

## **TRANSFER OF FOSTER CARERS PROTOCOL ENGLAND (2014) (Reviewed 2019)**

This protocol has been developed by the Fostering Network and the joint forum of Independent Fostering Providers and is issued with the support of ADCS. It takes account of the legislation, regulation, standards and statutory guidance that govern fostering and recommends good practice guidelines to be followed when an approved foster carer wishes to transfer from one fostering service to another.

It is **not** intended to cover block transfers of carers - there is currently no provision within regulations for 'block transfer' arrangements.

It does not apply when a fostering agency ceases to carry out its fostering functions - Regulations 33 and 34 of the Fostering Services (England) Regulations 2011 govern such circumstances.

## **1. Principles**

- 1.1 The protocol recognises the principles of child care legislation and seeks to ensure that safeguarding the welfare of children is at the core of fostering policy and practice. It recognises that the welfare of any child in placement is paramount.
- 1.2 Consideration will be given to the views of the child, and where applicable the views of parent(s) and other relevant parties.
- 1.3 It must be ensured that children in placement are guarded against unplanned moves and/or moves which are not in their best interests.
- 1.4 Foster carers have the right to freedom of movement between fostering services.
- 1.5 All fostering services should be committed to the active recruitment of people new to fostering.
- 1.6 Fostering Services and Independent Fostering Agencies will comply with all relevant legislation, regulation, standards and statutory guidance.

## **2. Aims of this protocol**

- 2.1 To promote high standards of practice within and between agencies.
- 2.2 To ensure continuity of care for children in placement during any transfer of foster carers between fostering services.
- 2.3 To ensure consideration of the child's care plan throughout the transfer process.
- 2.4 To minimise the length of time taken in the transfer process.
- 2.5 To provide a framework for the negotiation of the financial implications of the transfer between fostering services.
- 2.6 To ensure that where permanence is the plan for a child there is no undue pressure on foster carers to transfer to another fostering service provider.

## **3. Recruitment of existing foster carers**

- 3.1 Fostering services should not approach individual foster carers with a view to recruiting them without the knowledge of their current fostering service. Nor should a fostering service begin an assessment on foster carers who have approached them with a view to transferring from another service without the knowledge of that service.
- 3.2 It is recognised that there will be circumstances when it is appropriate for foster carers to have initial discussions with a new fostering service before agreeing to begin an assessment and before the foster carer informs their current fostering service.
- 3.3 All parties, Local authorities, foster carers and independent fostering agencies have a shared responsibility to implement the child's care plan. Before foster carers are approached to explore the possibility of their application for a legal order in respect of a child which would mean that they no longer fostered that child (e.g. Residence, Special Guardianship and Adoption) the current fostering service must be informed and if such an application is to be discussed at a review of a child's care plan, the fostering service should be invited to attend the meeting.
- 3.4 Foster carers should not be required to change fostering service in order to secure agreement to a plan for a child e.g. long-term foster care.

#### **4. Procedure where there is no child in placement**

4.1 The foster carer should inform their current fostering service in writing that they are considering a move to another fostering service. It is recognised that there will be circumstances when it is appropriate for foster carers to have initial discussions with a new fostering service before the foster carer informs their current fostering service.

4.2 The recruiting fostering service may begin an assessment once notification has been received by the current service.

4.3 Once the assessment has been completed and the recruiting service informs the foster carer that they intend to seek their approval as a foster carer through the panel and decision maker, the foster carer should give written notice of resignation to their current service.

4.4. A foster carer cannot be approved by more than one fostering service at the same time, and so they must not be approved by the fostering service to which they are transferring before the date that their previous approval ends. The fostering regulations state that an approval will be terminated 28 days from a written notice of resignation being received from a foster carer (The Fostering Services (England) Regulations 2011, Reg 28 (13)) Once submitted written notice of resignation automatically takes effect after 28 days and cannot be rescinded.

4.5 To ensure that the date the resignation is received by the current service, and thus the date of termination of the current registration, is known by all parties, it is recommended that the foster carer submits their resignation to their current service, either by hand or by a recorded signed for postal service.

4.6 The recruiting service must ensure that they do not approve the foster carer before the date upon which the resignation takes effect. The termination of the foster carer's approval takes place automatically 28 days following the receipt of the written notice of resignation and requires no action by the current agency, or their panel, to take effect. It is recommended good practice for the current service to conduct an exit interview, where appropriate, and for the information from this to be presented to the service's panel for information and monitoring purposes.

#### **5. Procedure where a child is in placement**

5.1 Where there is a child (or children) in placement, foster carers must give written notice of their intention to consider moving to another agency both to the current service and to the placing authority/authorities.

5.2 Upon receipt of the written notice, the placing authority must inform the child's IRO of the intended change in placement provision [4.7 Volume 2, Care Planning, Placement and Case Review Statutory Guidance (2010)] and shall, within 28-days, convene a meeting of:

- The placing authority/authorities – this may include commissioning/contracting officers as well as the children's social workers.
- The responsible authority.
- The current service.
- The recruiting service.
- The foster carer/s.

5.3 Where there is more than one placing authority, agreement should be reached on which authority will take responsibility for convening the meeting. Generally, the authority that has had children placed for the longest period with the foster carer will be considered the 'lead' authority. By agreement with the placing authorities, and when it is more convenient, the recruiting service may organise the meeting.

#### 5.4 The meeting will consider the following:

- Any decisions made during the child's latest Case Review, particularly in respect of whether it is in their best interests to continue in their current placement and how their care plan will continue to be followed. (It should be noted that Regulation 14 of the Care Planning, Placement and Case Review (England) Regulations 2010 requires that the responsible authority cannot terminate the current placement unless this has been considered by a case review).
- How the move of the foster carer to another service may affect each child in placement, including the potential loss of or changes in the relationships, activities and support services that a child has developed and/or established whilst in placement with the current agency.
- The particular support needs of the child and the foster carer and how they will be provided by the new service.
- The circumstances in which the recruiting service may use any other placement vacancy once the transfer has been completed.
- The arrangements for approval by the recruiting service and termination of the foster carer's approval by the current service. The arrangements should be co-ordinated to ensure continuity of approval, and that transfer is made on a mutually agreed date.
- Parallel arrangements for timing a transfer of responsibility for the payment of fees and allowances to the foster carer.
- The views of the child, parent and any other interested parties. (These views should be sought and represented by the placing authority).
- Where it is determined at a case review that the placement is not to continue, the arrangements to move the child/children to an alternative placement, including a time-frame for such a move will be clearly identified. The move should be completed within a timescale which is driven by the child's needs and care plan, but it is expected that this would normally be completed within three months unless there are exceptional circumstances which mean that this cannot be achieved. In these circumstances all parties should agree a revised timetable.
- A timetable for the approval of the foster carer by the recruiting service. The expectations are that assessment and training will take place and that they will be completed within two to four months of the meeting taking place. There will be occasions when this timescale cannot reasonably be adhered to. In such cases, all parties will be kept informed about developments and the anticipated time to completion.

5.5 The fostering panel should make its recommendation on the suitability of a prospective foster carer within eight months of receipt of their application. NMS 14.4 (England).

5.6 Once the fostering panel of the recruiting fostering service has made its recommendation and the service indicates that it is ready to approve the foster carer, the foster carer should submit their resignation to the current fostering service, as set out in paragraph 4.5 above. The decision maker of the recruiting service may state that they will approve the person as a foster carer on a specific date in the future, which could be planned to coincide with the termination of their existing approval at the expiry of the 28 days' notice period. It should be made clear that in the meantime the foster carer is not approved by the new provider. Alternatively, the decision maker may delay their decision until the date of the termination of their existing approval. This may not conform to the detail of the Fostering Services NMS 14.9 regarding timescales but still achieve the desired outcome that 'the fostering panel and decision maker make timely, quality and appropriate recommendations/decisions in line with the overriding objective to promote the welfare of child/ren in foster care'.

## 6. Sharing of information

6.1 A foster carer's assessment report is the property of the service which produced it. However, foster carers have the right to almost all the information that is in the report under the provisions of the Data Protection Act 2018(DPA)(see revised Statutory Guidance Volume 4 Fostering Services on the assessment and approval of foster carers July 2013); the General Data Protection Regulation (GDPR) 2018 states that references deemed confidential will not be made accessible even via the medium of a subject access request unless consent is given.

Sensitive personal data falls within the “special categories of personal data” provisions as defined by the DPA 2018 and the GDPR (Article 9); which are prohibited from processing unless specified exemptions apply, for example in the provision and/or management of social care. These categories of data require greater protection and include racial or ethnic origin, health, political opinions, religious or philosophical beliefs, or trade union membership, genetics, biometrics (where used for ID purposes) and data concerning a person’s sex life or sexual orientation. See [DPA 2018 Schedule 1](#).

It is imperative to ensure that foster carers and, where relevant, members of their household fully understand the implications of sharing information pertaining to them; this includes why their information is to be shared, what information will be shared, who will see/have access to their information and the purpose to which the information will be put.

6.2 Provided that the explicit and informed consent of all parties involved has been given, the sharing of information held in existing records about a foster carer or adopter for the purposes of informing a new assessment of a person’s suitability to foster or adopt is permitted; see Regulation 32(6) of the 2011 Fostering Regulations and regulation 42(1) of the Adoption Agencies Regulations 2005. It is recommended that the applicant’s (and where relevant, members of their household) consent is provided in writing and passed to the service which holds the record at the same time as the request to view the record is made.

6.3 If consent is refused, the current fostering service should consider whether there is any information in the records that is a cause for concern and any such information should be shared, even if consent has been refused (i), (ii), (iii). If there are no concerns and the individual has refused consent information should not be shared.

6.4 The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013 state that under Regulation 26 (1A) (b) where a person has been a foster carer within the preceding twelve months approved by another fostering service provider the recruiting fostering service must request a written reference from that other fostering service provider.

Regulation 26 (1A) (e) states that the recruiting fostering service may, with consent, request access to the relevant case records of a previous fostering service and that the fostering service provider is required to share information as identified in Regulation 32 (6) within 15 working days of request. We recommend that this should wherever practicable include an offer for the recruiting agency to view the files of the current agency and the opportunity to have a conversation with the current supervising social worker.

6.5 In the interest of safeguarding the welfare of children in placement the current service should prepare a comprehensive, accurate reference and arrange access to the relevant case records in respect of the foster carer See 6.4 above re: viewing files. The recruiting service should undertake a comprehensive assessment.

6.6 The recruiting service must request a reference from the current service (see 6.4) on receipt of that request, the current service will provide the recruiting service with a comprehensive written reference as soon as possible (Stage 1 of the Assessment and Approval of foster carers Statutory Guidance).

Unless there are reasons relating to the safeguarding of children that would prevent this, the current service should also provide the foster carer(s) with a copy.

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(i) [Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services July 2013](#)

(ii) [Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers July 2018](#)

(iii) [Working Together to Safeguard Children 2018](#)

6.7 The reference should include the following information about the fostering household:

- Length of registration.
- Current terms of approval (if any) and date this was agreed.
- Variations in approval in the last five years.
- Age, sex and length of stay of all foster children during the last five years.
- Extent to which the foster carers were able to achieve placement objectives.
- Strengths and skills of the foster carers.
- Recent training courses attended by the foster carer/s and skills gained post-approval.
- Date and outcome of any investigation of allegations or concerns, other than unsubstantiated, unfounded or malicious allegations (which paragraph 3.79 of the fostering services Statutory Guidance directs should not be referred to in references).
- Details of any current allegations or concerns.
- The outcomes of the latest annual review.
- Any other information considered to be relevant to the assessment of the person's suitability to foster.

6.8 As stated in 6.4 the recruiting fostering service has the power to request access to records held by the current fostering service and the current fostering service must provide access within 15 working days of a request being received.

The information to be shared should include:

- The report of the original assessment of the person's suitability to foster.
- A copy of the report of the last review of the individual's continuing suitability to foster.
- Any other review report considered useful to understanding the individual's current suitability to foster.
- Details of any concerns about standards of practice and any remedial action to be undertaken and/or completed to address them.
- Details of any allegations made against the foster carer or their household members (see guidance paragraph 3.78 and 3.79 Children Act Volume 4: Fostering Services.)
- Any other permitted information considered to be relevant to the assessment of the person's suitability to foster.

The new provider can take account of information obtained by the existing provider so long as they are satisfied with its quality and continuing relevance. (Fostering Statutory Guidance paragraph 5.30 Volume 4).

This may, for instance, save having to interview again a previous employer or ex-partner who was interviewed in the past to verify facts and where no further information is required.

6.9 It is recommended as good practice that the current agency provide a copy of a foster carer's assessment report to the recruiting service and for the foster carer to have a copy of their assessment report minus any confidential information from third parties.

6.10 The current service should keep the recruiting service updated, in writing, of any significant developments between the issue of the reference and the foster carer's approval by the recruiting service.

6.11 An assessment by the recruiting service should be postponed if the foster carer is subject to a current investigation of allegations, or if there is an investigation relating to significant concerns about their practice, until the outcome of the process is known.

## **7. Training, Support and Development Standards**

7.1 Foster carers should evidence meeting the Training, Support and Development Standards for foster care within the timescales set out in NMS 20.3. The workbook and portfolio of evidence belong to the foster carer and they must be allowed to retain them when transferring services. Most foster carers transferring services should have met the Standards and will be able to provide the new service with their certificate of completion.

As part of their induction to the new service, they will be required to become familiar with the new policies and procedures of the service, even if they have previously evidenced meeting the Standards.

## **8. Payments involving transfers between independent fostering services**

8.1 In the case of a transfer of a foster carer from one independent fostering provider to another, the charge to the local authority for continuing placements will not be any higher than the charges levied by the original service. However, such charges will be subject to the recruiting service's agreed annual, inflation-linked review. The recruiting service should provide a service at an equivalent level to the previous service.

8.2 Should the responsible authority request the provision of additional services, appropriate additional charges may be negotiated and agreed.

## **9. Payments involving transfers between local authority and independent fostering services**

9.1 Where a foster carer transfers from a local authority fostering service to an independent fostering provider (or vice versa) and it is in the best interests of the child for the placement to continue the local authority and independent fostering provider must negotiate an appropriate level of fee. The fee must cover the allowance for the child at a rate which ensures their needs will be adequately met and a fee to the foster carer.

In addition, the agency management fee may be negotiated however, if the recruiting service provider has been accepted by the local authority as part of a framework agreement or other contract for the provision of fostering services then the contracted rate should apply.

## **10. Payments to foster carers**

10.1 Where it is agreed that a child's placement will continue with a foster carer, the recruiting service should, as a minimum, continue to pay the foster carer their current rates of allowances and fees in relation to that placement. These rates should continue to apply for the duration of the placement, subject to any annual agreed increases and movement through the age bands.

## **References**

The Care Planning, Placement and Case review and Fostering Services (Miscellaneous Amendments) Regulations 2013 <http://www.legislation.gov.uk/uksi/2013/984/contents/made>

The Care Planning and Fostering (Miscellaneous Amendments) (England) Regulations 2015 <http://www.legislation.gov.uk/uksi/2015/495/made>

The Fostering Services (England) Regulations 2011 <http://www.legislation.gov.uk/uksi/2011/581/contents/made>

The Care Planning, Placement and Case Review (England) Regulations 2010 <http://www.legislation.gov.uk/uksi/2010/959/contents/made>

The Children Act 1989 Guidance and Regulations, Volume 4: Fostering Services 2011 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/274220/Children\\_Act\\_1989\\_fostering\\_services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274220/Children_Act_1989_fostering_services.pdf)

The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441643/Children\\_Act\\_Guidance\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf)

Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services: (July 2013) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/275764/20130522statutory\\_guidanceassessment\\_and\\_approval\\_of\\_foster\\_carers\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275764/20130522statutory_guidanceassessment_and_approval_of_foster_carers_final.pdf)

Fostering Services: National Minimum Standards 2011 <https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>

The Training Support and Development Standards for Foster Care

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/287957/TSD\\_standards\\_guidance\\_for\\_supervisors.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/287957/TSD_standards_guidance_for_supervisors.pdf)

[https://www.fosteringhandbook.com/tact/files/fc\\_tsd\\_standards\\_guidance.pdf](https://www.fosteringhandbook.com/tact/files/fc_tsd_standards_guidance.pdf)

UK Data Protection Act 2018 <https://www.gov.uk/data-protection>

General Data Protection Regulation 2018 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>

The Foster Carers' Charter 2019 <https://www.thefosteringnetwork.org.uk/policy-practice/policies/foster-carers-charter>