where possible, support rather than undermine the parental role. The 1989 Act places a strong emphasis on the local authority working in partnership with parents when undertaking their statutory functions.

The UN Convention and the European Convention on Human Rights

1.8 The United Nations Convention on the Rights of the Child (UNCRC) is an international human rights treaty to which the UK is a signatory, which grants all children and young people aged 17 and under a comprehensive set of rights. These include the right to:

- special protection measures and assistance;
- access to services such as education and health care;
- develop their personality, abilities and talents to the fullest potential;
- grow up in an environment of happiness, love and understanding; and
- be informed about and participate in achieving their rights in an accessible and active manner.

1.9 The Human Rights Act 1998 gives further effect in UK law to the rights and freedoms contained in the European Convention on Human Rights (ECHR).

The child’s wishes and feelings

1.10 Section 22(4) of the 1989 Act, consistent with Article 12 of the UNCRC, provides that, before making any decision with respect to a child whom the local authority are looking after or proposing to look after, the authority must, so far as reasonably practicable, ascertain the wishes and feelings of the child. Section 22(5) provides that, in making any decision in relation to the child, it should give due consideration to those wishes and feelings, having regard to the child’s age and understanding.

1.11 Children should feel that they are active participants and engaged in the process when adults are trying to solve problems and make decisions about them. When plans are being made for the child’s future, s/he is likely to feel less fearful if s/he understands what is happening and has been listened to from the beginning. Close involvement will make it more likely that s/he feels some ownership of what is happening and it may help him/her understand the purpose of services or other support being provided to him/her, his/her family and carer. Where a child has difficulty in expressing his/her wishes and feelings about any decisions being
1.22 For a child who is ‘accommodated’ under a section 20 voluntary arrangement (‘an accommodated child’), the local authority does not have parental responsibility for the child – parental responsibility remains with the parents. However, the authority must comply with the duties set out in the 1989 Act and with the relevant Regulations. Although a care order gives the local authority parental responsibility for the child, any person who is a parent or guardian also retains their parental responsibility and may continue to exercise it to the extent that their actions are not incompatible with the care order (as set out in section 2(8) and section 33(3)(b) of the 1989 Act).

1.23 Children who are placed away from home under an emergency protection order, where they are accommodated by or on behalf of the local authority, are looked after children. So, too, are those children on remand to local authority accommodation or under supervision with a residence requirement requiring them to live in local authority accommodation and those children in police protection or arrested and at the police’s request accommodated by the local authority (section 21 of the 1989 Act).

Definitions

1.24 References in this guidance to:

- ‘the 1989 Act’ are to the Children Act 1989;
- ‘the 2002 Act’ are to the Adoption and Children Act 2002;
- ‘the 2010 Regulations’ are to the Care Planning, Placement and Case Review (England) Regulations 2010;
- the 2002 Regulations’ are to the Fostering Services Regulations 2002;
- a numbered section or Schedule, are a reference to that section or Schedule in the 1989 Act;
- a regulation, are a reference to that regulation in the 2010 Regulations unless otherwise specified;
- ‘responsible authority’ are to the local authority which looks after the child;
- ‘area authority’ are to the local authority for the area in which a child is placed or is to be placed, where this is different to the responsible authority; and
- ‘area’ means the local authority area of the responsible authority.

1.25 The following terms are also used:

- ‘IRO’ is the independent reviewing officer for the child;
2. Care planning

The purpose of care planning and review

2.1 Care planning and case reviews are about bringing together children who are looked after, their families, the child’s carers and professionals, in order to plan for the care of the child and to review that plan on a regular basis. Assessing the needs of children and deciding how best to meet those needs is a fundamental part of social work with looked after children. To do this effectively not only requires an understanding of the importance of planning, but also the conceptual and practice framework for planning. The purpose of such a framework is threefold:

- to ensure that children and their families and the child’s carers are treated with openness and honesty and understand the decisions that are made;
- to provide clarity about the allocation of responsibilities and tasks, in the context of shared parenting between parents, the child’s carers and the corporate parents and ensure that actions lead to improved outcomes; and
- to demonstrate accountability in the way in which the functions of local authorities under the 1989 Act are exercised.

2.2 Part 2 of the 2010 Regulations sets out the arrangements which the responsible authority must make for looking after children. The making of a care plan is central to these requirements. The care plan will contain information about how the child’s current developmental needs will be met as well as the arrangements for the current and longer term care for the child. It ensures that there is a long term plan for the child’s upbringing (referred to as ‘the permanence plan’) to which everyone is working, including the team around the child, the child and, where appropriate, the family [regulation 5(a)]. There should be clarity in the care plan, particularly about the desired outcomes for the child and those expected from services and other actions identified. This clarity will support effective reviews of the child’s case to monitor the progress made towards meeting the short and long term goals for the child and his/her family and the child’s carers.

Permanence planning

2.3 Permanence is the long term plan for the child’s upbringing and provides an underpinning framework for all social work with children and their families from family support through to adoption. The objective of planning for permanence is therefore to ensure that children have a secure, stable and loving family to support them through childhood and beyond and to give them a sense of security,
and services are sought to meet the child’s needs and because it is important that the child, the parents and wider family members (as appropriate), and the carers are clear about the purpose of the period of care or the provision of accommodation from the beginning of the placement. Contingency planning for the possible accommodation of a child while efforts continue to support the family and keep the child at home, may achieve a smoother and more successful and less disturbing transition for the child. For looked after children, the document in which this process is recorded is the care plan. The child, family members and carers should be in agreement with the proposed care plan and their commitment to it secured.

2.27 Using the dimensions relating to a child’s developmental needs, parenting capacity and wider family and environmental factors (see Figure 1), the care plan should be based on the information ascertained from the assessment and draw on knowledge about interventions that are likely to be most effective for the needs to be addressed. It should be expressed in such a way that it is possible to see what planned actions have taken place and to identify the effectiveness of interventions. The care plan must maintain a focus on the child, even though services may be provided to a number of family members as part of achieving the plan.

2.28 For those children who are already known to children’s social care services at the point at which they become looked after, an up to date core assessment, a plan for the provision of services under section 17, or a child protection plan may already be in place. Unless there are well-evidenced reasons for a change of direction, the care plan should complement and build on the existing plan for the child. Where a child has not been assessed before becoming looked after, a core assessment will be required to inform the care plan (see paragraph 2.23).

2.29 Clarity and transparency in the care plan are essential in order that it can be understood by the child (subject to his/her age and understanding), the child’s parents and wider family, the child’s carer and a range of professionals and practitioners who are supporting the child and family. In order to achieve this the care plan should:

- describe the identified developmental needs of the child and the services required to meet those needs, including services to be provided to family members;
- describe why a particular placement has been chosen;
- include specific, achievable, child-focused outcomes intended to safeguard and promote the welfare of the child and identify how progress will be measured;
- include realistic strategies and specific actions to bring about the changes necessary to achieve the planned outcome;
• clearly identify and set out the roles and responsibilities of family members, the child’s carers and practitioners (including for example GP, nurse and designated teacher), and the frequency of contact of those practitioners with the child, his/ her carer and/or family member; and

• describe the contingency arrangements if the proposed permanence plan for the child is not achievable, in order to reduce delay.

2.30 The specific requirements for planning to meet health and education needs are outlined in more detail from paragraphs 2.46 to 2.75.

2.31 As part of the assessment process, it is essential when planning a placement to consult all those concerned with the child. The need for consultation should be explained to the parents and the child. The responsible authority should coordinate the involvement of all relevant agencies and all the individuals who are significant in the child’s life. Before making any decision with respect to a child whom they are looking after or propose to look after, section 22(4) provides that the responsible authority should:

‘as far as is reasonably practicable ascertain the wishes and feeling of:

• the child;
• his parents;
• any person who is not a parent of his but had parental responsibility for him; and
• any other person whose wishes and feelings the authority consider to be relevant regarding the matters to be decided.’

Intervention

2.32 The critical issue for practitioners and their managers is the decision about which interventions are likely to be most effective for a particular child and family or carers in order to achieve the best possible outcome in the circumstances. The nature of the intervention will depend on the identified permanence plan for the child in the context of the assessment of the child’s developmental needs. The following questions should be addressed in considering the most appropriate intervention:

• What are the options for interventions which might help to support strengths and/or meet identified needs?

• What resources are available?
to be provided for the child meets the requirements as set out in Part 3 of the 1989 Act [regulation 4(3)]. The care plan will reflect the multi-agency contribution necessary to ensure that it addresses the full range of the child’s developmental needs in order to improve his/her outcomes.

2.37 Where the young person who is to be accommodated is over the age of 16 and agrees to be provided with accommodation under section 20 the care plan should be agreed with the young person.

The care plan for a child subject to section 31A of the 1989 Act (the Court care plan)

2.38 Section 31A of the 1989 Act provides that where an application is made on which a care order might be made with respect to a child, the responsible authority must, within the timetable set by the Court, prepare a care plan and no order can be made until the Court has considered that plan [section 31(3)]. The care plan is therefore critical and will be very influential in the Court’s decision. This section of the guidance should be read in conjunction with Volume 1 of the Children Act 1989 Guidance and Regulations (Court Orders) and the Public Law Outline (PLO).

2.39 While there is no requirement for a formal agreement by the parent to the Court care plan, the responsible authority will be aware of the principles underpinning article 8 of the ECHR concerning the ‘right to respect for family life’ and should ensure that parents are appropriately consulted and that the reasons why their views have or have not been acted upon are recorded.

2.40 An essential component of the Court care plan is the long term plan for the child known as the plan for permanence for the child (see paragraph 2.3). The quality and robustness of this plan will be critical as the Court considers whether the making of the care order is the most appropriate way to safeguard and promote the child’s welfare. For interim hearings under section 38 this may not yet be a confirmed plan.

Court care plans and adoption

2.41 In a minority of applications for a care order it becomes clear during proceedings that adoption will be the preferred permanence plan. The responsible authority should ensure that, where they have identified adoption as the planned permanence option, whether at the point of the commencement of care proceedings or during the course of those proceedings, the placement order application is made as part of care proceedings.
relatives of the child. In some cases it may be appropriate to identify relatives (who may include a parent with whom contact has been lost) and to follow up the prospects of re-establishing contact. Care will clearly be needed where there is family or marital conflict, but responsible authorities should be ready to explore the possibility of preserving, establishing or promoting contact which could be beneficial to the child. In doing so they should not overlook problems which may arise when a child is placed with a person who may be reluctant to allow contact with, for example, wider relatives or friends of the child. The child and his/her carers may need support to manage these situations.

2.82 In this context, the first weeks during which the child is looked after by the responsible authority are likely to be crucial to the success of the relationship between the parent, the social worker and the child’s carers, and to the level of successful future contact between the parents and the child. It is at this time that patterns become set which may be difficult to change. Parents should be involved in planning for contact prior to placement wherever possible and should be provided with information about possible sources of support for contact.

2.83 Placements made in an emergency require special care if parents are to be reassured from the outset that they have a continuing role in their child’s life and to minimise distress for the child. Early visits are essential though parents may need help to cope with both their own and their child’s distress.

2.84 Arrangements for contact with grandparents and other people with a connection to the child should be recorded in the care plan [Schedule 1, paragraph 3 (4)(b)]. Grandparents and other relatives can provide a sense of family history and continuity where the child cannot live with his/her birth parents yet contact may easily be lost if the child becomes looked after.

Sibling contact

2.85 Maintaining contact with siblings (from both the same or different parents) is reported by children to be one of their highest priorities. It can provide continuity and stability for a child in a time of uncertainty and possibly great change. Sibling contact can help a child maintain their identity in an unfamiliar environment and promote self-esteem and emotional support.

2.86 It will be important for the responsible authority to take account of their local need for family groups when planning what care placements are needed, in whatever form those placements take. IROs should have a particular role in this process. They should monitor the changes in need among their own caseload, for example siblings who are reaching the leaving care age, or who express a wish to move away or return to live with siblings. They should report regularly to the Corporate Parenting Board on this issue.
2.87 It is not always possible or appropriate, however, to place sibling groups together. Where siblings cannot be placed together, it requires the active involvement of all parties to facilitate this contact in a way which supports the development of healthy sibling relationships between children who are not able to live together. Siblings must be supported to understand why they cannot live together. It is important to ensure that contact arrangements between siblings are given very careful attention and plans for maintaining contact are robust. Contact must be meaningful and take place where children feel safe and supported. The wishes and feelings of children about where they want their contact to take place and who they want there should be ascertained, as well as the views of children’s carers.

2.88 It is important that children and young people understand the contact arrangements in place and are fully supported to understand the reasons for contact not happening, including when arranged visits are cancelled. All parties will need support to ensure that contact is a positive experience for all siblings. Contact arrangements may need to be varied as the children’s relationships and need for contact change over time. There is a specific requirement for the care plan to set out arrangements for the promotion and maintenance of contact with brothers and sisters, so far as this is consistent with the child’s welfare [Schedule 1, paragraph 3(1) and Schedule 1, paragraph 3(4)]. Where contact stops either because it is against the child’s wishes or best interests, contact should be regularly reviewed and children should understand that they can change their mind. Children should also be supported through problems with contact, if they wish to maintain it.

2.89 Independent Reviewing Officers should ensure that care plan review meetings consider whether sibling contact commitments in care plans have been appropriately implemented so that the child is happy with the contact they are having with their siblings. They should check that the child is happy with both the frequency and quality of their contact. The child’s views should be included in all assessments and reviews. It is important that the child is fully supported to express their views and wishes either during or before the review meetings. Children should be informed that they share the same IRO as their siblings. IROs should also address the issue of sibling contact in their annual report.

2.90 Children should be told by their IRO how they can access advocacy services if they have a complaint.

2.91 The responsible authority should discuss with their local Children in Care Council their policy and procedures on sibling contact and regularly review their performance on the issue with both the Children in Care Council and other children in care. They should also consider producing guides for both children and young people about their rights and entitlements to sibling contact with their
2.97 The responsible authority is required to notify those affected about proposals to refuse contact under section 34(6) that would otherwise be required under section 34(1) or an order under section 34 [regulation 8(2)]. If those arrangements are set out in a court order, there is provision for the terms of the order to be departed from with the agreement of the person named in the order, and in specified circumstances with the agreement of the child, subject to the child being of sufficient age and understanding [regulation 8(4)].

2.98 In these cases, notification should also be given to the child’s parents (if not the person with whom the agreement has been made), his/her guardian, the person in whose favour a residence order was in force immediately before the care order was made, and any other person whose wishes and feelings the responsible authority consider to be relevant. The IRO must also be informed.

Contact arrangements for an accommodated child

2.99 Arrangements for contact with an accommodated child are a matter for negotiation and agreement between the responsible authority, the child, parents and others seeking contact. The responsible authority should ensure that parents and others wishing to have contact with the child know where to seek advice about contact matters.

2.100 In the event of a dispute about contact with an accommodated child where the matter cannot be resolved and the complaints procedure has not provided a solution, a section 8 order may be made on the application of the child, a parent or other person.

Contact and adoption

2.101 On a local authority being authorised to place a child for adoption (or placing a child for adoption who is under six weeks old), any provision for contact under the 1989 Act (a section 8 or a section 34 order) ceases to have effect and the local authority must consider their responsibilities under section 26 of the 2002 Act. Please refer to the Adoption statutory guidance for further information about contact arrangements during and after adoption.

The role of the IRO in improved care planning

2.102 Section 25B sets out the functions of IROs to improve care planning and secure better outcomes for looked after children. IROs have responsibility for monitoring the performance by the local authority of their functions in relation to a child’s case, as well as specific duties in relation to the review function. There are now two clear and separate aspects to the function of the IRO:
3. Placement

Placement under the 1989 Act

3.1 Sections 22A to 22D make provision for the accommodation and maintenance of a looked after child. They provide a framework within which decisions about the most appropriate way to accommodate and maintain the child must be considered. Section 22A imposes a duty on the responsible authority when a child is in their care to provide the child with accommodation. Section 22B sets out the duty of the responsible authority to maintain a looked after child in other respects apart from providing accommodation. Section 22C sets out the ways in which the looked after child is to be accommodated.

3.2 Section 22C(2) imposes a duty on the responsible authority to make arrangements for the child to live with a parent, a person who is not a parent but who has parental responsibility for the child, or a person who held a residence order in respect of the child prior to the making of the care order (referred to as ‘parent’ in this chapter), unless this is not consistent with the child’s welfare or would not be reasonably practicable – section 22C(4). This rehabilitative duty reflects the principle that state intervention in family life should be kept to the minimum necessary to protect the child from harm – ultimately a child should be brought up by his/her family if that is a safe place for him/her to be.

3.3 Where a placement with the child’s parent is not possible, the responsible authority should place the child in ‘the most appropriate placement available’, that is, the one that they consider will best promote and safeguard the child’s welfare (section 22C(5)). The ‘placement’ means:

- placement with a relative, friend or other person connected with the child and who is also a local authority foster carer;
- placement with a local authority foster carer (who is not a relative, friend or other person connected with the child);
- long-term foster placement;
- placement in a children’s home; and
- placement ‘in accordance with other arrangements made by the local authority’ – this may include, for example, supporting young people to live independently in rented accommodation, residential employment, or in supported lodgings/hostels.

3.4 In accordance with section 22C(7), in determining which is the most appropriate placement the local authority must ‘give preference to’ a placement with a connected person i.e. a relative, friend or other person connected with the child,
Placements outside the British Islands

3.53 Other factors arise when the proposed move is overseas, including the increased difficulty of continuing any contact arrangements and the difficulty of supervising and reviewing the placement. If the foster carer is in the armed services, it should be possible to make arrangements with the Soldiers, Sailors and Airmen’s Families Association (SSAFA). Where the responsible authority believe that supervision is not required, consideration can be given to the possibility of an application by the foster carers for a residence order. This will have the advantage of bringing before the court any conflict between the child’s interests, wishes and feelings and the parent’s wishes and feelings.

3.54 A decision to allow a foster carer to take a child overseas (except for a holiday) should not be made other than where there are exceptional circumstances and adequate and realistic arrangements can be made to safeguard the child’s welfare and meet the requirements of the 2010 Regulations. It should be agreed only where the stay overseas is for a definite and limited period.

Notifications

3.55 When the decision about the most appropriate placement has been made but before the child is placed, notification should be sent to a range of specified people and agencies. The aim of notification primarily is to ensure that those involved in the decision-making process have an opportunity to make any necessary arrangements to respond to the child’s needs but will also provide an opportunity for views to be represented to the responsible authority.

Who should be notified

3.56 The decision should be notified in writing to the child, the parents, the child’s carers, representatives of other agencies involved with the child and the IRO about the placement [regulation 13(2) (a)(b)(e) to (i)].

3.57 The responsible authority should also consider notifying any other person with a sufficient interest in the child for example a person involved in the child’s life but not specified in regulation 13. Note should be taken of the provision [regulation 13(3)] that in some circumstances the responsible authority may decide not to provide information to all or any of the persons specified in regulation 13 if, as a result of doing so the child would suffer or be likely to suffer significant harm.

3.58 Notification must also be made to any person who has an order for contact or child arrangement order whether under section 34 or section 8 [regulation 13(2)(b) and (c)]. Good practice requires that the responsible authority’s social worker explains personally to the child, the child’s parents and the child’s carers what the placement plan entails and the reason for reaching the decisions which are
3.73 A child who is looked after by a local authority but is not in their care is outside the scope of regulations 15 to 20 because s/he is accommodated by agreement with the parents and if the period of accommodation ends by virtue of the child returning to parents, the child ceases to be looked after by the responsible authority.

3.74 Responsible authorities should consider carefully whether a placement in accordance with the 2010 Regulations is the most appropriate way to discharge their responsibilities under section 22C(2). Where it is decided that such a placement is the most appropriate way to discharge their duty under section 22, the responsible authority should reconsider whether the care order is still required. It may be that the responsible authority and the parent agree that an application to discharge the care order is appropriate. But such an agreement must include both the level of support and supervision by the responsible authority and co-operation by the parent, with commitment from all involved to working together in the child’s best interests. If such agreement can be reached and the court makes an order to discharge the care order then the child will no longer be looked after and the 2010 Regulations will not apply.

3.75 In many cases a placement in accordance with these regulations will be part of the planned progress towards discharge of the care order. The management of the placement should aim to enhance the parent’s role and support the family relationships with that aim in mind. Even in those cases where the discharge of the care order is not a foreseeable option, the possibility should be constantly reviewed and the aim should be to build a genuine working partnership with the parent.

3.76 These placements will be subject to the requirement for a placement plan [regulation 9] and the case is required to be reviewed in accordance with the 2010 Regulations [Part 6].

The assessment of parents’ suitability to care for the child

3.77 A care order cannot be made under the 1989 Act unless the court is satisfied that a child is suffering or is likely to suffer significant harm, and that this is attributable to the care given, or likely to be given, to him/her not being what it would be reasonable to expect a parent to give; or the child being beyond parental control. It is therefore important to be especially careful to ascertain how far those factors that were identified as grounds for the current care order have been addressed before deciding whether a child can be placed back with parents.

Parenting capacity

3.78 Before deciding to place the child with his/her parent the responsible authority must assess the suitability of the parent to care for the child [regulation 17],
between the child and the prospective carer pending the completion of the full foster carer approval process.

3.97 The child’s wishes and feelings about the proposed arrangements must be ascertained, subject to understanding, and recorded. Wherever possible, an opportunity must be provided for the child to visit the connected person’s home before the decision is finalised. The views of the child’s parents and others with parental responsibility must also be obtained before a decision is made.

3.98 The 2010 Regulations specify the assessment requirements before the child may be placed under these temporary approval arrangements [regulation 25(a) to (d)]. These are the minimum requirements for assessing the connected person’s suitability within what may be a short time frame. Every effort should be made to maximise the level and quality of information available to support the decision as to whether the person should be temporarily approved. In particular the assessment must assess the quality of the existing relationship between the child and the proposed carer as the intention of this provision is that the connected person is already known to the child.

3.99 The home must be visited by the social worker as part of the assessment of the suitability of arrangements. This to ensure that the physical environment of the home and space available is suitable for that particular child and to identify the need for additional resources such as equipment for a baby or very young child or any specialist equipment to meet the needs of a disabled child in accordance with the requirement set out in this guidance.

3.100 The home visit will also provide the opportunity to identify more clearly the composition of the household and the nature and quality of the relationships between the residents, as well as their view about the proposed arrangements for the connected person to care for the child. The assessment of suitability should also address the history and current lifestyle of other young people in the household who are under 18 in relation to the needs of the child who is to be placed, including their views about the proposed placement and its possible impact on them. Further guidance on the assessment of relatives and friends and other connected people as foster carers is set out in the statutory guidance on family and friends care.

3.101 As the connected person will be temporarily approved as a foster carer s/he will be required to comply with the 2002 Regulations and sign a foster care agreement and the requirement for a care plan and placement plan remains. A connected person approved under these regulations will be entitled to the same support and services, including any fees and allowances payable/available within the relevant fostering provider/local authority scheme to unrelated local authority foster carers.
Facilities and services provided

3.121 Consideration of facilities and services will be particularly relevant where the young person is not placed in a domestic setting (i.e. with a host family as part of a supported lodgings arrangement or where s/he chooses to live with family or friends) but is placed in accommodation where s/he is independent or sharing the occupancy. The responsible authority will need to take the following issues into account:

- the space available in the property:
  - where the property is shared with others the young person must have his/her own lockable room allowing him/her privacy
  - where the young person is in education or training the property should offer study space, in his/her own room or elsewhere;
- the bathing and toilet facilities, which must be sufficient for the number of occupants in the property;
- whether the state of repair of the furniture is adequate where the property is already furnished prior to the young person moving in; and
- the adequacy of the heating and hot water.

State of repair

3.122 The property must be ‘habitable’ – i.e. structurally sound, free from damp and in an adequate state of repair. In addition, the household appliances must be useable and fit for purpose. The young person should be fully informed about who is responsible for repairs and maintenance to the property, fittings and fixtures and of what to do and who to contact in an emergency, for example a water leak or if the heating breaks down.

Safety

3.123 The responsible authority will need to check, as far as reasonably practicable, that:

- the landlord possesses a current up to date gas safety certificate, that any fire detection equipment works and that if there was a fire, the property could be evacuated safely.;
- the electrical wiring has been checked within the last five years, and any electrical appliances in the property must be safe; and
- the accommodation is secure (e.g. is there a burglar alarm; locks on windows; mortice locks) and the local authority knows whether the previous tenant has returned all their keys or that the locks have been changed.
included. The child’s carers need to be fully informed about any existing arrangements for specialist services such as psychotherapeutic support or extra tuition, and be clear both about their responsibilities in ensuring that these are maintained and their role in helping the child to follow any agreed programmes.

3.189 The child’s carers should be aware of the child’s religion and culture and the manner in which these are reflected in their daily life, including any help the child will need to maintain these links [Schedule 2 paragraph 3(2)]. Even where the child does not have a formal religion s/he may have needs for a spiritual dimension to his/her life and should be supported and encouraged to develop it. These experiences contribute to the child’s sense of identity. Even in good placements there may be profound differences between carers and birth families in matters such as religious observance, dress codes and diet. These issues should be treated sensitively and arrangements to preserve and strengthen the child’s links with the religious and cultural practices of his/her birth family agreed, particularly in circumstances where the child is accommodated and/or where the plan is for the child to return to live with parents.

3.190 Arrangements for contact between children, birth parents, siblings who are looked after and other relatives and friends must be clarified and discussed with carers. The child’s carers need to know the provisions of contact orders made under section 8 of the 1989 Act, and how any changes to these arrangements should be notified; they also need to be aware of any person with whom contact is discouraged and the reasons for this. If the child is subject to a care order, be given a copy of any orders made under section 34. If the child has been authorised to be placed for adoption, section 26 of the 2002 Act applies.

3.191 While there is an expectation that the child’s carers will facilitate reasonable contact, social workers need to be aware of the difficulties that can arise when birth parents (and other relatives) have extensive contact with children in the carer’s home; contact arrangements should be sensitive to the needs of carers and their families as well as those of parents.

Delegation of authority

3.192 Managing the relationship between a looked after child’s parents (or other carers with parental responsibility), the local authority, the foster carer(s) or the registered manager of a children’s home is challenging, particularly as those providing the day-to-day care do not hold parental responsibility (unless the child is living at home). It is essential to fulfilling the local authority’s duty to safeguard

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6 The foster carer or registered manager of the children’s home is referred to in this guidance on delegated authority as ‘the carer’.
3.210 The second category of decisions will require skilled partnership work to involve the relevant people. The child’s permanence plan will be an important factor in determining who should be involved in the decision. For example, if the plan is for the child to return home, their parents should be involved in a decision about the type of school the child should attend and its location, because ultimately the child will be living with them. Where the plan is for long term foster care, or care in a residential unit until age 18, then while the child’s parents must be involved (unless there is a care order and the local authority has decided not to involve them), where possible the school choice should fit with the foster carer’s family life as well as be appropriate for the child.

3.211 The third category of decisions is likely to be more serious and far reaching. Where the child is voluntarily accommodated the child’s birth parents or others with PR should make these decisions. Where the child is under a care order or emergency protection order, decisions may be made by the birth parents or others with PR, which includes the local authority, depending on the decision and the circumstances. Such decisions should, however, always take account of the wishes and feelings of the child and their carer.

3.212 The expectation must be that the assessment and approval of foster carers, their training and previous experiences of, for example, caring for their own children, will equip them with the skills and competence to undertake the day-to-day caring task, including taking day-to-day decisions about the foster child’s care. Any skills gaps should be urgently addressed so that foster carers are able to carry out their parenting role effectively.

Delegation in the context of the child’s education

3.213 The Education Act 1996 defines “parent” as including a person who has care of the child in question. Therefore a child’s foster carer or residential worker is deemed a parent for the purposes of education law. This means, for example, that a foster carer 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.

3.214 Young people can sometimes apply in their own right for a place at sixth form or FE college. If they are of compulsory school age their application must also be signed by a parent (which in the context of education includes foster carers or residential workers) confirming their approval of the application. Once they are over compulsory school age they can apply in their own right without the need for parental consent. Young people can also appeal against the refusal of a sixth form place along these lines.
to do so by the child, the child’s carer or the person responsible for the child’s living arrangements [regulation 28 (7)(a)].

3.240 A visit must also be made within one week of receiving a notification under section 30A of the Care Standards Act 2000 when the children’s home in which the child is currently placed is referred to in that notification [regulation 28 (7)(b)].

3.241 Visits should not be neglected because a placement is going well. The ongoing review of the care plan requires that visits take place at least as often as the 2010 Regulations require. This helps to ensure the social worker is equipped to identify and help with any difficulties because care has been taken to establish a relationship with a child and foster carer, and it helps to assess long term situations fully. There are some circumstances where more frequent visits above the minimum will be necessary. For example, where the role of the child’s parents is changing, the child’s needs have changed, or perhaps because a lone foster carer supervising social worker has not been allocated. There will inevitably be periods in any placement when a child’s carer or the placement may be under particular stress.

3.242 The social worker must visit the placement if there is any proposal to remove the child from the placement where there are concerns about welfare.

**Seeing the child**

3.243 The representative must see and speak to the child alone [regulation 29]. The exceptions to this are: where the child refuses (and is of sufficient age and understanding to refuse), where the social worker considers it inappropriate to do so (having regard to the child’s age and understanding); and where the social worker is unable to do so, for example because the child is out. If a child has particular communication difficulties or requires specialist communication support, the social worker will need to use specialist resources in order to ensure that the child has the opportunity to express his/her wishes and feelings, including a request for the social worker to visit. The care plan and the placement plan for the child should identify where this is a consideration from the outset.

3.244 A very young child or a child who has been abused may be anxious about spending time alone with a person s/he does not know well. Visiting a child more frequently when s/he first starts to be looked after or when a new social worker is allocated will allow a relationship to develop in which the child will be able to share what is going well and areas of unhappiness in his/her life, including any difficulties in the placement. Visits during the first weeks of placement can be especially important to check that arrangements made at the time of placement for schooling and contact are working smoothly, or to give any help needed during the settling-in
3.275 There will be a need for introductory meetings so that the child can decide whether s/he wishes the appointment to be made, and if not, the local authority should consider whether the appointment of another person might be possible and appropriate.

3.276 In a very limited number of circumstances there may be a relative who would be appropriate to fulfil the role of an independent visitor and this arrangement might be the child’s preferred option. Responsible authorities will need to distinguish between the small minority of cases where the designation of a relative or friend as the child’s visitor is appropriate and the more common situation where the child has ongoing contact with relatives and friends. In the latter situation the responsible authority will encourage such contacts and may pay expenses without changing the status to that of an independent visitor.

Recruitment

3.277 Local authorities should already have commissioning strategies in place for the recruitment of independent visitors. The requirement to widen the duty so that the appointment of an independent visitor can be considered for a larger group of looked after children should be taken into account as part of the commissioning process. Authorities should make sure that independent visitors are able to make a long term commitment to the role. However, recruitment procedures should not preclude those who, although able only to offer their services for shorter periods, may have valuable qualities and play a valuable role.

3.278 In establishing the service – either through direct recruitment or contracting with a provider – local authorities should ensure that:

- visitors are recruited from a wide pool of people with a variety of backgrounds and ages (this should allow the selection of an independent visitor for a particular child to take place quickly and effectively);
- robust induction programmes cover not only the formal aspects of the independent visitor role and functions but also the duties and procedures of the local authority and the relevant aspects of the legislation; and
- induction training allows the opportunity to set expectations in respect of access to case information about the child and the extent to which the independent visitor keeps any record him/herself, over and above that required to claim expenses.

3.279 Local authorities should ensure that unsuitable persons who pose a serious threat to children’s safety are not inadvertently recruited. Appointment procedures should be rigorous and formal. Applicants must submit detailed background information and provide the names of two personal referees. The relevant DBS checks should be carried out before any decision is taken to appoint the applicant.
review meeting will be on examining and confirming the plan. Subsequent reviews will be occasions for monitoring progress against the plan and making decisions to amend the plan as necessary, to reflect new knowledge and changed circumstances.

4.30. The 2010 Regulations provide a checklist of matters for consideration at the review [Schedule 7]. This is not comprehensive or exclusive but sets the minimum requirements. In addition, the review must consider matters specified in the 1989 Act relating to the welfare of the child. Other matters will arise in individual cases which it is not possible to cover in a list of general application. These matters should be considered with due regard to the circumstances of the child and the placement. The matters covered by Schedule 7 and the relevant statutory provisions are:

- the effect of any change in the child’s circumstances since the last review;
- whether decisions taken at the last review have been successfully implemented, and if not the reasons for that;
- whether the responsible authority should seek any change in the child’s legal status, for example an application to discharge the current order or for a new order by the responsible authority or the application by a carer for a residence order or special guardianship order;
- whether there is a plan for permanence;
- the current arrangements for contact and whether there is a need to change these arrangements to promote contact between the child and his/her family or other relevant people;
- whether the placement continues to be appropriate and is meeting the needs of the child;
- the child’s educational needs, including consideration of:
  - the child’s most recent assessment of progress and development;
  - whether the arrangements that are in place are meeting the child’s educational needs;
  - whether any changes are, or are likely to become, necessary or desirable before the child’s next review; and
  - whether the child has a PEP and also whether its content provides a clear framework for promoting the child’s educational achievement;
- the child’s leisure interests and activities and whether the current arrangements are meeting the child’s needs;
- the child’s health, including consideration of:
o the child’s most recent health assessment (to include physical and emotional health needs);

o whether the arrangements that are in place are meeting the child’s health needs;

o whether any changes are, or are likely to become, necessary or desirable before the child’s next review; and

o whether the content of the health plan provides a clear framework for promoting the child’s health.

- whether the identity needs of the child are being met and whether any changes are needed, having regard to the child’s religious persuasion, racial origin and cultural background;

- whether the child understands any arrangements made to provide advice, support and assistance and whether these arrangements continue to meet his/her needs [regulation 31];

- the child’s wishes and feelings about the care plan including in relation to any changes or proposed changes to the care plan (having regard to his/her age and understanding);

- the views of the child’s IRO about any aspect of the case and the care plan.

- whether the plan fulfils the responsible authority’s duty to safeguard and promote the child’s welfare [section 22(3)];

- whether it would be in the child’s interests for an independent visitor to be appointed [section 23ZB(1)(b)]; and

- whether the delegation of authority to make decisions about the child’s care continue to be appropriate and in the child’s best interests.

4.31. Where the decision has been taken that the review process will not include a meeting, the IRO must ensure that full consultation with all relevant individuals, including the child, has taken place to inform the review of the child’s case.

4.32. The responsible authority is required to have arrangements in place for implementing decisions made in the course of or as a result of the review. These arrangements must include a process for informing the IRO of any failure to implement the decisions within the agreed timescale. Health authorities, local authorities, local housing authorities and other social services departments have a duty to comply with a request from a children’s services department for help in the exercise of their functions [section 27].

4.33. The responsible authority is required to inform the IRO if they fail to implement decisions made in the course of the review [regulation 37(b)].
6.15. However, if that child receives a pre-planned series of short breaks in the same setting under section 20(4), the care planning arrangements under the 2010 Regulations are modified in respect of that child by regulation 48 to reflect the continuing central role played by the parents.

<table>
<thead>
<tr>
<th>Child is provided with accommodation under section 17(6)</th>
<th>Child is provided with accommodation under section 20(4) for a continuous period of more than 24 hours; short breaks are pre-planned and in the same place; no break lasts more than 17 days and the total does not exceed 75 days in one year.</th>
<th>Child is provided with accommodation under section 20(4) for a continuous period of more than 24 hours; breaks may be within a range of providers or exceed timescales in column b.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The child is not looked after.</td>
<td>The child is looked after for the period that s/he is provided with accommodation.</td>
<td>The child is looked after for the period that s/he is provided with accommodation.</td>
</tr>
<tr>
<td>The 2010 Regulations do not apply.</td>
<td>The 2010 Regulations apply with modifications in respect of planning arrangements:</td>
<td>The 2010 Regulations apply with modifications in respect of planning arrangements:</td>
</tr>
<tr>
<td></td>
<td>• the authority must make a short break care plan addressing issues key to the safe care of the child;</td>
<td>• the authority must make a care plan</td>
</tr>
<tr>
<td></td>
<td>• an IRO must be appointed.</td>
<td>• an IRO must be appointed</td>
</tr>
<tr>
<td></td>
<td>The first visit must take place within three months of the first placement day or as soon as practicable thereafter. Subsequent visits must be at intervals of no more than six months.</td>
<td>the child’s case must be reviewed regularly.</td>
</tr>
<tr>
<td></td>
<td>The child’s case must be reviewed within three months of the start of the first placement and then at intervals of no more than six months.</td>
<td>Visits must take place in accordance with regulation 28.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The first review must be within twenty days of the start of the first placement, the second no more than three months after the first and subsequent reviews no more than six months after the previous review.</td>
</tr>
</tbody>
</table>
8. Looked after children in contact with youth justice services

8.1. Looked after children who offend, or who are at risk of offending, should receive the same quality of care as all other looked after children. The responsible authority has continuing duties and responsibilities as a good corporate parent for such children, including those who are in custody.

8.2. Looked after children are more likely to be cautioned for or convicted of an offence than their peers and, although estimates vary, it is thought that nearly a third of children in custody have been looked after. Local authorities should have strategies that set out how they will encourage positive behaviour amongst looked after children who may be at risk of offending and the measures that will divert them from involvement with the youth justice system. Fostering services and children’s homes should have an approach to care that minimises any police involvement to manage children’s behaviour. Children’s homes should have protocols with local police forces to cover this issue to prevent children in their care from being needlessly criminalised.

8.3. Where a looked after child is thought to be at risk of offending or re-offending, both the care/pathway plan and placement plan should include details about the support that will be provided to prevent this. Such support may take the form of ensuring the child’s relevant developmental needs are met through mainstream services but the Youth Offending Team (YOT) in the area where the child is placed will be able to advise on specific preventative services which may also be suitable and appropriate. The Independent Reviewing Officer (IRO) should ensure that care plans adequately address this aspect of the child’s needs, and should raise a challenge where a young person’s needs are not being adequately assessed, resulting in the possibility of their becoming, or continuing to be, involved in offending behaviour.

Responsibilities

8.4. Care planning, placement and case review responsibilities apply to all looked after children, including those involved with youth justice services. Carrying out these responsibilities may, however, be a more complex task because of the involvement of other agencies with different priorities. This chapter provides

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8. Outcomes for children looked after by local authorities in England as at 31st March 2014
9. HM Prisons Inspectorate thematic inspection of children and young people in custody
8.29. Where a child is not already looked after but becomes looked after as a result of being remanded to YDA the role of the local authority responsible for the child’s care will be to satisfy itself that day to day arrangements for the child are of sufficient quality to be able to offer an appropriate response to the range of the child’s individual needs.

8.30. In these circumstances the local authority is not required to prepare a care plan and a placement plan, instead the authority must carry out an initial assessment of the child’s needs and use this information to prepare a Detention Placement Plan (DPP). This should describe how the YDA will meet the child’s needs and record the roles and responsibilities of the other partner organisations (the local authority and the YOT specifically). The DPP should also take into account the circumstances that contributed to the child’s alleged involvement in any offending and the support s/he should be offered when they return to the community to prevent (re)offending.

8.31. A DPP must also be drawn up with regard to children who are already looked after and who are remanded to YDA. This will be based on the assessment informing the child’s current care or pathway plan. Where children are looked after as a result of a care order (under section 31 of the Children Act) or if they are a ‘relevant child’ (under section 23A (2)(3) of the Children Act) care/ pathway planning will continue once the remand ceases, whether or not the child is sentenced to custody (see Requirements following sentence below). Schedule 2A of the Care Planning, Placement and Case Review (England) (Miscellaneous Amendments) Regulations 2013. The 2013 Regulations summarises matters to be dealt with in the DPP.

<table>
<thead>
<tr>
<th>Matters to be dealt with in a Detention Placement Plan [Schedule 2A: Regulation 47C(2)]</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How the child will be cared for on a day to day basis and how their welfare will be safeguarded and promoted by the staff of the YDA.</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
</tbody>
</table>

17 Regulation 47C (2) - The Care Planning, Placement and Case Review (England) (Miscellaneous Amendments) Regulations 2013
• child protection allegations;
• incidents of self-harm and suicide; and
• incidents of violence and bullying.

8.62. All children should have a case supervisor within the establishment. In the case of YOIs, they are required to have a ‘safeguarding children’s manager’ and there may also be one or more children and families’ social workers based within the establishment who may be able to address the problem. For SCHs and STCs, an approach should be made to the unit registered manager or the Director of the STC, or a designated lead for safeguarding. One option would be to move the child to another unit within the establishment or to provide him/her with additional support or services.

8.63. Where issues cannot be resolved at establishment level, the responsible authority may need to involve external agencies. All custodial placements are commissioned by the YJB and the Board is ultimately responsible for ensuring that the secure estate provides safe and appropriate care. The YJB employs monitors to have oversight of standards and performance. LSCBs also have a strategic responsibility for safeguarding arrangements in secure establishments in their area. If the responsible authority is of the view that the child needs to be moved to another establishment, the YJB has a Placement Review Protocol. Placement Reviews can be formally initiated by the:
• YOT;
• establishment; or
• placement team at the YJB.

8.64. The responsible authority should contact one of these agencies to arrange a multi-disciplinary meeting to express their concerns and ask that they complete a Placement Review, indicating the degree of urgency if a change of placement is required. Concerns should also be submitted in writing to the YJB placement team and, if they relate to the standard of care being provided by the establishment rather than the specific needs of an individual child, the LSCB and YJB monitor for the establishment should be notified.

8.65. Where the need for a change of placement is agreed the child may be moved to another YOI, STC or SCH.

Complaints and advocacy for children in custody

8.66. Within forty eight hours of detention Governors of YOIs must make arrangements to provide each young person’s next of kin or other appropriate person (which should include the local authority responsible for a looked after child) with
Planning for release

8.76. The child’s social worker and YOT case manager must work together to coordinate arrangements for the child’s release and subsequent support in the community. The child will continue to have two separate plans: the local authority care plan, which may include a pathway plan (or for a child who became looked after solely as a result of remand, the DPP) and the YOT plan. These must, however be coordinated so the child is clear what will be happening and professionals from both children’s and youth justice services understand their respective roles and responsibilities for supporting the child in future and for minimising the possibility of reoffending.

8.77. If the child is to continue being looked after, the responsible authority will be responsible for the provision of an appropriate placement\(^\text{22}\) (and for financial support in the community. The child’s care/pathway plan should be updated and copies of this made available to the child, the YOT case manager, IRO, the Governor (or director of an STC or Registered Manager of a SCH) and any other agencies that will be involved with supporting the child after release, and, if appropriate, the child’s family.

8.78. The YOT will be responsible for providing ongoing supervision and interventions targeted at preventing further offending. This will include offending behaviour programmes the child is required to attend, the arrangements for reporting to the YOT and any electronic monitoring. All requirements, including the address where the child must reside, will be recorded in a Notice of Supervision or Licence that the child is required to sign.

8.79. There will be potential areas of overlap, where arrangements may be made by either the YOT case manager or local authority social worker, such as education provision or health treatment. Negotiation should take place about which service is best placed to make these arrangements in each case. The local authority responsible for the child’s care will ultimately have responsibility for ensuring all measures are in place to enable the child to be provided with appropriate services.

8.80. As soon as possible, and at least by the time of the final sentence planning meeting, ten working days before release, the child must be told the content of both the care/pathway plan and the Notice of Supervision or Licence so that s/he is aware of:

- who is collecting him/her;

\(^{22}\) Where the child is placed in “other arrangements” i.e. a “semi-independent” placement or a placement that is not regulated by Ofsted, the responsible authority must be satisfied that the placement is in “suitable accommodation” – Regulation 27 and Schedule 6
Annex 4: Suggested information for discussion between authorities when planning distant placements

Basic information about the child

- Name and date of birth.
- Legal status (subject of a care order (s.31 Children Act); voluntarily accommodated (s.20) remanded (s. 21).
- Number of previous placements – outline reasons for child leaving earlier placements.

Plans for the child’s care

- Details of the assessment of the child’s needs, with information about the child’s wishes and feelings, with reasons the planned placement is suitable.
- Duration of placement (emergency/short-term/long-term/permanent). If it is not possible to assess the intended duration of placement – reasons for this and when this information will be available.
- Arrangements for contact.
- Details of who will be responsible for implementing plans for the child’s day to day care (the ‘placement plan’) including details of arrangements for delegating responsibilities to the child’s carer(s).
- Details of any plans to offer child care leaving support (as an ‘eligible child’) during the anticipated duration of the placement.
- Contingency arrangements if the plan to support the child in the current placement does not succeed.

Services to support the child

- Details of plans to meet the child’s educational needs – information about the school the child is expected to attend; details of plans for supporting the child if a school has not been identified.

27 This information could be summarised in a written format and used as the basis for notifying the area authority [Regulation 13]
Annex 5: Welsh Model Out of Area Notification Protocol

(This protocol was developed by the Welsh Government in conjunction with the children’s residential care sector in Wales.)

Where a child who is looked-after is placed at distance the responsible authority has a statutory duty to notify the local authority and the health care provider, in the area in which the child is to be placed, of the arrangements for placement prior to placement and no later than 10 days thereafter.

Similarly, where a child is provided with accommodation by any Local Health Board, Special Health Authority, Primary Care Trust, NHS Trust or by a local authority in exercise of education functions for three months or more or with the intention of the placement lasting for this time the Accommodating Authority has a duty to notify the appropriate officer of the responsible authority30.

Where a child is provided with accommodation in any care home or independent hospital for three months or more or with the intention of the placement lasting for this time the residential setting has a statutory duty to notify the lead Director of Social Services in the area in which the establishment is situated.

Notification should be sent to the Director of Social Services in the local authority in which the home is situated.

30 The responsible authority means: The local authority within whose area the child was ordinary resident immediately before being accommodated; or where it appears that the child was not ordinarily resident within the area of any local authority, the local authority within whose area the accommodation is situated.

The appropriate officer of the responsible authority is: the Director for social services in relation to a local authority in Wales; and the Director of Children’s Services in relation to a local authority in England.
<table>
<thead>
<tr>
<th><strong>Out of Area Notification Protocol Form for use by children’s homes in Wales</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name of child</strong></td>
</tr>
<tr>
<td><strong>Date of Birth</strong></td>
</tr>
<tr>
<td><strong>Legal Status</strong></td>
</tr>
<tr>
<td><strong>Previous address (family address)</strong></td>
</tr>
<tr>
<td><strong>Current address (name and address of children’s home)</strong></td>
</tr>
<tr>
<td><strong>Type of placement</strong></td>
</tr>
<tr>
<td><strong>Date placed</strong></td>
</tr>
<tr>
<td><strong>Placing Authority (local authority / health)</strong></td>
</tr>
<tr>
<td><strong>Contact Details (e.g. looked-after child social worker / lead professional)</strong></td>
</tr>
<tr>
<td><strong>Name and address of child’s GP</strong></td>
</tr>
<tr>
<td><strong>Date placement ended</strong></td>
</tr>
</tbody>
</table>

**Signed:**

**Name:**

**Position:**

**Date:**

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7. Understand and support appropriate delegation of authority to foster carers
Everyone at every level should understand how authority should be delegated to foster carers. Organisations should have a clear policy on delegation of authority for decision making to foster carers that can be shared with birth parents and foster carers. It is important that social workers believe that their organisation is committed to appropriate delegation of authority and that they and foster carers will be effectively supported even when things go wrong.

8. Make a reality of the vision in the Foster Carers’ Charter
The Minister, Tim Loughton, made clear the importance of appropriate delegation to foster carers in his letter to Directors of Children’s Services in August 2010. The Foster Carers’ Charter launched in March 2011 underlined this. The Charter clearly states that fostering services must ‘Treat foster carers with openness, fairness and respect as a core member of the team around the child and support them in making reasonable and appropriate decisions on behalf of their foster child’.

The Fostering Network published the [Delegated authority decision support tool](#) in 2011.