and their lives.
- (2) In particular, the standard in paragraph (1) requires the registered person to—
- (a) ensure that staff—
    - (i) ascertain and consider each child's views, wishes and feelings, and balance these against what they judge to be in the child's best interests when making decisions about the child's care and welfare;
    - (ii) help each child to express views, wishes and feelings;
    - (iii) help each child to understand how the child's views, wishes and feelings have been taken into account and give the child reasons for decisions in relation to the child;
    - (iv) regularly consult children, and seek their feedback, about the quality of the home's care;
    - (v) help each child to understand how the child's privacy will be respected and the circumstances when it may have to be limited;
    - (vi) help each child to prepare for any review of the child's relevant plans and to make the child's views, wishes and feelings known for the purposes of that review; and
    - (vii) make each child aware of and, if necessary, remind them of each of the matters in sub-paragraph (d)(i) to (iii);
  - (b) ensure that each child—
    - (i) is enabled to provide feedback to, and raise issues with, a relevant person about the support and services that the child receives;
    - (ii) has access to the home's children's guide, and the home's complaints procedure, when the child's placement in the home is agreed and throughout the child's stay in the home; and
    - (iii) is given appropriate advocacy support;
  - (c) keep the children's guide and the home's complaints procedure under review and seek children's comments before revising either document;
  - (d) ensure that an explanation is given to each child as soon as reasonably practicable after the child's arrival about—
    - (i) the children's guide;
    - (ii) how to make a complaint or representations in relation to the home or the care the child receives and how any such complaint or representations will be dealt with; and
    - (iii) what advocacy support or services are available to the child, how the child may access that support or those services and any entitlement the child may have to independent advocacy provision; and
  - (e) ensure that the views of each relevant person are taken into account, so far as reasonably practicable, before making a decision about the care or welfare of a child.

### Explanation of terms in the regulation

#### ***'relevant persons'***

4.1 Any person, body or organisation involved in the care or protection of a particular child or children living in the home which the registered person considers to be relevant.

### ***‘relevant plans’***

4.2 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan (“EHC plan”)<sup>7</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child’s placing authority in relation to the remand or sentencing of that child.

‘Relevant’ thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of ‘relevant plans’, but a child may not have all of the plans defined as ‘relevant’ (for example, there will be children living in children’s homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as ‘relevant’, but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child’s plans should form the basis of their care, and providers should use their judgement as to what is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

### ***‘positive relationships’***

4.3 Positive relationships are those which are characterised by consistency and unconditional positive regard for the child on the part of the carer; and where the carer acknowledges the importance of understanding and responding to the child’s lived experience of care. Positive, stable relationships help the child to feel secure and cared about and for.

### ***‘advocacy’***

4.4 Advocacy is the process of representing the views, wishes and feelings of the child in matters which affect the child, or, of enabling the child to express their views, wishes and feelings themselves.

## **Guidance**

4.5 The principle of listening to the child and taking their views, wishes and feelings into account when planning and undertaking their care applies to all children, including children with disabilities, special educational needs or other complex needs.

### **Working in partnership with others**

Section 22(5) of the Children Act 1989 and [Children Act 1989: Care planning, placement and case review](#) sets out in detail the local authority’s responsibilities with regard to seeking and taking into account a child’s wishes and feelings when they are looked-after:

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<sup>7</sup> In some cases the child’s special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

4.6 The home should work in partnership with relevant people as appropriate to ensure that each child is provided with support (appropriate to their age and understanding) to communicate their views, wishes and feelings and participate as fully as possible in all aspects of their care planning and daily care. This may include the use of and support to use communication aids, equipment and/or any necessary language support.

4.7 For children who are looked-after, including those placed in care under section 20 of the Children Act 1989, the placing authority will have recorded the level or type of family involvement that is appropriate in their care plan. Children's homes must follow regulation 7(2)(e) in accordance with this decision.

4.8 For children who are not looked-after the home should frequently seek the views and involvement of parents/carers and others with a significant relationship to the child as relevant persons in that child's care. In following regulation 7(2)(e) in this situation, the relevant persons will always include parents/carers.

### **Taking children's views, wishes and feelings into account**

4.9 In some instances, a child may express wishes that are not always in their best interests or which may conflict with the views of other children in the home. In such circumstances, the responsible adults will have to balance the wishes of the child against what they judge to be in the best interests of the child and reach a reasonable view about the best way forward in the interests of all. The reasons for reaching any decision will need to be carefully explained to and understood by the child or children concerned.

4.10 Staff should have the skills and confidence to communicate easily and understand the importance of listening to, involving and responding to the children they care for. Staff should understand that they have a responsibility to observe, notice and respond to children who are expressing their views, acknowledging that it is not the sole responsibility of the child to 'tell'. They should also understand how children might communicate their feelings through their behaviour, or non-verbally especially where the child has a disability which does not allow them to communicate as others might.

4.11 Children must be consulted regularly on their views about the home's care, to inform and support continued improvement in the quality of care provided. Due consideration should be given to the child's cognitive ability in the development and implementation of any consultation processes. Children should be able to see the results of their views being listened to and acted upon.

4.12 Staff should ensure that each child understands the home's procedures and policies for respecting their confidentiality and also when it will not be possible to preserve this – e.g. where protecting a confidence puts themselves or others at risk.

4.13 Staff should encourage children to share any concerns about their care or other matters as soon as they arise. Children must be able to take up issues or make a complaint with support and without any fear that this will result in any adverse consequences. Regulation 39 sets out the requirements on the registered person to have

a complaints procedure. Children must be aware of this procedure and be reminded of it as necessary.

4.14 The registered person and the home's staff should be familiar with the care planning process for looked-after children and must assist children to prepare for meetings in relation to this. Staff should play an important role in these meetings, including supporting the child and enabling a clear understanding to be reached about the child's views, wishes, feelings, and expectations for their future. An independent advocate can also be called upon by the child or staff to support the child in their reviews.

4.15 The registered person should provide opportunities and support, where needed, for children to engage with their local Children in Care Council, or other such local arrangements, which enable the views and experiences of children in care to be heard.

### **Independent advocacy and children's rights**

4.16 All children must have access to appropriate advocacy support, and where possible this should be provided by a person that the child chooses. Looked-after children are entitled to an independent advocate to advise them and ensure they have the support needed to express their views, wishes and feelings about their care and lives.

4.17 There is a legal requirement for the IRO of a looked-after child to ensure that the child understands they have an entitlement to independent advocacy support arranged by the child's local authority (*Chapter 3, IRO Handbook*). Children's home staff should complement any explanation given by the IRO by helping looked-after children to understand the role of an independent advocate and how they can access one. Staff should regularly remind children of their right to access an independent advocate, concerning any matter relevant to the child's status as looked-after. Independent advocates can support both the child and the home to seek redress of issues which affect them, such as lack of contact with their social worker, contact with family and leaving care grants, in addition to issues about their care within the home.

4.18 Although there is not a legal requirement for non-looked-after children to have access to an independent advocate, homes caring for these children should ensure that children can access advocacy support (as described in paragraph 4.4) and should also consider the use of an independent advocate where necessary.

4.19 The registered person must ensure that the children in their care understand their rights as a looked-after child, or child living in a children's home. Children must be informed of how to contact the Office of the Children's Commissioner for advice and assistance about their rights and entitlements.

4.20 For further information about complaints and advocacy for children living in children's homes see [\*Get it Sorted \(2004\) Guidance on providing effective advocacy services for children and young people making a complaint under the Children Act 1989.\*](#)

## **Producing a children's guide**

4.21 The children's home must produce a children's guide. The children's guide must be made available to all children when their placement in the home is agreed (or on arrival at the home if the placement is made in an emergency) and must be age appropriate, provided in an accessible format and explained to each child to make sure they understand it.

4.22 The children's guide should help children to understand:

- what the day to day routines of the home are ('what happens in the home');
- the Statement of Purpose of the home (the care they can expect to receive while living there);
- how to make a complaint in line with the home's complaints procedure;
- how they can access advocacy support or independent advocacy if eligible; and
- how to contact the Office of the Children's Commissioner.

4.23 As part of reviewing and revising where appropriate the Statement of Purpose (regulation 16(3)(a)), the registered person should review and update the children's guide as necessary, and make sure children are given an explanation of any changes.

## **Children with communication difficulties**

4.24 Children who cannot or choose not to verbalise, have the right to have their views, wishes and feelings heard and respected in the same way as other children. There may be children whose abilities and understanding are such that regulations 7(2)(a)(iv), (b)(i) and (c) will need interpretation according to their individual circumstances in consultation with their social worker.

4.25 The registered person must not automatically use the views of parents as a proxy for children's views. Children will have their own perspective and arrangements should be in place to engage with them directly. In some cases the view of a relevant person, such as a social worker or IRO, might be included in discussions where the person is interpreting or advocating on behalf of a child.

## The education standard

### The text of the regulation

**8.**—(1) The education standard is that children make measurable progress towards achieving their educational potential and are helped to do so.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

(a) that staff—

- (i) help each child to achieve the child’s education and training targets, as recorded in the child’s relevant plans;
- (ii) support each child’s learning and development, including helping the child to develop independent study skills and, where appropriate, helping the child to complete independent study;
- (iii) understand the barriers to learning that each child may face and take appropriate action to help the child to overcome any such barriers;
- (iv) help each child to understand the importance and value of education, learning, training and employment;
- (v) promote opportunities for each child to learn informally;
- (vi) maintain regular contact with each child’s education and training provider, including engaging with the provider and the placing authority to support the child’s education and training and to maximise the child’s achievement;
- (vii) raise any need for further assessment or specialist provision in relation to a child with the child’s education or training provider and the child’s placing authority;
- (viii) help a child who is excluded from school, or who is of compulsory school age but not attending school, to access educational and training support throughout the period of exclusion or non-attendance and to return to school as soon as possible;
- (ix) help each child who is above compulsory school age to participate in further education, training or employment and to prepare for future care, education or employment;
- (x) help each child to attend education or training in accordance with the expectations in the child’s relevant plans; and

(b) that each child has access to appropriate equipment, facilities and resources to support the child’s learning.

### Explanation of terms in the regulation

#### ***‘relevant plans’***

5.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan (“EHC plan”)<sup>8</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child’s placing authority in relation to the remand or sentencing of that child.

‘Relevant’ thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of ‘relevant plans’,

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<sup>8</sup> In some cases the child’s special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

but a child may not have all of the plans defined as ‘relevant’ (for example, there will be children living in children’s homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as ‘relevant’, but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child’s plans should form the basis of their care, and providers should use their judgement as to what is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

### ***‘measureable progress’***

5.2 Progress in education can be measured and evidenced in various ways, including but not limited to: success in academic, vocational and other awards and qualifications; other formal attainment tests that are part of national assessment arrangements; and teachers’ ongoing assessments. Measurements of progress should include qualitative information such as how well the child is being prepared for their next stage of education, training or employment, and quantitative data where available. Other metrics can also be taken into account such as rewards and recognition of achievements, improvements in attendance and, where appropriate, reduction in behavioural incidents including exclusion. The child’s personal circumstances, individual needs and educational history are relevant in considering what might constitute progress; but should not limit aspirations for them.

## **Guidance**

### **Understanding barriers to learning**

5.3 For some children who have experienced severe trauma, have mental health difficulties or have been excluded or out of education for significant periods, it may be necessary to address and work through their past experiences and present needs before they can positively participate in learning activities and formal education. Staff in children’s homes will play a key role in supporting these children in line with their personal education plan or EHC plan and recommendations from education and health professionals.

5.4 A high proportion of children in children’s homes have special educational needs (SEN) (a research study found 38% to have a statement of special educational needs) and staff need to understand the specialist support children may need to be able to engage positively and achieve in education<sup>9</sup>. Staff must be aware of whether a child has an EHC plan<sup>10</sup> and the information in it. An EHC plan details the education, health and social care support that is to be provided to a child or young person who has special

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<sup>9</sup> Living in Children’s Residential Homes, 2012: Berridge, D., Biehal, N. and Henry, L., Research Report, DFE-RR201.

<sup>10</sup> In some cases the child’s special education needs statement will be the relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

educational needs or a disability. For further information see the SEND Code of Practice: 0 to 25 years.

### **Working in partnership with others**

5.5 Local authorities have a duty under section 22(3A) of the Children Act 1989 to promote the educational achievement of their looked-after children, which includes, as set out in guidance, seeking a school or other education setting that is best suited to the child's needs. The local authorities' responsibilities as corporate parent apply wherever the child is placed.

5.6 ['Promoting the Education of Looked-After Children'](#) describes how local authorities are expected to comply with their duties to promote the education of looked-after children.

5.7 When commissioning a placement in a children's home the placing authority must establish how the home will support the child's educational needs. In accordance with regulation 5 (engaging with the wider system to ensure children's needs are met), homes must have proactive relationships with appropriate schools and educational support services. The home should have processes that enable staff to share their experience and understanding of the child's educational needs and progress with other services.

5.8 For children who are not looked-after, parents/carers (or others with parental responsibility) are responsible for selecting the child's education placement.

5.9 Staff need to know, for every child in their care, what level of decision making has been delegated to them in relation to the child's education. These delegations should be recorded in the child's placement plan and it is the joint responsibility of the registered person and the placing authority to agree this at the time of placement. The Education Act 1996 defines 'parent' as including a person who has care of the child in question. Therefore, for a looked-after child, their residential care worker may be deemed a parent for the purposes of education law. This means that they should be treated like a parent with respect to information provided by a school about the child's progress; should be invited to meetings about the child; and should be able to give consent to decisions regarding school activities and trips unless there are good reasons not to delegate these decisions to them. For further information see the statutory guidance on entrusting decision making to carers of looked-after children.

5.10 Staff should have an understanding of how schools function, including the processes for admission to schools, the role of designated teachers for looked-after children and the role of the Virtual School Head. If a looked-after child from a different local authority area is placed in the home, the Virtual School Head of that local authority remains responsible for promoting the child's educational achievement.

5.11 Staff need to have the knowledge and skills to understand each child's education and training targets and their next steps for learning. If a child's progress is not in line with their agreed targets or next steps, staff should seek expert advice from education professionals, such as the Virtual School Head, SENCO, learning mentor or teacher.

Staff must challenge the child's education or training provider if the child does not receive sufficient support to progress as outlined in their relevant plans.

5.12 Children's home staff should act as effective advocates for or on behalf of a child who may be experiencing difficulties with education or training matters including, but not limited to, attainment, admissions, attendance or behaviour, as a good parent would do.

### **Participating in education or training**

5.13 The registered person must ensure the necessary support is given to children to enable them to access their education or training. Support may include, for example, putting in place practical arrangements such as transporting the child to school, support by staff to learn how to use public transport confidently and safely, or the use of technology to connect with on-line learning.

5.14 Children should be in full-time education whilst they are of compulsory school age, unless their personal education plan contained within the care plan or other relevant plan states otherwise. The home must aim to support full time attendance at school unless the child's relevant plan indicates this is not in their best interests.

5.15 Where children placed in a home are not participating in education because they have been excluded or are not on a school roll for some other reason, the registered person and staff must work closely with the placing authority so that the child is supported and enabled to resume full-time education as soon as possible. In the interim, the child should be supported to sustain or regain their confidence in education and be engaged in suitable structured activities. If no education place is identified by the placing authority, the registered person must challenge them to meet the child's needs under regulation 5 (engaging with the wider system to ensure children's needs are met).

5.16 The Government has raised the participation in education age so that all young people from summer 2015 will be required to continue in education or training until their 18<sup>th</sup> birthday. Young people can choose how to participate. This can be through full time education, an apprenticeship or traineeship, or by combining full-time employment with part-time education or training. Whilst the duty is on the young person themselves, it is important that children's homes' staff encourage the young person to continue their education or training and support them to develop the skills necessary to succeed in the option they choose. They can also direct them to the financial support that is available through the 16-19 bursary fund and to their local authority young people's services who can advise about the options available. For further information on the 16-19 Bursary Fund see: [Overview of 16 - 19 Bursary Fund](#).

5.17 Local authorities have a number of responsibilities in relation to education and training for 16-19 year olds, including ensuring that sufficient provision is available to meet their needs and supporting them to participate. They are also responsible for identifying young people covered by the duty to participate who are not in education or training. Children's homes should work with the local authority to make sure the young people they are responsible for are getting the support they need to participate. For

further information see [Participation of young people: education, employment and training](#).

### **The home learning environment**

5.18 The ethos of the home should support each child to learn, emphasising the value of independent study and reading for enjoyment. The home must make available suitable facilities, equipment and resources for learning and ensure that the home's routines do not form barriers to children wishing to use the home's resources to study. Staff must support children with home study by encouraging them to learn independent study skills and helping them to practice those skills.

5.19 Children should have access to a computer and the internet to support their education and learning, unless there are specific safeguarding reasons why this would be inappropriate. In such cases, the home should consider whether and how it can support the child to access a computer and the internet safely.

### **Children's homes that are also registered as schools**

5.20 Just as regulation 8(2)(a)(vi) seeks to ensure partnership between the education provider and the home, where these are offered together the registered person should ensure that there is a mutually supportive and reinforcing approach between the two aspects of provision that is centred around the child. The two aspects of provision should be able to challenge each other where necessary. The home should have processes in place to ensure this is the case.

### **Short break settings**

5.21 Regulations 8(2)(a)(vi) and (viii) to (x) do not apply to children on short breaks. The remainder of the education standard does apply, but should be applied in a manner that is appropriate to the type of services being provided in short break settings.

5.22 The registered person should ensure that they agree with the placing authority (usually the child's parents/carers), and if appropriate, the child's school, an approach to meeting any relevant education targets while the child is in the short break setting. The registered person and staff are not expected to go beyond this remit, given that education remains principally the responsibility of the child's placing authority. However, short breaks can present an opportunity for the child to enjoy and achieve new things, and this may be a key part of their informal learning while away from their permanent educational setting.

# The enjoyment and achievement standard

## The text of the regulation

9.—(1) The enjoyment and achievement standard is that children take part in and benefit from a variety of activities that meet their needs and develop and reflect their creative, cultural, intellectual, physical and social interests and skills.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

- (a) that staff help each child to—
  - (i) develop the child’s interests and hobbies;
  - (ii) participate in activities that the child enjoys and which meet and expand the child’s interests and preferences; and
  - (iii) make a positive contribution to the home and the wider community; and
- (b) that each child has access to a range of activities that enable the child to pursue the child’s interests and hobbies.

## Explanation of terms in the regulation

### *‘relevant plans’*

6.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan (“EHC plan”)<sup>11</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child’s placing authority in relation to the remand or sentencing of that child.

‘Relevant’ thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of ‘relevant plans’, but a child may not have all of the plans defined as ‘relevant’ (for example, there will be children living in children’s homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as ‘relevant’, but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child’s plans should form the basis of their care, and providers should use their judgement as to what is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

## Guidance

### Working in partnership with others

6.2 Each child’s placement plan should set out the permissions that their placing authority has delegated to the registered person. This should provide clarity on the

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<sup>11</sup> In some cases the child’s special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

home's ability to give permission for school trips, sleep-overs or the child's involvement in sporting, leisure and cultural activities. Wherever possible the home should secure the appropriate authority to support children to be involved in the same positive activities as their peers.

6.3 [Statutory guidance on entrusting decision making to carers of looked-after children](#) contains further information about delegating authority for decision making on behalf of looked-after children.

### **Supporting children to enjoy life and have fun**

6.4 Children's homes staff should seek to identify and provide appropriate opportunities for children to develop themselves in accordance with their wishes and feelings and as part of the home's plan for their care. Each child's talents and interests should be understood and nurtured, with children selecting activities based on their personal preferences and abilities, so far as is reasonable. Staff should also support children to try activities that are 'new' for them, where appropriate.

6.5 The registered person should ensure that children are offered a wide range of activities both inside and outside of the home (where appropriate) and are encouraged to participate in those activities. Staff should support children to take part in school trips, out of school and other clubs, volunteering and leisure activities.

6.6 Staff should ensure that children understand what local leisure and other cultural or religious services are on offer for them, support them to access any relevant leisure passes and encourage them to participate in activities in the community and wider if appropriate.

6.7 The home's staff should recognise and celebrate the achievements of their children.

### **Secure children's homes**

6.8 The range of opportunities for children to participate in leisure and cultural activities in secure children's homes may be limited compared to other settings by the nature of the secure setting.

6.9 Secure children's homes should still offer opportunities for enjoyment and achievement, and encourage young people to participate and develop their skills and interests, as part of the plan for their care. This type of activity will be particularly important to their rehabilitation and preparation for living back in the community.

### **Children with disabilities**

6.10 Children with disabilities or illnesses may have physical or emotional difficulties which mean that participation in leisure or cultural activities in the community is difficult to achieve. The registered person, in conjunction with any relevant person (such as a parent or school) should assess what would be safe, achievable and reasonable for each child, in line with their relevant plans, and ensure appropriate opportunities are available

for each child to have fun, form friendships and enjoy life, relative to their stage of development and individual needs.

## The health and well-being standard

### The text of the regulation

**10.**—(1) The health and well-being standard is that—

- (a) the health and well-being needs of children are met;
- (b) children receive advice, services and support in relation to their health and well-being; and
- (c) children are helped to lead healthy lifestyles.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

- (a) that staff help each child to—
  - (i) achieve the health and well-being outcomes that are recorded in the child’s relevant plans;
  - (ii) understand the child’s health and well-being needs and the options that are available in relation to the child’s health and well-being, in a way that is appropriate to the child’s age and understanding;
  - (iii) take part in activities, and attend any appointments, for the purpose of meeting the child’s health and well-being needs; and
  - (iv) understand and develop skills to promote the child’s well-being;
- (b) that each child is registered as a patient with a general medical practitioner and a registered dental practitioner; and
- (c) that each child has access to such dental, medical, nursing, psychiatric and psychological advice, treatment and other services as the child may require.

## Explanation of terms in the regulation

### ***‘relevant plans’***

7.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan (“EHC plan”)<sup>12</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child’s placing authority in relation to the remand or sentencing of that child.

‘Relevant’ thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of ‘relevant plans’, but a child may not have all of the plans defined as ‘relevant’ (for example, there will be children living in children’s homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as ‘relevant’, but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child’s plans should form the basis of their care, and providers should use their judgement as to what

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<sup>12</sup> In some cases the child’s special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

### ***'well-being'***

7.2 The references to well-being in the Regulations mean the quality of a child's life. Child well-being is multi-dimensional and therefore includes dimensions of physical, emotional and social well-being; both for the immediate and future life of the child. The definition of child well-being incorporates subjective measures such as happiness, perception of quality of life and life satisfaction as well as objective measures around supportive personal relationships, education and training resources and health status.<sup>13</sup>

## **Guidance**

7.3 The registered person is responsible for ensuring that each child's day to day health and well-being needs are met. Staff should work to make the children's home an environment that supports children's physical, mental and emotional health, in line with the approach set out in the home's Statement of Purpose.

### **Working in partnership with others**

7.4 The Care Planning Regulations set out that the responsible local authority (meaning the local authority that looks after the child) must make sure that its looked-after children are provided with appropriate healthcare services. The health of looked-after children must be assessed at regular intervals and the child's care plan must include an individual health plan setting out the approach that the placing authority will follow, and the desired outcomes required to meet the child's health needs. These outcomes, recorded in the health plan, will be the basis on which the registered person will be expected to meet regulation 10(2)(a)(i) in the health and well-being standard for each looked-after child in their care. Details of the local authority's responsibilities for the health of its looked-after children are set out in [Children Act 1989: Care planning, placement and case review](#).

7.5 Information about the statutory obligations and duties on local authorities, Clinical Commissioning Groups (CCGs) and NHS England to support and promote the health of looked-after children is also set out in [Statutory guidance on promoting the health and wellbeing of looked-after children](#).

7.6 For children with special educational needs and disabilities, staff must establish whether the child has an EHC plan. If the child does, staff must take account of the health objectives it specifies. (For further information on EHC plans see paragraph 5.4).

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<sup>13</sup> This meaning is informed from analysis contained in Childhood Well-being – an overview by the Childhood research centre 2010

7.7 The specific responsibilities of the home towards supporting the health and well-being of each child should be agreed with the placing authority and recorded in the child's placement plan. It is the joint responsibility of the registered person and the placing authority that this is agreed at the time of placement.

7.8 Staff should have sufficient understanding of relevant health services, including the functions of the designated nurse for looked-after children in their area. They should support children to navigate these services, advocating on their behalf where necessary and appropriate.

7.9 When considering whether children placed in the home by a different local authority will be eligible for secondary health care services, the home and the local authority responsible for the child should take into account the NHS England guidance on establishing the responsible commissioner: [Who Pays? Determining responsibility for payment to providers.](#)

### **Supporting children's health and well-being**

7.10 Children's homes staff should encourage children to take a proactive role in looking after their day to day health and well-being. Where children have specific health needs or conditions, they should be supported to manage these subject to their age and understanding. When a child needs additional health or well-being support, staff should work with the child's placing authority to enable proper and immediate access to any specialist medical, psychological or psychiatric support required, and challenge them through regulation 5 - engaging with the wider system to ensure children's needs are met, if this doesn't happen.

7.11 Homes have a key role in organising and ensuring each child's attendance at the necessary primary and secondary health services. Most health services that a child needs to access will be provided by other organisations. If these services are not accessible, or are withdrawn, staff should inform and engage with those who also hold a responsibility for the child's health to ensure their health needs are met under regulation 5 -engaging with the wider system to ensure children's needs are met.

7.12 The registered person must ensure that staff have the relevant skills and knowledge to be able to: respond to the health needs of children; administer basic first aid and minor illness treatment; help children to manage long-term conditions and where necessary meet specific individual health needs arising from a disability, chronic condition or other complex needs.

7.13 At least one person on duty at any given time in a children's home must have a suitable first aid qualification (regulation 31(2)(a)). First aid boxes should be provided and maintained.

7.14 Each child should have permission for staff to administer first aid and non-prescription medication from a person with parental responsibility for them recorded in their relevant plan. For looked-after children, this permission should be sought and arranged by the child's social worker. Where appropriate, the child's family should be

involved in supporting their child's health needs as well as in providing permission for treatment.

### **Administration of medicines**

7.15 Please see regulation 23. Care must be taken to ensure prescribed medicines are only administered to the individual for whom they are prescribed. Medicines must be administered in line with a medically approved protocol. Records must be kept of the administration of all medication, which includes occasions when prescribed medication is refused. Regulation 23 requires the registered person to ensure that they make suitable arrangements to manage, administer and dispose of any medication. These are fundamentally the same sorts of arrangements as a good parent would make but are subject to additional safeguards. Where the home has questions or concerns about a child's medication, they should approach an expert such as a General Medical Practitioner, community pharmacist or designated nurse for looked-after children.

7.16 Children who wish to keep and take their own medication should be supported to, if they are able to do so safely. Staff should be mindful that children holding their own prescribed medication must only use it for themselves in accordance with the prescription.

7.17 [Managing medicines in care homes \(March 2014\)](#) is a guideline that applies across both health and social care.

### **Advice, support and guidance**

7.18 The registered person should ensure that, in line with their individual health plans and the ethos of the home, children are offered advice, support and guidance on health and well-being to enhance, and supplement that provided by their school through Personal, Social and Health Education (PSHE). Staff should have the relevant skills and knowledge to be able to help children understand, and where necessary work to change negative behaviours in key areas of health and well-being such as, but not limited to, nutrition and healthy diet, exercise, mental health, sexual relationships, sexual health, contraception and use of legal highs, drugs, alcohol and tobacco.

### **Short break settings**

7.19 Regulations 10(2)(b) and (c) do not apply to children receiving short breaks.

7.20 The remainder of the health and well-being standard does apply. During a short break, staff are responsible for maintaining a child's ongoing health treatment, including the management of medication on arrival and departure from the home and recording and sharing information about when medicine was administered. Staff should be skilled in obtaining treatment for the child in an emergency. Children using short break provision may have very complex health needs. Staff will need to be appropriately skilled to care for them and understand that safeguards may need to be greater than for other children.

## Secure children's homes

7.21 [The NHS Commissioning Board and Clinical Commissioning Groups \(Responsibilities and Standing Rules\) Regulations 2012](#) place responsibility on the NHS Commissioning Board (NHS England) for commissioning health services in secure children's homes.

7.22 [Healthcare Standards for Children and Young people in Secure Settings](#) are available from the Royal College of Paediatrics and Child Health. These standards include guidance on entry and assessment, care planning, physical and mental health, transfer and continuity of care and multi-agency working. The relevant NHS England providers are expected to consider these standards when organising health care for those under 18 years old in secure settings.

## The positive relationships standard

### The text of the regulation

**11.**—(1) The positive relationships standard is that children are helped to develop, and to benefit from, relationships based on—

- (a) mutual respect and trust;
- (b) an understanding about acceptable behaviour; and
- (c) positive responses to other children and adults.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

- (a) that staff—
  - (i) meet each child’s behavioural and emotional needs, as set out in the child’s relevant plans;
  - (ii) help each child to develop socially aware behaviour;
  - (iii) encourage each child to take responsibility for the child’s behaviour, in accordance with the child’s age and understanding;
  - (iv) help each child to develop and practise skills to resolve conflicts positively and without harm to anyone;
  - (v) communicate to each child expectations about the child’s behaviour and ensure that the child understands those expectations in accordance with the child’s age and understanding;
  - (vi) help each child to understand, in a way that is appropriate according to the child’s age and understanding, personal, sexual and social relationships, and how those relationships can be supportive or harmful;
  - (vii) help each child to develop the understanding and skills to recognise or withdraw from a damaging, exploitative or harmful relationship;
  - (viii) strive to gain each child’s respect and trust;
  - (ix) understand how children’s previous experiences and present emotions can be communicated through behaviour and have the competence and skills to interpret these and develop positive relationships with children;
  - (x) are provided with supervision and support to enable them to understand and manage their own feelings and responses to the behaviour and emotions of children, and to help children to do the same;
  - (xi) de-escalate confrontations with or between children, or potentially violent behaviour by children;
  - (xii) understand and communicate to children that bullying is unacceptable; and
  - (xiii) have the skills to recognise incidents or indications of bullying and how to deal with them; and
- (b) that each child is encouraged to build and maintain positive relationships with others.

### Explanation of terms in the regulation

#### ***‘bullying’***

8.1 Bullying is behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally. Bullying can be in many forms and this standard’s references to bullying cover bullying of any kind or description.

#### ***‘restraint’***

8.2 Restraint is defined in regulation 2 and means using force or restricting liberty of movement. Also see regulation 20 and pages 41 to 51 of the Guide in relation to restraint.

## **Guidance**

### **Working in partnership with others**

8.3 Children's homes should work closely with the placing authority to understand the child's relationship history and the impact that the child's arrival may have on the group living in the home. Staff should understand, for each child, what the placing authority has recorded in the relevant plan as an appropriate level of contact with family and friends.

8.4 Homes should work closely with health and education professionals to ensure that outcomes identified and progress made by children in building relationships and achieving socially acceptable behaviours can be recorded and measured.

8.5 Homes should develop and maintain effective working relationships with local youth justice and police services where children in their care have targets to achieve in reducing offending or socially unacceptable behaviour.

### **Building positive relationships with others**

8.6 Regulation 11(2) sets out the expectations on staff in building a positive relationship with each child and helping the child develop skills to have positive relationships with others. 'Others' includes individuals both inside and outside the home such as other children in the home, staff, family members, siblings, previous carers and friends (in accordance with their relevant plans). The care planning standard (see page 55) provides further detail in respect of contact with parents, relatives and friends.

8.7 Children should be supported to understand how to build friendships with other children. They should be able to spend time with their friends in the local community, in their home area, and by having friends visit them at the home, in line with the child's plans, age and understanding.

8.8 Staff should be skilled in understanding the range of influences that friendships can have and should encourage those with a positive impact and discourage those with a negative impact. Homes that care for children who have, or are likely, to sexually offend should establish the extent to which friendships can be supported, in line with the child's relevant plans and subject to the safety of all concerned.

8.9 Decisions about overnight stays with friends should be delegated to children's homes staff by the placing authority for looked-after children. The level of delegated authority should be recorded in the placement plan. Where children wish to stay overnight with friends, staff should carry out the same kind of checks that responsible parents might make in similar circumstances to seek reassurance that the child will be well cared for and safe.

8.10 Staff should understand and help children to understand what makes a healthy, nurturing relationship. Staff should be skilled to recognise the signs and provide support to children in danger of or involved in exploitative or damaging relationships with others and where possible prevent these types of relationships.

### **Positive behaviour**

8.11 Expectations of standards of behaviour should be high for all staff and children in the home. These standards should be clear and unambiguous. Children should be supported to develop understanding and empathy towards each other. Positive behaviour and relationships should be reinforced, praised and encouraged; poor behaviour should be challenged and discussed. The development of safe, stable and secure relationships with staff in the home should be central to the ethos of the home and support the development of secure attachments that, where appropriate, persist over time.

8.12 Where positive relationships exist between children and staff this should be respected and maintained as far as possible when making any decisions to alter staffing arrangements. The registered person should respond to children's views about changes to staff and be aware of the potential impact this may have for the child's stability and emotional well-being.

8.13 Staff should understand factors that affect children's motivation to behave in a socially acceptable way. Staff should encourage an enthusiasm for positive behaviour through the use of positive behaviour strategies in line with the child's relevant plans.

8.14 The capacity and competence of staff to build constructive, warm relationships with children that actively promote positive behaviour, provides the foundations for managing any negative behaviour. Staff should have the skills to respond to each child's individual behaviour. Where necessary they should manage conflict, maintain constructive dialogues and react appropriately if challenged by a child in their care.

8.15 Staff supervision must enable staff to reflect and act upon how their own feelings and behaviour may be affected by the behaviour of the children they care for.

### **Bullying**

8.16 Staff should understand what they must do to prevent bullying of children by other children or adults. Staff should be able to recognise and address different types of abuse such as peer abuse, cyber-bullying and bullying in day to day relationships in the home. Registered persons must ensure that procedures for dealing with allegations of bullying are in place and staff have the skills required to intervene, protect and address bullying behaviours effectively. (See regulation 34(3) on the policy for the prevention of bullying.)

### **Children's homes that are also registered as schools**

8.17 Where homes are also registered as schools, the home's policies and procedures around bullying should not unnecessarily duplicate or contradict any requirements of other relevant legislation.

## **Secure children's homes**

8.18 Secure children's homes are subject to the requirements of the positive relationship standard. However, with regard to regulation 11(2)(a), secure children's homes may consider managing certain relationships by limiting the interactions between those children.

8.19 Secure children's homes should also consider how they can support children to sustain the friendships they already have outside of the home, for example encouraging friends to remain in contact or visit if it would meet an expressed need of the child in secure care.

## **Short break settings**

8.20 Children with disabilities can be disadvantaged and socially isolated from friends, especially if they attend a school which is not in their local community such as a residential special school. The registered person in a short break setting should ensure that the short break service offers the chance for children to develop friendships, by carefully matching groups and, where possible, by arranging for children to frequently stay with the same group.

8.21 Short break settings have an important role to play in extending and increasing the opportunities available to children to share, socialise with others and choose activities alongside their peers.

## The protection of children standard

### The text of the regulation

12. (1) The protection of children standard is that children are protected from harm and enabled to keep themselves safe.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

(a) that staff—

(i) assess whether each child is at risk of harm, taking into account information in the child's relevant plans, and, if necessary, make arrangements to reduce the risk of any harm to the child;

(ii) help each child to understand how to keep safe;

(iii) have the skills to identify and act upon signs that a child is at risk of harm;

(iv) manage relationships between children to prevent them from harming each other;

(v) understand the roles and responsibilities in relation to protecting children that are assigned to them by the registered person;

(vi) take effective action whenever there is a serious concern about a child's welfare; and

(vii) are familiar with, and act in accordance with, the home's child protection policies;

(b) that the home's day-to-day care is arranged and delivered so as to keep each child safe and to protect each child effectively from harm;

(c) that the premises used for the purposes of the home are located so that children are effectively safeguarded;

(d) that the premises used for the purposes of the home are designed, furnished and maintained so as to protect each child from avoidable hazards to the child's health; and

(e) that the effectiveness of the home's child protection policies is monitored regularly.

### Explanation of terms in the regulation

#### ***'relevant plans'***

9.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special educational needs; any education, health and care plan ("EHC plan")<sup>14</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child's placing authority in relation to the remand or sentencing of that child.

'Relevant' thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of 'relevant plans', but a child may not have all of the plans defined as 'relevant' (for example, there will be children living in children's homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as 'relevant', but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child's plans should form the basis of their care, and providers should use their judgement as to what

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<sup>14</sup> In some cases the child's special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

## Guidance

### Working in partnership with others

9.2 The duties and responsibilities of local authorities and others who deliver children's services with regard to safeguarding children are set out clearly in the statutory guidance, [Working together to safeguard children](#).

9.3 The specific responsibilities of the child's social worker, acting on behalf of the placing authority, for safeguarding children and young people who are looked-after are set out in [Children Act 1989: Care planning, placement and case review](#).

9.4 Registered persons should seek to involve the local authority and other relevant persons whenever there is a serious concern about a child's welfare. They are also required by regulation 40 to notify placing authorities, Ofsted and other relevant persons about serious events (see paragraphs 14.9-14.15).

### Managing risk

9.5 Staff should continually and actively assess the risks to each child and the arrangements in place to protect them. Where there are safeguarding concerns for a child, their placement plan, agreed between the home and their placing authority, must include details of the steps the home will take to manage any assessed risks on a day to day basis.<sup>15</sup>

9.6 As children will spend significant periods of time away from the home, for example in education or training, at appointments with the YOT or for engagement in leisure activities, any assessed risks should be shared with the education provider or service the child is attending if appropriate, so that the service is clear on the action they must take if the child puts themselves at risk while using their service.

9.7 Children's home staff should take reasonable precautions and make informed professional judgements based on the individual child's needs and developmental-stage about when to allow a child to take a particular risk or follow a particular course of action. Staff should discuss the decision with the child's placing authority where appropriate. If a child makes a choice that would place them or another person at significant risk of harm, staff should assist them to understand the risks and manage their risk taking behaviour to keep themselves and others safe.

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<sup>15</sup> For looked-after children see Schedule 2, Care Planning, Placement and Case Review (England) Regulations 2010.

## A safeguarding culture and ethos

9.8 The registered person should build a strong safeguarding culture in the home where children are listened to, respected and involved in both the development of the home and decisions about the home.

9.9 Children must feel safe and be safe. Staff should support children to be aware of and manage their own safety both inside and outside the home to the extent that any good parent would. Staff should help children to understand how to protect themselves, feel protected and be protected from significant harm.

9.10 Staff skills for safeguarding should include being able to identify signs that children may be at risk, and support children in strategies to manage and reduce any risks. Staff should encourage children to express their views about whether they feel safe both within and outside the home. Staff should support children to understand how to ask for help to stay safe and that the home is an environment which supports this.

9.11 All staff should strive to build positive relationships with children in the home and develop a culture of openness and trust that encourages them to be able to tell someone if they have concerns or worries about their safety. Staff should make available in the home, information in an appropriate form which enables children to contact their placing authority to call for a review of their care plan if they have concerns about their safety or welfare. Homes should encourage children to understand they can speak to an independent advocate, Independent Reviewing Officers (IROs), Ofsted inspectors or other relevant persons if they have concerns about their safety.

9.12 Staff need the knowledge and skills to recognise and be alert for any signs that might indicate a child is in any way at risk of harm. The registered person should ensure that skills in safeguarding are gained, refreshed and recorded in the homes workforce plan.

9.13 Children should be encouraged to develop positive relationships with others both in and outside the home as set out in the positive relationships standard. However, staff should be alert to the possibility that children may be at risk from such relationships including with other children in the home, staff, family members, friends and others outside the home, and they therefore should take appropriate steps to protect a child where there are concerns for a child's safety.

9.14 Supervision of staff practice should ensure that individual adults in the home are engaged in the safeguarding culture of the home so they understand what they would need to do if they found other staff misusing or abusing their position to the detriment of the safety of a child.

9.15 As part of the policies for protection of children, the registered person should include information about whistle blowing, with clear procedures for how a staff member should report to an appropriate authority any concern they have about a child within the home being either at risk of, or already experiencing significant harm. The policy should reflect the principles set out in the Francis review [\*'Freedom to speak up'\*](#).

## Abuse

9.16 Children should be supported by staff to understand what abuse is. They should be given information about how to report abuse or any concerns about possible abuse. They should be able to access in private, relevant websites or help lines such as Childline<sup>16</sup> to seek advice and help.

9.17 Children must be listened to and enabled to report any allegations at the earliest opportunity. Staff should report any allegation of abuse immediately to a senior manager within the home. Any allegation of harm or abuse must be addressed in line with the home's child protection policy.

9.18 Each local authority should have clear arrangements in place for the management and oversight of allegations against people that work with children. The relevant officer or teams within the local authority should be informed promptly of all allegations that come to an employer's attention or that are made directly to the police. For further information, including about the role of a local authority designated officer see [Working together to safeguard children](#).

## Policies for the protection of children

9.19 In addition to the requirements of this standard, the registered person has specific responsibilities under regulation 34 to prepare and implement policies setting out: arrangements for the safeguarding of children from abuse or neglect; clear procedures for referring child protection concerns to the placing authority or local authority where the home is situated if appropriate; and specific procedures to prevent children going missing and take action if they do. The policy on protection of children from abuse and neglect should include arrangements in relation to dealing with allegations involving staff in the home, e-safety and to counter risks of self-harm and suicide. All policies should be reviewed regularly and revised where appropriate.

9.20 Policies concerning self-harm and suicide should have the necessary level of senior management oversight according to the homes Statement of Purpose. It may be necessary for a child at risk of self-harm to wear special clothing, but this should only be in place for as long as is necessary to protect them. Any special clothing must preserve the child's privacy and dignity.

9.21 The policy for the protection of children from abuse or neglect should be available and explained to children and their families as well as to all staff, whatever their role. The registered person must make sure that all staff are familiar with this policy and act in accordance with it, in particular how to use it to report a concern.

9.22 The home's policies and procedures around the protection of children should reflect any requirements of other relevant legislation.

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<sup>16</sup> 0800 1111: [Childline website](#)

## Children missing from the children's home

9.23 Local authorities should have in place *Runaway and Missing From Home and Care* (RMFHC) protocols agreed with local police and other partners. Where appropriate, they should also have agreed protocols with neighbouring authorities. The protocols should be agreed and reviewed regularly with all agencies and be scrutinised by the Local Safeguarding Children's Board (LSCB).

9.24 Where there is a possibility that a child will run away or go missing from a children's home placement, their placement plan should include a strategy to minimise this risk. If the child is looked-after, their care plan (arranged by their placing authority) should include such a strategy.

9.25 [\*Statutory guidance on children who run away or go missing from home or care\*](#) sets out the steps local authorities and their partners should take to prevent children from going missing and to protect them when they do go missing. Children's homes should have regard to the relevant aspects of this guidance.

9.26 Guidance on the management, recording and investigation of missing persons is also available from the police:

[\*ACPO \(2013\) Interim Guidance on the Management, Recording and Investigation of Missing Persons\*](#)

[\*Supporting document to the ACPO \(2013\) Interim Guidance on the Management, Recording and Investigation of Missing Persons\*](#)

[\*ACPO \(2010\) Guidance on the Management, Recording and Investigation of Missing Persons \(Second Edition\)\*](#)

9.27 If there is a risk that a child may run away or go missing, staff should do their best to help them understand the risks and dangers involved and make them aware of how to seek help if they do run away.

9.28 The registered person must specify the procedures to be followed and the roles and responsibilities of staff when a child is missing from care or away from the home without permission and how staff should support the child on return to the home.

9.29 The home's procedures must take into account the views of appropriate local services and have regard to police and local authority protocols for responding to missing person's incidents in the area where the home is located.

9.30 When a child returns to the home after being missing from care or away from the home without permission, the responsible local authority must provide an opportunity for the child to have an independent return home interview. Homes should take account of information provided by such interviews when assessing risks and putting arrangements in place to protect each child.

9.31 Records must be kept detailing all individual incidents when children go missing from the home (regulation 36 (schedule 3(14))). This information should be shared with the placing authority and, where appropriate, with the child's parents. Evaluation of missing incidents should be undertaken to identify any gaps in training, skills or knowledge for staff or to record and retain evidence of what worked well. This evaluation should inform the review of the quality of care. (see paragraph 15.2)

9.32 Where a child runs away persistently or engages in other risky behaviours, such as frequently being absent from the home to meet with inappropriate adults, the registered person, in consultation with the child's placing authority, should convene a risk management meeting to develop a strategy for managing risks to the young person. The strategy should be agreed with the child's placing authority, the local authority where the home is located and the local police.

### **Control, discipline, and restraint and behaviour management**

9.33 Regulation 35 requires each home to prepare and implement a behaviour management policy. This policy should describe the home's approach to promoting positive behaviour and the measures of control, discipline, and restraint which may be used in the home. These measures should be set in the context of building positive relationships with children.

9.34 The behaviour management strategy should be understood and applied at all times by staff, and must be kept under review and revised where appropriate.

9.35 The policy should address general principles for behaviour management in children's homes which include: treating each child with understanding, dignity, kindness and respect; building, protecting and preserving positive relationships between each child and the adults caring for them; understanding each child's behaviour to allow their needs, aspirations, experiences and strengths to be recognised and their quality of life to be enhanced; involving children and relevant others wherever practical in behaviour management; supporting each child to balance safety from injury (harm) with making appropriate choices; making sure the child's rights are upheld.

9.36 The registered person should ensure that all incidents of control, discipline and restraint are subject to systems of regular scrutiny to ensure that their use is fair and the above principles as set out in 9.35 are respected.

9.37 The behaviour management policy should set out how staff are trained and supported to meet the child's needs. Regulations 13(2)(d) and (e) require children's homes to employ a sufficient number of suitably qualified, skilled and experienced persons in the home.

9.38 Regulation 19(2) details sanctions that are prohibited in behaviour management. Any sanctions used to address poor behaviour should be restorative in nature, to help children recognise the impact of their behaviour on themselves, other children, the staff caring for them and the wider community. In some cases it will be important for children

to make reparation in some form to anyone hurt by their behaviour and the staff in the home should be skilled to support the child to understand this and carry it out.

9.39 Equally, staff should understand the system for rewarding and celebrating positive behaviour and recognising where children have managed situations well.

9.40 The registered person should agree with their local police force, procedures and guidance on police involvement with the home to reduce unnecessary police involvement in managing behaviour and criminalisation of behaviours. Children should not be charged with offences resulting from behaviour within a children's home that would not similarly lead to police involvement if it occurred in a family home.

## **Restraint**

9.41 Restraint is defined in regulation 2(1). Restraint includes physical restraint techniques that involve using force.

9.42 Restraint also includes restricting a child's liberty of movement. This includes, for example, changes to the physical environment of the home (such as using high door handles) and removal of physical aids (such as turning off a child's electric wheelchair). Restrictions such as these, and all other restrictions of liberty of movement, should be recorded as restraint<sup>17</sup>. Some children, perhaps due to impairment or disability, may not offer any resistance, but such measures should still constitute a restraint.

### **Restraint: special cases**

9.43 In some cases, such as in residential special schools that are also registered children's homes or children's homes caring for children with complex care needs, restraint may be necessary as a consequence of a child's impairment or disability. A child's EHC plan or statement of special educational needs may contain detail about planned and agreed approaches to restraint or restraint techniques to be applied in the day-to-day routine of the child. This could include, for example the use of a device, such as outlined in paragraph 9.46.

9.44 Homes that care for children where, as a result of their impairment or disability, restraint is a necessary component of their care should include information relating to this in the behaviour management policy and Statement of Purpose.

9.45 In some extreme cases where children have very complex care needs, a child may need to be restrained by mechanical or chemical means. Any use of such restraint should follow a rigorous assessment process and, as with any restraint, be necessary and proportionate. Wherever such restraint is planned, it should be identified within a broad ranging, robust behaviour support plan which aims to bring about the circumstances where continued use of such restraint will no longer be required.

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<sup>17</sup> see paragraph 9.61 for information about exemptions to recording restraint

9.46 For example, mechanical restraint may be needed to limit self-injurious behaviour of extremely high frequency and intensity, such as for the small numbers of children who have severe cognitive impairments, where measures such as arm splints or cushioned helmets may be required to safeguard children from the hazardous consequences of their behaviour. Such devices should be put in place by persons with relevant qualifications, skills and experience (regulation 32(3)(b)).

9.47 Likewise, chemical restraint (being medication not prescribed for the treatment of a formally identified physical or mental illness, but instead being prescribed for use “as needed” or “PRN - pro re nata”) should only ever be delivered in accordance with acknowledged, evidence-based best practice. Homes should employ staff who have the relevant qualifications, skills and experience (regulation 32(3)(b)) to administer this type of restraint in line with [NICE guidelines on the use of medication in social care](#) and [CQC and Ofsted joint guidance on registration of healthcare at children's homes](#).

### **Use of Restraint**

9.48 Regulation 20 sets out the only purposes for which restraint can be used:

- preventing injury to any person (including the child who is being restrained);
- preventing serious damage to the property of any person (including the child who is being restrained); or
- preventing a child who is accommodated in a secure children's home from absconding from the home.

9.49 Injury could include physical injury or harm or psychological injury or harm.

9.50 When restraint involves the use of force, the force used must not be more than is necessary and should be applied in a way that is proportionate i.e. the minimum amount of force necessary to avert injury or serious damage to property for the shortest possible time.

9.51 Restraint that deliberately inflicts pain cannot be proportionate and should never be used on children in children's homes.

9.52 There may be circumstances where a child can be prevented from leaving a home – for example a child who is putting themselves at risk of injury by leaving the home to carry out gang related activities, use drugs or to meet someone who is sexually exploiting them or intends to do so. Any such measure of restraint must be proportionate and in place for no longer than is necessary to manage the immediate risk.

9.53 In a restraint situation, staff should use their professional judgement, supported by their knowledge of each child's risk assessment, an understanding of the needs of the child (as set out in their relevant plans) and an understanding of the risks the child faces. Professional judgements may need to be taken quickly, and staff training and supervision of practice should support this.

9.54 Approaches to restraint should recognise that children are continuing to develop, both physically and emotionally. Any use of restraint should be suitable for the needs of

the individual child. The context in which restraint is used should also recognise that, as a result of past experiences, children will have a unique understanding of their circumstances which will affect their response to restraint by adults responsible for their care.

## **Practice issues**

9.55 Any use of restraint carries risks. These include causing physical injury, psychological trauma or emotional disturbance. When considering whether restraint is warranted, staff in children's homes need to take into account:

- the age and understanding of the child;
- the size of the child;
- the relevance of any disability, health problem or medication to the behaviour in question and the action that might be taken as a result;
- the relative risks of not intervening;
- the child's previously sought views on strategies that they considered might de-escalate or calm a situation, if appropriate;
- the method of restraint which would be appropriate in the specific circumstances; and
- the impact of the restraint on the carer's future relationship with the child.

9.56 Staff need to demonstrate that they fully understand the risks associated with any restraint technique used in the home. Techniques used for restraint that may interfere with breathing and holds by the neck that may result in injury to the spine are not permissible in any circumstances.

9.57 The registered person is responsible for ensuring that all their staff have been adequately trained in the principles of restraint and any restraint techniques appropriate to the needs of the children the home is set up to care for as defined in the home's Statement of Purpose.

9.58 Those commissioning training in restraint for children's homes staff should be satisfied that the training fits with their approach to restraint or existing restraint system, and is appropriate to the needs of the children the home is set up to care for. They should see evidence that any restraint techniques the training advocates for have been medically assessed to demonstrate their safety for use in a context of caring for children who are still developing, physically and emotionally. The registered person should routinely review the effectiveness of any restraint system commissioned. In particular, they should check the medical assessment of the system remains up to date.

## **Records**

9.59 Records of restraint must be kept and should enable the registered person and staff to review the use of control, discipline and restraint to identify effective practice and respond promptly where any issues or trends of concern emerge. The review should provide the opportunity for amending practice to ensure it meets the needs of each child.

9.60 Any child who has been restrained should be given the opportunity express their feelings about their experience of the restraint as soon as is practicable, ideally within 24 hours of the restraint incident, taking the age of the child and the circumstances of the restraint into account. In some cases children may need longer to work through their feelings, so a record that the child has talked about their feelings should be made no longer than 5 days after the incident of restraint (regulation 35(3)(c)). Children should be encouraged to add their views and comments to the record of restraint. Children should be offered the opportunity to access an advocacy support to help them with this (regulation 7(2)(b)(iii)).

9.61 Where a child has an EHC plan or statement of special educational needs in which a specific type of restraint is provided for use as part of the child's day to day routine, the home is exempted from the recording requirement in regulation 35(4). Where these plans provide for a specific type of restraint that is not for day-to-day use, on the occasions when such restraint is used it must still be recorded in accordance with regulation 35(3). Any other restraint used must always be recorded as a restraint. In any case where restraint is used, it must comply with the requirements of regulation 20. As the EHC plan is designed to be a long term plan, any specified restraints should be kept under review to ensure relevancy.

### **Security within the home**

9.62 The locking of external doors, or doors to hazardous materials, may be acceptable as a security precaution if applied within the normal routine of the home.

### **Deprivation of liberty**

9.63 A deprivation of liberty may occur where a child is both under continuous supervision and control and is not free to leave the home. A children's home cannot routinely deprive a child of their liberty without a court order, such as a section 25 order to place a child in a licensed secure children's home, or, in the case of young people aged over 16 who lack mental capacity, a deprivation of liberty may be authorised by the Court of Protection following an application under the Mental Capacity Act 2005.

### **Secure children's homes**

9.64 Children living in secure children's homes will not typically spend time away from the home for education/training as set out in paragraph 9.6. In circumstances where the child leaves the home with staff for a specific event such as attending court or to prepare for their release from secure care, staff should have the skills to protect the child and manage any risk of the child attempting to run away. This should be carried out in line with the child's relevant risk assessments.

9.65 Children in secure children's homes should only be placed in single separation when necessary to prevent injury to any person (including for example, the child who is being restrained) or to prevent serious damage to the property of any person (including the child who is being restrained). A record should be made and kept of all uses of single

separation in secure children's homes (regulation 17 of The Children (Secure Accommodation) Regulations 1991). Children should be offered the opportunity to read and add a comment to the record of their separation.

9.66 Any transportation arrangements made by the secure children's home should be appropriate for the secure transportation of vulnerable children.

## The leadership and management standard

### The text of the regulation

13.—(1) The leadership and management standard is that the registered person enables, inspires and leads a culture in relation to the children's home that—

- (a) helps children aspire to fulfil their potential; and
- (b) promotes their welfare.

(2) In particular, the standard in paragraph (1) requires the registered person to—

- (a) lead and manage the home in a way that is consistent with the approach and ethos, and delivers the outcomes, set out in the home's statement of purpose;
- (b) ensure that staff work as a team where appropriate;
- (c) ensure that staff have the experience, qualifications and skills to meet the needs of each child;
- (d) ensure that the home has sufficient staff to provide care for each child;
- (e) ensure that the home's workforce provides continuity of care to each child;
- (f) understand the impact that the quality of care provided in the home is having on the progress and experiences of each child and use this understanding to inform the development of the quality of care provided in the home;
- (g) demonstrate that practice in the home is informed and improved by taking into account and acting on—
  - (i) research and developments in relation to the ways in which the needs of children are best met; and
  - (ii) feedback on the experiences of children, including complaints received; and
- (h) use monitoring and review systems to make continuous improvements in the quality of care provided in the home.

### Explanation of terms in the regulation

#### ***'sufficient staff'***

10.1 Sufficient staff means a home having enough suitably trained staff (including someone in a management role) on duty to meet the assessed needs of all children in the home, and that those staff are able to respond to emergency placements, where accepted. The registered person must demonstrate every effort to achieve continuity of staffing so that children's attachments are not overly disrupted, including ensuring that the employment of any temporary staff will not prevent children from receiving the continuity of care that they need (regulation 31(1)).

## **Guidance**

### **Responsibilities for leadership and management**

10.2 As with all the Quality Standards, the responsibilities and accountabilities in this standard fall on the registered person. In practice, just as with the other standards, those responsible for the day to day running of homes, including leadership teams in large homes and specialist advisers within other settings (for example, security advisers in secure homes) play a key role in enabling the registered person to fulfil the requirements of this standard.

### **Working in partnership with others**

10.3 Registered persons have a key role in seeking to develop the home's effective working relationships with each child's placing authority and with other relevant persons which may include services, individuals (including parents), agencies, organisations and establishments that work with children in the local community, e.g. police, schools, health and youth offending teams (regulation 5 – engaging with the wider system to ensure children's needs are met). These working relationships will also be key to success in delivering the care planning standard (regulation 14).

### **Supporting children**

10.4 The registered person is responsible for leading a team which provides high quality care for all children living in the home. They must lead and manage the home in a way that delivers the ethos, outcomes and approach set out in the home's Statement of Purpose. They should also play a key role in shaping the ethos of the home through developing a culture of high aspiration for children which is demonstrated through the care, resources and opportunities offered to the children.

10.5 The registered person should support staff to be ambitious for every child in the home and to gain skills and experience that enable them to actively support each child to achieve their potential. To ensure that staff understand and can meet each child's needs, in line with their responsibilities, the registered person themselves will need to have a high level of understanding of the needs of the children in their care.

10.6 The registered person should seek to establish a diverse staff team with a range of interests, skills and experiences. They should lead staff to share those interests, skills and experiences with children to enrich the children's lives.

### **Workforce**

10.7 Those with a leadership and/or management role should be visible and accessible to staff and able to deliver their leadership and/or management responsibilities. Any registered manager employed in the home should have sufficient capacity to ensure that the Quality Standards are met for each child in the home.

10.8 The registered person should have a workforce plan which can fulfil the workforce related requirements of regulation 16, schedule 1 (paragraphs 19 and 20) The plan should:

- detail the necessary management and staffing structure, (including any staff commissioned to provide health and education), the experience and qualifications of staff currently working within the staffing structure and any further training required for those staff, to enable the delivery of the homes Statement of Purpose;
- detail the processes and agreed timescales for staff to achieve induction, probation and any core training (such as safeguarding, health and safety and mandatory qualifications);
- detail the process for managing and improving poor performance;
- detail the process and timescales for supervision of practice (see regulation 33 (4) (b)) and keep appropriate records for staff in the home.

The plan should be updated to include any new training and qualifications completed by staff while working at the home, and used to record the ongoing training and continuing professional development needs of staff – including the home’s manager.

10.9 Staff should be made familiar with the homes internal whistleblowing procedures through the induction process.

10.10 The following elements of the workforce plan should be included in the Statement of Purpose: (in accordance with Schedule 1 (paragraphs 19 and 20)) the staffing structure; experience and qualifications of staff and arrangements for supervision of staff practice.

10.11 The registered person should ensure that staff can access appropriate facilities and resources to support their training needs, and should understand the key role they play in the training and development of staff in the home.

10.12 All managers working in a children’s home must have the qualification in regulation 28(2) within the relevant timescales listed in regulation 28(3). All staff in a care role, including external agency or bank staff, must have the qualification in regulation 32(4) within the relevant timescale listed in regulation 32(5). The registered person may extend the time period if the member of staff hasn’t worked in the role for a prolonged period, such as sick leave or maternity leave, or if it is not reasonable to expect the member of staff to complete in this timescale due to the nature of the hours they work.

10.13 The term ‘equivalent’ as used in the Regulations in relation to qualifications will be a judgement for the registered person based on whether the content of any qualifications held by the individual closely corresponds with the qualifications set out in regulation 28(2)(c) (for managers) or regulation 32(4) (for those in a care role).

10.14 Annex A outlines further detail about how NVQ and other qualifications can be compared with the QCF Diploma qualifications.

10.15 As outlined in 10.1, the registered person should plan staffing levels to ensure that they meet the needs of children and can respond flexibly to unexpected events or opportunities. Staffing structures should promote continuity of care from the child's perspective. If children complain, or give a view on how the staffing structure could be improved to promote the best care for them, appropriate action should be taken.

10.16 The use of external agency staff can be a positive choice to complement the skills and experiences of the permanent workforce. Any external agency staff should meet the requirements in regulation 32(4) regarding mandatory qualifications and the registered person should consider their skills, qualifications and any induction necessary before they commence work in the home. The use of agency staff should be carefully monitored and reviewed to ensure children receive continuity of care.

10.17 No more than half the staff on duty at any one time, by day or night at the home should be from an external agency.

10.18 Contingency plans should be prepared in the event of a shortfall in staffing levels. If it is likely that there might only be one member of staff on duty at any time the manager should make a formal assessment of the implications for children's care, including any likely risks. This assessment should be recorded and available for inspection by Ofsted and placing authorities

10.19 The registered person should monitor and review the patterns and trends of turnover of staff, whether agency or directly employed, and be able understand and where possible, address any negative trends.

10.20 The registered person is responsible for ensuring that all staff consistently follow the home's policies and procedures for the benefit of the children in the home's care. Everyone working at the home must understand their roles and responsibilities and what they are authorised to decide on their own initiative. There should be clear lines of accountability. Each home must have clear arrangements in place to maintain effective management when the manager is absent, off duty or on leave.

10.21 Any registered manager placed in charge of a children's home or staff member in a deputy or supervisory role such as 'shift leader' should have substantial relevant experience of working in a children's home and have successfully completed their induction for the home in which they are employed.

10.22 Whenever possible, staff in day to day contact with children should include staff from the different gender groups. Where the home's Statement of Purpose makes it explicit that the home uses staff of one sex only, clear guidance will need to be in place and followed as to how children are enabled to maintain relationships with people of a different gender.

### **Monitoring and review**

10.23 The registered person should oversee the welfare of the children in their care through observation and engagement with: each child; the home's staff; each child's family/carers where appropriate; and professionals involved in the care or protection of

each child including their social worker, Independent Reviewing Officer (IRO), teachers, clinicians and other health professionals etc.

10.24 The registered person should actively seek independent scrutiny of the home and make best use of information from independent and internal monitoring (including under regulations 44 and 45) to ensure continuous improvement. They should be skilled in anticipating difficulties and reviewing incidents, such as learning from disruptions and placement breakdowns. They are responsible for proactively implementing lessons learned and sustaining good practice.

## The care planning standard

### The text of the regulation

14.—(1) The care planning standard is that children—

- (a) receive effectively planned care in or through the children’s home; and
- (b) have a positive experience of arriving at or moving on from the home.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

- (a) that children are admitted to the home only if their needs are within the range of needs of children for whom it is intended that the home is to provide care and accommodation, as set out in the home’s statement of purpose;
- (b) that arrangements are in place to—
  - (i) ensure the effective induction of each child into the home;
  - (ii) manage and review the placement of each child in the home; and
  - (iii) (iii) plan for, and help, each child to prepare to leave the home or to move into adult care in a way that is consistent with arrangements agreed with the child’s placing authority;
- (c) that each child’s relevant plans are followed;
- (d) that, subject to regulation 22 (contact and access to communications), contact between each child and the child’s parents, relatives and friends, is promoted in accordance with the child’s relevant plans;
- (e) that the child’s placing authority is contacted, and a review of that child’s relevant plans is requested, if—
  - (i) the registered person considers that the child is at risk of harm or has concerns that the care provided for the child is inadequate to meet the child’s needs;
  - (ii) the child is, or has been, persistently absent from the home without permission; or
  - (iii) the child requests a review of the child’s relevant plans; and
- (f) that staff help each child to access and contribute to the records kept by the registered person in relation to the child

### Explanation of terms in the regulation

#### ***‘relevant plans’***

11.1 Relevant plans are defined in the interpretation section of the Regulations (regulation 2) as: any placement plan; any care plan; any statement of special

educational needs; any education, health and care plan (“EHC plan”)<sup>18</sup>; and where the child is a youth justice child any detention placement plan, or any other plan prepared by that child’s placing authority in relation to the remand or sentencing of that child.

‘Relevant’ thus has a meaning here that is distinct from the normal meaning of that word. If a child has any of the above plans, they will fall within the meaning of ‘relevant plans’, but a child may not have all of the plans defined as ‘relevant’ (for example, there will be children living in children’s homes who do not have an EHC plan). Similarly a child may have a plan that the Regulations define as ‘relevant’, but may have no impact on the issue the provider is considering at that point in time, and providers should not feel obliged to make a plan apply where it does not. The essential point is that a child’s plans should form the basis of their care, and providers should use their judgement as to what is relevant in each case, taking the plans listed in the definition in the Regulations as a starting point rather than a complete list or a tick-box exercise.

## Guidance

### Working in partnership with others

11.2 Effective care planning and strong working relationships between the staff of the home and the placing authority are essential to the success of placements.<sup>19</sup>

11.3 For most looked-after children, many of these planning duties fall to the placing authority. The registered person should ensure that they and their staff engage proactively with the placing authority to contribute fully to the relevant plans for the child’s care on an ongoing basis. Homes should consider during the course of this engagement, seeking appropriate permissions for the person conducting independent visits to access the relevant parts of the child’s records, as agreed with the child.

11.4 The registered person should only accept placements for children where they are satisfied that the home can respond effectively to the child’s assessed needs as recorded in the child’s relevant plans and where they have fully considered the impact that the placement will have on the existing group of children. The Statement of Purpose is an important document in the process of care planning as it sets out the needs of children the home is set up and equipped to care for.

11.5 The registered person must challenge (under regulation 5(c)) any placing authority who asks them to accept a child in the absence of a complete and current relevant plan, as the expectation that a placement of a child without the necessary information would go ahead (in circumstances other than an emergency) is inadequate in relation to their role. It is essential that homes understand what will be required of them before they accept responsibility for a child’s placement, to avoid disruption and instability for the child in future and for other children in the home. For non-looked-after children, the home should

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<sup>18</sup> In some cases the child’s special education needs statement (SEN) will be a relevant plan, until such time as it is reviewed (the latest date being 2018) and replaced with an EHC plan.

<sup>19</sup> Placing authority is defined in 2(1) of the Children’s Homes Regulations 2015

ensure they have sufficient information from the child's 'placing authority' (usually their parents/carers) and other relevant agencies to effectively assess whether they can meet the child's needs before agreeing to the placement.

### **Arriving at and moving on from the home**

11.6 Homes set up for emergency placements as indicated and detailed in their Statement of Purpose will require sufficient staff trained and skilled in the admission and care of children, where their full background may not be known.

11.7 Registered persons must ensure there are procedures in place for welcoming and introducing each child to the home, and that they are sensitive to the needs of the child at the time of arrival. A warm welcome and introduction to the home is an entitlement for all children whether they are admitted in a planned way or in an emergency. Where possible other children and young people should be supported to contribute to the design of the welcome and introduction and where appropriate the welcome itself. The home has a key role in helping children to understand why they are living there and the plans for their future.

11.8 An effective introduction to a home will take into account the child's abilities and capacity to understand and retain information. Such an introduction may take place over a period of time and may be delivered in different formats according to the child's communication and cognitive abilities. The registered person should ensure staff establish the child's understanding of key information about living in the home and the expectations of their care in order to establish whether there are gaps in the child's understanding.

11.9 As well as longer-term support for children to move on from the home effectively (regulation 6(2)(b)(vi)), the home has an important role in supporting each child leaving the home in the period immediately before their departure. The registered person should work with the placing authority to ensure that each child's transition is planned and help each child to prepare for leaving both practically and emotionally.

### **Changes to care, and review**

11.10 Significant changes to a looked-after child's care, such as a change of placement, should only take place following a statutory review of their care plan chaired by their Independent Reviewing Officer (IRO). The child should be actively involved in these important meetings and supported to express their views, wishes and feelings.

11.11 For looked-after children, the registered person should seek to ensure that the local authority regularly consults the child and the home about the child's relevant plans. If the child raises concerns about the content of any of their plans, their implementation or the process of review, staff should advocate for the child and seek to ensure that their concerns are addressed.

11.12 Where the registered person considers that a child is at serious risk of harm, such as being persistently missing from their placement, they must contact the local authority

to request a review of the child's care plan (regulation 14(2)(e)). Local authorities must give serious consideration to such requests.<sup>20</sup> Where a review does not take place, the Registered Person must escalate this concern under regulation 5 (engaging with the wider system to ensure children's needs are met).

11.13 If, in an emergency situation, the registered person has to move a child out of the home to other accommodation, the accommodation should be suitable and meet the child's needs. The placing authority should be contacted immediately. If the child is looked-after, a statutory review should be convened as soon as possible after the emergency move has taken place.

## Contact

11.14 It will be in the interests of the majority of looked-after children to maintain contact with their families and friends. Information about the local authority's responsibilities for enabling continued family contact is in [Children Act 1989: Care planning, placement and case review](#).

11.15 Both the arrangements for contact and any contact details (telephone numbers etc.) must be included in the placement plan agreed between the registered person and the child's placing authority and updated regularly.

11.16 There may be circumstances where children's homes staff assess that restriction of contact is necessary in the interests of the child, to safeguard them or promote their welfare. This decision should not be taken lightly and must be agreed with the placing authority, where possible, except in an emergency situation, where the placing authority must be notified within 24 hours. (See regulation 22 (5) and (6)).

11.17 Children's homes have a duty to provide access to a telephone that children can use privately (regulation 22(3)(a)). This can include the provision of a mobile phone where appropriate and safe for the child, as long as an alternative is in place for the child to make telephone calls in private if their personal mobile phone is lost, out of credit or broken.

11.18 Appropriate forms of contact should be promoted and facilitated for each child, including where appropriate visits to the child in the home; visits by the child to relatives and/or friends; letters, emails and texts; use of social media and other forms of contact via the internet.

## Records

11.19 Children should be encouraged by staff to see the home's records as 'living documents' supporting them to view and contribute to the record in a way that reflects their voice on a regular basis.

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<sup>20</sup> Regulation 20 (a)(ab), The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013.

## **Secure children's homes**

11.20 The registered person must consider the contact needs of children living in secure accommodation, as set out in their relevant plan. By nature of their location, secure children's homes can be a significant distance away from the child's home, making agreed face to face contact with friends and relatives difficult. Wherever possible, staff should work with the child to help them understand why face to face contact with their friends and relatives may be less frequent than they would like.

# Management and administrative regulations

## Guidance on Chapter 3 of the Regulations – Registered persons

### Appointment and fitness of registered persons

12.1 Regulations 26 and 28 set out the fitness requirements for the registered provider and managers. See the explanation of terms (page 67) for information on their different roles. If the registered provider is an organisation, the directors involved in the carrying on of a children's home must also satisfy fitness requirements (regulation 26(4)). This is to ensure that children's safety and welfare is protected.

12.2 Every home must have a person managing it. Under regulation 27, that person will either be:

- the registered provider if they are an individual, and fit person to manage a children's home; or
- an individual that the registered provider appoints as manager.

12.3 If the registered provider is an organisation, they must appoint an individual as the Responsible Individual for the home. The Responsible Individual's role is to supervise the management of the home as set out in the definition of a Responsible Individual in regulation 2. They should have an understanding of both effective practice in responding to the needs of looked-after children and of local authority care planning duties and how children's homes are required to support these.

12.4 Ofsted, as the regulator of children's homes can at any time scrutinise the fitness of a Responsible Individual, either through inspection or as a stand-alone event. Regulation 26(7)(b) requires the Responsible Individual to have the capacity, experience and skills to supervise the management of each children's home that they are Responsible Individual for. This includes being able to demonstrate that they have the essential skills needed to develop the leadership and management of homes within their remit such that the homes have the capacity and capability to meet the Quality Standards. There is no limit to the number of homes that a person can be appointed as Responsible Individual for, but they must be able to demonstrate that they can effectively supervise the management of each home individually, as well as all of the homes overall.

12.5 When the person who is in day to day charge of the home proposes to be absent from the home for a continuous period of 28 days or more, they must notify Ofsted in writing (regulation 48). The registered person must also notify Ofsted of a range of other changes to the running of the home (regulations 49, 50 and 51).

## **Guidance on Chapter 4 of the Regulations – Staffing**

### **Employment and supervision of staff**

13.1 As set out in regulations 31-33, the registered person is responsible for maintaining good employment practice. They must ensure that recruitment, supervision and performance management of staff safeguards children and minimises potential risks to them.

13.2 The registered person must have systems in place so that all staff, including the manager, receive supervision of their practice from an appropriately qualified and experienced professional, which allows them to reflect on their practice and the needs of the children assigned to their care. Professionally qualified staff employed by the home, e.g. teachers or social workers, should be provided with relevant professional or clinical supervision by an appropriately qualified and experienced professional.

13.3 A record of supervision should be kept for staff, including the manager. The record should provide evidence that supervision is being delivered in line with regulation 33(4)(b).

13.4 It is good practice for a note of the content and/or outcomes of supervision sessions to be kept and to ensure that both the person giving the supervision and staff member have a copy of the record.

13.5 All staff must have their performance and fitness to carry out their role formally appraised at least once annually. This appraisal should take into account, where reasonable and practical, the views of other professionals who have worked with the staff member over the year and children in the home's care. As part of the performance management process, poor performance should be addressed by a timely plan to bring about improvement.

13.6 Qualification requirements for staff are listed in Annex A.

## **Guidance on Chapter 5 of the Regulations – Policies, records, complaints and notifications**

### **Keeping records electronically**

14.2 Some records may be kept electronically (regulation 38) provided that this information can be easily accessed by anyone with a legitimate need to view it and, if required, be reproduced in a legible form. Electronic records should be held at the individual home in accordance with data protection principles. IT systems should ensure the safe storage of these records and business continuity planning should be in place to prevent loss or damage to them.

## Keeping records on children in the home

14.3 Regulations 35-39 detail the records that must be kept in children's homes. All children's case records (regulation 36) must be kept up to date and stored securely whilst they remain in the home. Case records must be kept up-to-date and signed and dated by the author of each entry. Children's case records must be kept for 75 years from the date of birth of the child, or if the child dies before the age of 18, for 15 years from the date of his or her death.

14.4 Staff should be familiar with the home's policies on record keeping and understand the importance of careful, objective, and clear recording. Staff should record information on individual children in a non-stigmatising way that distinguishes between fact, opinion and third-party information. Information about the child must always be recorded in a way that will be helpful to the child.

14.5 The home's records on each child represent a significant contribution to their life history. Children and their parents should be supported to understand the nature of records kept by the home and how to access them. Staff should understand their important role in encouraging the child to reflect on and understand their history, according to their age and understanding. Staff should keep and encourage children to keep appropriate memorabilia of the time spent living at the home and help them record significant life events.

## Access to records and sharing requirements

14.6 Children should be actively encouraged to read their records and to add further information to them. They should be regularly reminded of their rights to see information kept about them and be given information about how they might be supported to access their records in later life.

14.7 Staff must also be familiar with information sharing requirements relating to the children they care for. They should have access to the information sharing policy and procedures specified by the Local Safeguarding Children's Board (LSCB) for the area where the home is located.

14.8 If a home closes or is taken over by a different registered provider, it is important that children's case records continue to be stored securely for the required period of time (regulation 36(2)) so that children can access their case records in later life. If the registered provider runs other homes, the case records must be kept in the nearest home (regulation 36(4)(a)(b)). In cases where the home and its registered provider cease to operate entirely, the case records must be passed to the child's placing authority (regulation 36(5)) or, as the case may be, the local authority that maintains an EHC plan for the child or the child's SEN statement.

## Notification of serious events

14.9 Regulation 40(1) and (3) require the registered person to notify a specified list of people in the event of the death of a child, or if there is a referral of an individual working in the home in accordance with section 35 of the Safeguarding Vulnerable Groups Act 2006. In addition, the registered person must notify other relevant persons– this may include other professionals, services, organisations, agencies or establishments who are or have been involved in the child’s care. It is for the registered person to judge who else it is appropriate to notify depending on the individual circumstances of the incident.

14.10 Regulation 40(4) requires the registered person to notify Ofsted and other relevant persons if one of the situations specified in regulation 40(4)(a)-(d) occurs, or if there is an incident relating to the protection, safeguarding or welfare of a child living in the home which the registered person considers to be serious (40(4)(e)).

14.11 Examples of incidents that are likely to be considered serious affecting the welfare of a child include: a child being the victim or perpetrator of a serious assault; a serious illness or accident; a serious incident of self-harm, or serious concerns over a child’s missing behaviour, particularly where the child is considered to be at grave risk due to age or vulnerability or where they have been missing for a considerable period of time and their whereabouts is unknown. This is not an exhaustive list and homes must assess each case individually taking into account any patterns of behaviour or unusual behaviour which may indicate an increased risk to the child. Homes should also consider the frequency of incidents and judge whether their cumulative effect makes notification appropriate even if in isolation each event would not warrant this.

14.12 It is for the registered person to judge whether the incident is sufficiently serious to make formal notifications and, if it is, which other relevant persons may be notified, for example, the police, probation service, health professionals, the local authority for the area the home is located in (if this is not the child’s placing authority) and others involved with the care or protection of the child.

14.13 The registered person should have a system in place so that all serious events are notified, within 24 hours, to the appropriate people. The system should cover the action that should be followed if the event arises at the weekend or on a public holiday. Notification must include details of the action taken by the home’s staff in response to the event.

14.14 The home’s record of the event must include a description of the action taken and the outcome of any resulting investigation. Following a notifiable event under regulation 40 the home should contact the placing authority to discuss the need for further action.

14.15 The registered person should also have a system for notification to responsible authorities of any serious concerns about the emotional or mental health of a child such that a mental health assessment would be requested under the Mental Health Act 1983.

## Secure children's homes

14.16 Secure Children's Homes (SCH) should notify Ofsted under regulation 40(4) if any of the following incidents occur:

- a child accesses or receives electronic material that may suggest that are at increased risk of, or being subjected to sexual exploitation (40)(4)(a);
- a child absconds from the SCH or an escort service whilst away from the SCH (40)(4)(e);
- a child has a serious accident while in the SCH or with an escort service whilst away from the SCH (40)(4)(e);
- a child makes or receives unauthorised contact with a family member, friend or other person that the child's relevant plan states they should not be in contact with (40)(4)(e).

14.17 It is for the registered person to decide if an accident is serious, but is likely to include those accidents that require medical treatment to be administered in the SCH (other than basic first aid), or medical treatment administered in a hospital.

14.18 If a child dies in a secure children's home, the registered person must allow the Prison and Probation Ombudsman (PPO) to investigate the death, in line with regulation 40(2) and (6).

## Guidance on Part 6 of the Regulations – Monitoring and reviewing children's homes

### Review of premises

15.1 When establishing the home, the registered person must ensure that it is suitably located so that children are effectively safeguarded and can access services to meet needs identified in their relevant plans (see regulations 12(2)(c)). Under regulation 46, the registered person should review the appropriateness and suitability of the location and premises of the home at least once a year. The review should include the identification of any risks and opportunities presented by the home's location and strategies for managing these. Providers should refer to the non-statutory advice about the location assessment process: [Children's homes regulation amendments 2014: Advice for children's homes providers on new duties under regulations that came in to effect in January and April 2014.](#)

### Review of quality of care

15.2 Regulation 45 sets out requirements for the registered person to have a system in place which allows them to monitor the matters set out in the regulation at least once every six months; also see regulation 13(2)(h) (the leadership and management standard). The registered person should undertake a review that focuses on the quality of

the care provided by the home, the experiences of children living there and the impact the care is having on outcomes and improvements for the children. Reviews should be underpinned by the Quality Standards as described in regulations 5 to 14.

15.3 The processes the registered person puts in place to enable such a review to take place, should allow for a report to be generated at least once every six months. The generated report should be sent to Ofsted and the placing local authority of all children in the home who are looked-after children.

15.4 The registered person is responsible for deciding what each review should focus on, based on the specific circumstances of the home at that particular time and any areas of high risk to the children that the home is designed to care for, such as missing or exploitation. They will also consider what information or data recorded in the home will form part of the evidence base for their analysis and conclusions. There is no expectation that the registered person will review the home against every part of the Quality Standards every six months – registered persons should use their professional judgement to decide which factors to focus on. The review should enable the registered person to identify areas of strength and possible weakness in the home's care, which will be captured in the written report. The report should clearly identify any actions required for the next 6 months of delivery within the home and how those actions will be addressed. The whole review process and the resulting report should be used as a tool for continuous improvement in the home.

### **Visits by an independent person**

15.5 Any individual appointed to carry out visits to the home as an independent person must make a rigorous and impartial assessment of the home's arrangements for safeguarding and promoting the welfare of the children in the home's care.

15.6 The registered person must appoint the independent person and is ultimately responsible for making sure that an appointment does not give rise to a conflict of interest that would, or would appear to, compromise the ability of that person to reach a rigorous and impartial judgement of the quality of that home's care.

15.7 Where the independent person is an employee of those carrying on the children's home, they must be employed solely for the purpose of quality assurance within the home(s).

15.8 The registered provider should also ensure that the independent person they appoint has the skills and understanding necessary to:

- relate to children in a home's care;
- assess all relevant information; and
- form an impartial judgement about the quality of the home's care.

15.9 The skills, experience and professional background of the independent person, for example in undertaking work of a similar nature, will also be a relevant factor in assessing their ability to reach a rigorous and impartial judgment.

15.10 Providers should refer to the non-statutory advice about visits by independent persons: [\*Children's homes regulation amendments 2014: Advice for children's homes providers on new duties under regulations that came in to effect in January and April 2014.\*](#)

## Explanation of terms

The following descriptions explain terms used in the regulation in accordance with s.23(1A) of the 2000 Act.

Term used in 2000 Act	Explanation of term
<p><b>“Child” and “Children”</b></p>	<p>Any references to the term ‘child’ or ‘children’ in the Regulations and Guide include any person who is accommodated in a children’s home and is not employed in the home or in relation to it. This will include, for example, a young person who was placed at the home as a looked-after child, and has continued to remain at the home after their 18th birthday while they are completing their studies at school. Children’s homes may accommodate adults provided that the home remains ‘wholly or mainly for children’ as required by section 1 of the 2000 Act.</p>
<p><b>Registered Provider</b></p>	<p>A person who is registered under Part 2 of the 2000 Act as the person carrying on the children’s home.</p> <p>The registered provider can be an individual, a partnership or an organisation. If they are an organisation, they must appoint a responsible individual and registered manager. If they are a partnership, they must appoint a registered manager.</p>
<p><b>Responsible Individual (RI)</b></p>	<p>If the registered provider is an organisation, they must appoint a Responsible Individual. The Responsible Individual must be a director, manager, secretary or other officer of the organisation. The role of the Responsible Individual is to supervise the management of the home(s).</p>
<p><b>Registered Manager</b></p>	<p>If the registered provider is an organisation or partnership, they must appoint a registered manager. If the registered provider is an individual, they may manage the home if they meet the requirements in Part 3 of the Regulations.</p> <p>The registered manager is normally different from the Responsible Individual (where one is appointed) because one manages the home and the other supervises the management.</p>
<p><b>Registered Person</b></p>	<p>Any person who is the registered provider or registered manager of a home.</p> <p>If a home has both a registered provider and a registered manager, anything required under the Regulations to be done by the “registered person”, if done by one of the registered persons, is not required to be done by any of the other registered persons.</p>

## ANNEX A –Qualifications for staff working in children’s homes

1.1 To establish whether an existing qualification is equivalent to either the Level 3 Diploma for Residential Childcare; and/ or the Level 5 Diploma in Leadership and Management for Residential Childcare, the registered person should check whether the existing qualification has appeared in previous children’s homes legislation or National Minimum Standards (see table below).

1.2 In addition, the registered person should also establish whether the units completed in the candidate’s original qualification have content which corresponds with the units of the Level 3 Diploma for Residential Childcare; and/ or the Level 5 Diploma in Leadership and Management for Residential Childcare. They should consider the relevance of the units of any original qualifications to the care of children as described in the homes Statement of Purpose.

1.3 The registered person should keep a record of the information they have considered to establish ‘equivalence’.

1.4 Where a registered person identifies gaps in qualifications, they should act to ensure relevant units or qualifications are completed in a timely manner at an appropriate level.

### Manager Qualifications

Qualification held	Equivalent to	Notes
Level 5 Diploma in Leadership for Health and Social Care and Children and Young People’s Services with Children and Young People’s Residential Management Pathway.	The Level 5 Diploma in Leadership and Management for Residential Childcare.	Equivalent as one replaced the other on the QCF framework.
Level 5 Diploma in Leadership for Health and Social Care and Children and Young People’s Services with Advanced Practice Pathway.	May be equivalent to the Level 5 Diploma in Leadership and Management for Residential Childcare – see notes.	Registered Person to consider whether equivalent as ‘leadership and management skills’ would usually have been covered in the Children and Young People’s Residential Management Pathway (see above).  Registered Person to consider units completed in the original qualification against the Level 5 units*. Additional leadership qualification may be required.

<p>NVQ Level 4 Leadership and Management for Care Services</p>	<p>Level 5 Diploma in Leadership for Health and Social Care and Children and Young People's Services with Children and Young People's Residential Management Pathway.</p>	<p>Equivalent as Level 5 Diploma in Leadership for Health and Social Care and Children and Young People's Services with Children and Young People's Residential Management Pathway replaced the NVQ Level 4 Leadership and Management for Care Services on the QCF.</p> <p>The Level 5 Diploma in Leadership and Management for Residential Childcare has replaced both of the above qualifications on the QCF framework.</p>
<p>NVQ 4 Health and Social Care (Children's Pathway)</p>	<p>May be equivalent to the Level 5 Diploma in Leadership and Management for Residential Childcare – see notes.</p>	<p>NVQ 4 Health and Social Care contains practice leadership content but not service management and leadership content.</p> <p>To be equivalent, this qualification would need to be combined with a leadership and management qualification.</p> <p>The registered provider should check the units completed in the original qualification against the Level 5 units*.</p>
<p>Level 4 (or higher level) Leadership and Management Qualification</p>	<p>N/A</p>	<p>Level 4 leadership qualifications were typically undertaken to complement an NVQ 4 Health and Social Care qualification.</p> <p>Generic leadership and management qualifications may have content which corresponds with The Level 5 Diploma in Leadership and Management for Residential Childcare.</p> <p>The registered provider should check the units completed in the original qualification against the Level 5 units*.</p>
<p>A recognised social work qualification:  Certificate in Social Service (CSS)  Certificate of Qualification in Social Work (CQSW)  Diploma in Social Work (DipSW)  Social Work Degree</p> <p>Or</p> <p>A Level 4 professional qualification</p>	<p>N/A</p>	<p>These qualifications may have content which corresponds with the Level 5*.</p> <p>The registered provider should check the units completed in the original qualification against the Level 5 units*.</p> <p>If these qualifications were deemed equivalent, they would still need to be combined with a leadership and management qualification.</p>

\*The term: 'The Level 5' refers to the Level 5 Diploma in Leadership and Management for Residential Childcare introduced in January 2015.

## Staff Qualifications

Qualification held	Equivalent to	Notes
Level 3 Children & Young Peoples Workforce Diploma with social care pathway	The Level 3 Diploma for Residential Childcare	Equivalent as one replaced the other on the QCF framework.
NVQ 3 caring for children & young people  NVQ 3 health & social care	Level 3 Children & Young Peoples Workforce Diploma with social care pathway	Equivalent as Level 3 Children & Young Peoples Workforce Diploma with social care pathway replaced NVQ 3 caring for children & young people and NVQ 3 health & social care. The Level 3 Diploma for Residential Childcare then replaced all of the above on the QCF.
Other NVQ 3	N/A	Registered Person to consider units completed in the original qualification against the Level 3 Diploma for Residential Childcare units. Additional training or units may be required to fill any gaps in knowledge / skill.

## ANNEX B –Additional information for secure children’s homes

- 1.1 Secure children’s homes, like other children’s homes, must comply with:
- the Children’s Homes Regulations 2015; and
  - Children (Secure Accommodation) Regulations 1991 (“the 1991 Regulations”).
- 1.2 Children may be placed in secure children’s homes if they:
- receive a custodial sentence and the Youth Justice Board makes a decision to place them there;
  - are remanded<sup>21</sup> to youth detention accommodation; or
  - are subject to a welfare placement under Section 25 (Children Act 1989)
- 1.3 This annex is primarily concerned with ‘welfare placements’ made under section 25 of the 1989 Act.<sup>22</sup>
- 1.4 A children’s home can provide secure accommodation only if it has been approved by the Secretary of State. In granting approval the Secretary of State may impose any terms and conditions that are considered appropriate.<sup>23</sup>

### The role of secure children’s homes

- 1.5 Local authorities have a duty under the 1989 Act to take reasonable steps to avoid the need for their children to be placed in secure accommodation and consideration should be given to the range of alternative facilities and services available locally, identifying any gaps in such provision and how these might best be met. Decisions to place a child in a secure accommodation should be authorised by a nominated senior manager of the local authority’s children’s services department.
- 1.6 Restricting the liberty of a child is a serious step which should only be taken where it is necessary and where other alternatives have been considered. This does not mean that all other alternatives must have been tried. But in order to apply to the Court for an order to restrict a child’s liberty under section 25 of the 1989 Act, it is vital that the local authority has made a careful assessment that this is the most appropriate option to meet their particular needs. The placement of a child in a secure children’s home should, wherever practicable, arise as part of the local authority’s overall plan for the child’s welfare.

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<sup>21</sup> As a result of the coming into effect of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPOA), children in criminal proceedings who are refused bail by the court and are remanded, either to local authority accommodation or to youth detention accommodation, which could be a secure children’s home, will become looked after.

<sup>22</sup> For further information on looked after children and youth justice, see [Guidance on looked after children and youth justice \(April 2014\)](#)

<sup>23</sup> Regulation 3 of the 1991 Regulations.

1.7 Secure placements should only continue for as long as they remain appropriate to meet the needs of the child. The plan for the child should be kept under careful monitoring and review from the outset of the secure placement to ensure that there will be continuity of care and education and where necessary, any specialist intervention or support once the child is no longer detained.

## **Criteria on welfare grounds: section 25 of the Children Act 1989**

1.8 Section 25(1) of the 1989 Act provides that a child may not be placed in secure accommodation unless:

- he has a history of absconding and is likely to abscond from any other description of accommodation; and
- if he absconds he is likely to suffer significant harm; or
- that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

In this context “harm” has the same meaning as in section 31(9) of the 1989 Act and the question of whether harm is significant shall be determined in accordance with section 31(2) of the 1989 Act.

1.9 It is unlawful to restrict the liberty of a child in a secure children’s home unless one of the criteria in section 25(1) is met, no matter how short the period of restriction.

1.10 The purpose of the statutory framework governing the placing of looked after children being looked after by local authorities or accommodated by other agencies in secure children’s homes is to:

- protect them from unnecessary and inappropriate placement in secure children’s homes;
- ensure that administrative decisions taken by local authorities or other agencies are scrutinised and endorsed by the court; and
- ensure that any placements are only for so long as is necessary and appropriate.

1.11 When an application is made to the court for a secure accommodation order, it is the responsibility of that court to safeguard the rights of the child by satisfying itself that the criteria for keeping a child in secure accommodation are met. The court is required to make an order for such maximum duration (within the terms of the 1991 Regulations) as it considers appropriate.

1.12 The welfare of the child is not the paramount consideration in a secure accommodation application and, although it remains relevant, section 1 of the 1989 Act does not apply. The guardian must adapt their general duties to the specific requirements

of the court application, recommending what she or he believes to be in the best interests of the child.<sup>24</sup>

## Placements of children aged under 13

1.13 Local authorities must obtain the approval of the Secretary of State before placing a child under the age of 13 in a secure children's home.<sup>25</sup>

1.14 Once a child's secure placement ends, if a new secure placement is to be made while that child remains under the age of 13, the local authority must again seek the approval of the Secretary of State for that placement. However, if the local authority wish to extend the original secure placement (i.e. where there is no break in the secure placement) further Secretary of State approval is not necessary.

## Secretary of State approval process for under 13s

1.15 The process for seeking this approval can be found in the guidance on [Secure children's homes: how to place a child aged under 13](#)<sup>26</sup>

## Maximum period in secure accommodation without court authority

1.16 The 1991 Regulations limit the maximum period that a child, to whom section 25 of the Act applies, may be kept in secure accommodation without the authority of the court. This maximum period is 72 hours, either consecutively or in aggregate, in any period of 28 consecutive days.<sup>27</sup>

1.17 Some relaxation of this provision is provided where a child is placed in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a public holiday or a Sunday, and:

- during that period the maximum period of 72 hours expires; and
- in the 27 days before the day on which he was placed in secure accommodation, has been placed and kept in secure accommodation for an aggregate of more than 48 hours.

Then, the maximum period (of 72 hours) shall be treated as if it did not expire until 12 midday on the first working day after the public holiday or Sunday.

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<sup>24</sup> Re M (Secure Accommodation Order) [1995] 1 FLR CA 418

<sup>25</sup> See regulation 4 of the Children (Secure Accommodation) Regulations 1991 (SI 1191/1505), amended by SIs 1992/2117 and 1995/1398).

<sup>26</sup> [How-to-place-a-child-aged-under-13-in-a-Secure-Children's-Home](#)

<sup>27</sup> Whilst a local authority can detain a child in secure accommodation for 72 hours without the authority of the court, they will still first need to obtain approval from the Secretary of State to make the placement for a child under the age of thirteen.

1.18 This limited extension of the 72 hour rule is intended to cater for the emergency placement of a child in secure accommodation at a time when both the major proportion of that 72 hours has already been used up and it is unlikely to be possible to arrange for an application to be heard by a court before the 72 hours limit expires. An application must be brought before the court within the 72 hour period if it is intended the placement should continue beyond that period. It will be especially important to bring forward applications in those cases where the 72 hour period would expire on a day when courts do not normally sit.

1.19 Where a court has authorised a child to be kept in secure accommodation, any time during which that child was kept in such accommodation before the court's authorisation was given shall be disregarded for the purposes of calculating the maximum period of any subsequent occasion in which the child is placed in such accommodation after the period authorised by the court has expired. The practical effect of this regulation is that the 28 day period<sup>28</sup> will restart on the expiry of any court order. This is intended to meet the case of a child who may need to be re-admitted to secure accommodation as an emergency, and where:

- during the previous 28 days the child has had his liberty restricted for up to 72 hours; and
- a court has authorised such a placement for a period of less than 28 days.

## Applications to court

1.20 Staff working in a secure children's home, social workers and youth justice staff should be aware of the need to prepare children adequately for the court hearing, giving careful consideration to the age and understanding of the child. It will also be necessary to explain to the child and, if appropriate, their parents, the entitlement to funding for legal proceedings (see para 1.22).

1.21 Local authority staff presenting applications for children to be detained on welfare grounds may benefit from additional supervision to support them in preparing and presenting evidence to the court in the required format, so the court has all the information it requires to determine whether the child's circumstances meet the statutory criteria for placing or keeping them in secure accommodation.

1.22 A court is unable to exercise its powers to authorise a period of secure accommodation under section 25 of the 1989 Act if the child is not legally represented in court unless the child, having been informed of his right to apply for representation and having had an opportunity to do so, has refused or failed to apply. Children should be encouraged to appoint a legal representative in such proceedings and given every assistance to make such arrangements. The provision of funding for such proceedings is

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<sup>28</sup> The Children (Secure Accommodation) Regulations 1991 – Regulation 10(1)

set out in paragraph 1 of Part 1, Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012

## **Appointment of a Children's Guardian**

1.23 The court must appoint a CAFCASS officer as children's guardian for the child unless it is of the opinion that it is unnecessary to do so in order to safeguard the child's interests.<sup>29</sup> The officer shall be appointed according to the rules of the court and be under a duty to safeguard the interests of the child in the manner prescribed in such rules. This is an important provision designed to ensure that the welfare of the child being provided with secure accommodation is protected adequately.

## **Duration of secure accommodation orders**

1.24 The maximum period a court may authorise a child to be kept in secure accommodation is three months.

1.25 Where the local authority looking after the child, or other authority or person as appropriate, believes the child's placement in secure accommodation should continue beyond the period specified in the initial court order, a further application must be made to the court.

1.26 A court can authorise a child to whom section 25 of the 1989 Act applies to be kept in secure accommodation for a further period of up to six months at any one time.

1.27 Where the court adjourns consideration of an application, it may make an interim order authorising the child to be kept in secure accommodation during the period of the adjournment. An interim order will be made only where the court is not in a position to decide whether the criteria in section 25(1), have been met. If the court adjourns consideration of an application and does not make an interim order, the child cannot be placed in secure accommodation during the period of the adjournment unless his circumstances subsequently change, when the normal procedures will apply.

1.28 Where the local authority proposes to make an application for an order under Section 25 after the first 72 hour period of detention; or where it is planned to make an application to extend the child's detention in secure accommodation beyond the period initially authorised by a court, the people below must be notified:

- the child's parents
- any person who is not a parent of his but who has parental responsibility for him,
- the child's independent visitor, if one has been appointed, and
- any other person who that local authority consider should be informed.

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<sup>29</sup> Section 41(1) of the 1989 Act

1.29 The maximum period for which a court may authorise a child's remand to a secure children's home, as youth detention accommodation<sup>30</sup>, shall not exceed 28 days on any one occasion without further court authorisation.

## Appeals

1.30 In relation to appeals 31 to the Court against decisions to authorise, or refusal to authorise, applications for secure accommodation: where an appeal is against an authorisation, a child's placement in secure accommodation may continue during consideration of the appeal.

1.31 where a court has refused to authorise a placement in secure accommodation, and the local authority looking after the child, or other authority or appropriate person is appealing against that decision, the child must not be detained or placed in secure accommodation during consideration of the appeal.

## Secure accommodation provided by health and local authorities for education purposes

1.32 The section 25 safeguards have also been extended to children, other than those looked after by local authorities, who are accommodated, in particular, by health authorities, or in independent hospitals or care homes (regulation 7(1)(a) and (b) of the 1991 Regulations).

1.33 Under section 85 of the 1989 Act, where a child is provided with accommodation by any health or local authorities for at least three months, there is a requirement to notify the appropriate officer in the responsible authority of the case. It is recommended that the local authority should be notified about the use of such accommodation in relation to a child, irrespective of whether or not the child has been accommodated for three months or more.

## Children to whom section 25 does not apply

1.34 Regulation 5 of the 1991 Regulations describes various groups of children to whom section 25 of the 1989 Act does not apply. Two categories of children are excluded from these provisions:

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<sup>30</sup> Refer to section 102 of the Legal Aid, Sentencing and Punishment of Offenders Act

<sup>31</sup> Appeals are under section 31K of the Matrimonial and Family Proceedings Act 1984 subject to any order made under section 56(1) of the Access to Justice Act 1999.

- children detained under any provision of the Mental Health Act 1983 or in respect of whom an order has been made under section 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000;
- children aged 16 or over but under 21 provided with accommodation in a community home under section 20(5) of the 1989 Act, and children subject to a child assessment order under section 43 of the 1989 Act.

## **Children detained under section 38(6) Police and Criminal Evidence Act 1984**

1.35 Regulation 6 of the 1991 Regulations provides that section 25 of the 1989 Act applies with modifications to:

- children detained under section 38(6) of the Police and Criminal Evidence Act 1984 (detained children);

For these children the criteria in section 25(1) of the 1989 Act are modified so that the children may not be placed, and if placed, may not be kept in secure accommodation unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because:

- the child is likely to abscond from such other accommodation; or
- the child is likely to injure himself or other people if he is kept in any such other accommodation.

## **Notifications of placement<sup>32</sup>**

1.36 Notifications of placement should preferably be made by telephone as soon as possible after placement and it is essential that secure children's homes providers are aware of how to contact responsible authorities out of normal office hours (e.g. weekends and public holidays). Where notification is made by email, then the provider must make sure that they receive acknowledgement of this from a senior representative of the responsible authority within 12 hours.

## **Secure accommodation reviews**

1.37 Each local authority responsible for the placement of a child in secure accommodation is required to appoint at least three people, at least one of whom is neither a member nor an officer of the local authority, to review whether there is a continuing need for the child to remain in secure accommodation. The initial secure accommodation review meeting must be held within one month of the start of the

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<sup>32</sup> Regulation 9 of the 1991 Regulations

placement and thereafter reviews must take place at intervals not exceeding three months.

1.38 The responsibility for undertaking the reviews rests solely with the local authority looking after the child and not with the local authority managing the secure children's home, where different.

1.39 The persons appointed must satisfy themselves, with regard to each case they review, as to whether or not:

- the criteria for keeping the child in secure accommodation continue to apply;
- the placement in the secure children's home continues to be necessary; and
- any other description of accommodation would be appropriate for him; and
- in doing so they must have regard to the welfare of the child whose case is being reviewed.

1.40 The persons appointed to undertake the review must also ascertain and take account of, as far as is practicable, the wishes and feelings of:

- the child;
- the child's parents;
- any person who is not a parent but who has parental responsibility for the child;
- any other person who has had the care of the child, whose views the persons appointed consider should be taken into account;
- the child's independent visitor if one has been appointed; and
- provider of the secure accommodation in which the child is placed if this is not the authority looking after the child.<sup>33</sup>

1.41 The purpose of these meetings is only to review the issue of whether or not the conditions for detaining the child in secure accommodation still apply. The secure accommodation review is not a substitute for and does not replace the statutory review of the child's overall care plan, which must be chaired by the child's IRO.

1.42 Forward planning for children detained on welfare grounds is essential. Whilst the child is detained, the placing authority will need to consider how placement in an "open" setting might meet the child's needs in future. This should mean that, where there is the possibility of a review panel recommending that the criteria for detaining the child no longer apply, contingencies are already in place. Clearly there are potentially damaging consequences if a child who has recently met the section 25 criteria is released into unsuitable accommodation unable to provide the necessary support for them to manage the transition back into the community.

1.43 The decision as to whether the criteria are no longer met is for the local authority to make giving careful consideration to the recommendations of the panel.

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<sup>33</sup> The Children (Secure Accommodation) Regulations 1991 – Regulation 16

1.44 If the review panel recommends that the criteria for restricting the child's liberty no longer apply, or that the placement is no longer necessary, or another type of placement would be appropriate, then the local authority must urgently convene a statutory review of the child's care plan, chaired by their IRO.<sup>34</sup> The review should consider how the child's needs will be met in a non-secure setting and plan how this move will be managed so that it takes place in a way that is least disruptive to the child concerned.

1.45 All the parties should be informed, if practicable, of the outcome of the secure accommodation review, the reasons for the outcome and what actions, if any, the local authority proposes to take to carry forward the plan for the child's care.

## Records

1.46 In addition to the records required through regulations 37, 38 and 39 in the Children's Homes Regulations 2015, Regulation 17 of the 1991 Regulations requires each person, organisation or local authority responsible for the management of the secure children's home to keep records giving details of:

- the name, date of birth and sex of the child;
- details of the care order or other statutory provision under which the child is in the home and details of any local authority involved with the placement;
- the date and time of the placement, the reason for the placement and the name of the offer authorising the placement and where the child was living before the placement;
- persons informed under regulations 9, 14 or 16(3);
- court orders made under section 25 of the 1989 Act;
- "secure accommodation reviews" undertaken under regulation 15;
- the date and time of any occasion when the child is locked in his own room in the children's home other than during his usual bedtime hours, the name of the person authorising this action, the reason for it and the date and time on which the child ceases to be locked in that room; and
- the date and time of his discharge and his address following the discharge from the secure children's home.

The Secretary of State may require copies of these records to be sent to her at any time.

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<sup>34</sup> [The IRO Handbook](#) Paragraphs 4.13-4.15



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