

# Children and Young People's Department

## **Draft Policy and Procedure**

### Policy and Procedure Regarding Children Living with Family and Friends as Carers

|                     |   |
|---------------------|---|
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# **Introduction - General Principles on the use of Family and Friends as Carers**

This Policy and Procedure needs to be read in line with the policies and procedures on Residence Order, Special Guardianship and Private Fostering.

We know from research that children who are cared for by family and friends experience significant benefits by remaining within their own family and friend network; it reduces the trauma of having to move to live with strangers; it enables children to maintain attachments and links with key family members and as such re-enforces their sense of identity and self-esteem and the placement is likely to be more stable and long lasting as families use their own support and resources to care for their children.

Children who live with a family and friend carer do not fall into a single category. The six main groups are listed below, with an explanation of the local authorities' duties towards these children (DSCF, Every Child Matters 2005):

## **Residence Order**

A court may make a residence order under the Children Act 1989. This specifies who the child lives with and gives the carer parental responsibility. When a residence order is in place, the local authority is under no duty to monitor the placement and the carer is under no duty to notify the local authority of the placement. Under our policy for assisted residence orders, Wirral may assist with the cost for a relative to make an application and may pay a residence order allowance. However, the local authority is under no duty to provide financial support and it is provided at our discretion. Please refer to the Assisted Residence Order procedure for more specific guidance. Where a child's needs change or increase, the local authority can assess their needs as a child in need or take steps to assess the child's needs for protection in line with the Children Act 1989.

## **Special Guardianship Order**

A court may make a special guardianship order, appointing an adult over 18 to be the child's guardian. The welfare of the child is the court's paramount consideration, and an order can only be made if the court has received a report from the local authority covering the suitability of the applicant to be a special guardian. The local authority has to assess the needs of the special guardian for support needed to care for the child and can provide a range of support and services, including financial support. However, there is no duty to provide financial support, and any financial support is subject to a financial assessment and is subject to review. The local authority has no duty to monitor the placement but may become involved as above if the child's needs change or increase. Please refer to the procedure on special guardianship for more specific guidance.

## **Privately fostered by wider family or a family friend**

A parent may make arrangements for their child to live with a member of the wider family or a family friend. The child is privately fostered if the placement lasts for longer than 28 days, the carer does not have parental responsibility for the child and falls outside of the definition of a close relative in s105 of the Children Act 1989 (grandparent, brother, sister, uncle, aunt; whether full blood, half blood or by affinity; or a step parent). The parent should notify the local authority in advance and/or the carer, or any agency who becomes aware this may be a privately fostered child should also notify the local authority. The local authority has a legal duty to undertake an assessment and checks of the suitability of the carer, and carry out regular visits to the placement to check on the child's welfare. The local authority is under no duty to financially support the private foster carer as a foster carer. However, if during the course of the private fostering assessment (or later through visiting) it becomes apparent the child may be a child in need, an assessment should be carried out and support/services may be provided as a child in need under the Children Act 1989 – however, financial support is only to be provided in exceptional circumstances and for a short period. If the child may be in need of protection, the local authority will carry out its duties in line with the Children Act 1989. Please refer to the private fostering policy for more specific guidance.

## **Appointed as a guardian after the death of a parent**

Where a parent has died and appointed the carer as guardian for the child, and no-one else holds parental responsibility, the carer will have parental responsibility. Where there is another parent with parental responsibility, the carer will be treated as looking after the child under a private arrangement and may be a private foster carer. The local authority has no role unless the child is determined to be in need or at risk.

## **Living with a relative under a private arrangement**

A parent may make arrangements for their child to live with a close relative without any involvement of the local authority. There is no obligation to notify the local authority. The local authority may have a role however if the child is in need or at risk.

## **Looked After by the Local Authority**

A child may be looked after as a result of an interim or full care order (s38 or s31 of the Children Act 1989), or under a voluntary agreement between the local authority and the child's parents (s20 of the Children Act 1989). Local Authorities are under a duty to make arrangements to enable a looked after child to live with a relative or friend of the family unless this would not be reasonably practical or consistent with their welfare (s23(6) of the Children Act 1989). Any family member or friend who cares for a Looked After Children must be approved as a foster carer.

This procedure will outline in more detail the role of the local authority in the latter 2 groups above.

## Procedure

### Living with a relative under a private arrangement

The local authority may be involved with this arrangement but it is essential to be clear why and on what basis. Examples of when this may occur are:

- as a result of a family group conference where the family have agreed for the child to live with a close relative as part of a support plan either short-term or long-term
- where as part of a child protection plan either in an emergency or on a planned basis the parent agrees for the child to live with a close relative while assessments are undertaken
- as part of a child in need plan, a close relative cares for the child for a fixed short-period while assessments are undertaken or as part of a support plan to the parent with parental agreement.

The parent may not be able to make the arrangements directly themselves but if he/she has agreed this, the local authority can assist the family to agree and make the arrangements. The local authority role is not to “place” the child, but to support the family in making its own arrangements.

Any financial support that the Local Authority may provide to the relative carer is provided under s17 of the Children Act 1989 and should be provided in kind (eg purchase of beds, transport to school/nursery) as the financial responsibility for supporting the relative lies with the parent. However, in exceptional circumstances the local authority can provide a small and time-limited amount of financial support subject to assessment.

Where the arrangement is part of a child protection plan, checks including police checks must be made of the relative and checks done on the children in the household before the child moves to be satisfied that the child’s welfare is not compromised.

The parent and relative carer must sign an agreement with the local authority which confirms the status of the arrangement under s17 of the Children Act, the role of the local authority and what support is being provided and for how long.

It is essential that where the Local Authority is involved that the child’s needs are kept under review via the child in need process or child protection process and timescales set to complete any assessments. If the arrangement is likely to become long term, then advice should be provided to the relative carer about residence order and special guardianship.

Before any emergency arrangement is made, as much information must be gathered as possible to aid a decision as to whether the child actually needs to have looked after status. For example, the child is at serious risk of harm and it is assessed as not safe for the parent to maintain care at that point. This may be via an Emergency Protection Order, or where the parent agrees for the child to be accommodated under s20 as an alternative to the local authority seeing a legal order.

We have a duty to place with family if this is reasonable and consistent with the child's welfare. The decision as to whether the child is looked after is made by the Strategic Service Manager and any situations where this arises must be referred for a decision. If a member of staff is unsure as to whether the child should be viewed as looked after, the Strategic Service Manager must be contacted to confirm the child's status.

## **Looked After by the Local Authority – Emergency Placement under Regulation 38**

### **When is a child deemed to be Looked After?**

The criteria for being Looked After are:

- under s 20 of the Children Act 1989 as a voluntary agreement with the persons with parental responsibility and as a result of being deemed looked after we place with a family member under s23(6) of the Children Act 1989
- under s38 (Interim Care Order) and s31 (Care Order) of the Children Act 1989.

Under s20, the Strategic Service Manager makes the decision as to whether a child is Looked After. To inform this decision, the social work assessment must show:

- what efforts have been made with parents to explore the child living with other family members as a private arrangement for a period of further assessment
- what is the level of risk of significant harm to the child and how immediate is that risk – is there evidence to support an application for an Emergency Protection Order or to seek police assistance
- how has that risk been managed to date and what further monitoring and support arrangements can be provided to support the child remaining
- is there another person/parent with parental responsibility who can care for the child
- what is the level of parental agreement and co-operation
- has legal advice been sought.

Once a child has been deemed looked after, we still have a duty to place with family members if this is practicable and consistent with the child's welfare.

If any case where there is an identified need for a child to become looked after, the normal arrangements for approving this course of action would be applied according to the looked after children procedures.

Regulation 38 of the Fostering Services Regulations allows the Children and Young People's Department to authorise an emergency placement of a Looked After Child with a friend or relative, provided that any such placement is in the child's best interests.

There maybe some exceptions under Section 20 of the Children's Act where children become looked after and are placed with family or friends. However, as the local Authority doesn't have parental responsibility in these cases, they should receive an appropriate level of family support. If the children need to be secured with the carers then consideration should be given to supportive carers to make a private law application unless there is a clear safeguarding issue. It is expected that EIR1 and PP1 forms are completed in such cases. The Quality Assurance Unit are notified if a child becomes looked after and a first review date set.

The delegated decision maker for Wirral Children and Young People's Department is the Strategic Service Manager. Placements under Regulation 38 must not be made without the authorisation of the Strategic Service Manager (or during absences a designated Service Manager) who is the Designated Fostering Service Manager.

In deciding whether a placement is suitable and in the best interests of the child the Strategic Service Manager will need to ascertain that:

- The proposed carer is a relative or friend
- The proposed carer is not someone already with parental responsibility or a natural parent.
- The Social Worker has interviewed the proposed carer to ensure that such person(s) is/are relative/friend of the child
- The proposed carer has been interviewed to ascertain their suitability and understanding of the child's needs
- The accommodation has been visited and inspected, including sleeping arrangements
- The proposed carer; all other people over the age of 16 living at the accommodation and regular visitors who may have unsupervised contact with the child have been identified and that police and local agency checks have been undertaken
- The proposed carer is willing to make a written agreement with the Local Authority which outlines their duties under Regulation 38(3) (see appendix 2).



In considering the suitability of the prospective carers, the social worker must refer to the National Minimum Standards for Foster Care.

If the placement is authorised by the Strategic Service Manager. (or during absences a designated Service Manager) it is only for a maximum of six weeks. If the placement is to continue beyond this then a foster carer assessment must be completed and presented to Foster Panel for consideration.

Social workers must inform prospective carers that in making a request for an approval under Regulation 38 that the placement can only continue for a maximum of 6 weeks. If the placement is to continue beyond this prospective carers must be prepared to undergo a foster carer assessment.

If approved foster care registration is not granted by the Fostering Panel the placement must be terminated. A friend or relative does not have the right to apply for a Residence Order without the leave of the Local Authority at this point.

## **Applying for emergency approval**

To identify the relative/friend identified as potential carer for child the following action must be taken:

- Proposed Carer interviewed
- Accommodation inspected (including sleeping arrangements and any potential risks or hazards i.e. household pets)
- Household members over 16 years and regular visitors who may have unsupervised access to the child are identified and local agency & police checks undertaken
- Regulation 38 request Form 1 (see appendix 1) completed
- Regulation 38 request Form 1 countersigned by Team Manager and forwarded to District Manager for consideration
- Regulation 38 request Form 1 countersigned by District Manager Fieldwork and faxed to Strategic Service Manager
- The carer is to sign the written agreement (see Appendix 2) prior to the placement being made.

## Consideration by Strategic Service Manager

The Strategic Service Manager will consider the request and notify the social worker of the decision. If approval by the Strategic Service Manager or designated Service Manager is refused the child must not be placed with proposed carers or remain with proposed carers. The relevant team manager must be informed in writing.

## Following approval

Following approval the Strategic Service Manager will notify the Fostering Service of the approval.

Details of carer & child's placement is to be entered onto Swift.

The Carer to sign written agreement (see appendix 2) prior to placement being made.

Placement Agreement to be completed with the Carer prior to the placement of the child.

Copies of EIR 1 and 2, and Care Plan are to be supplied to Carer and Fostering Service within 7 working days.

Quality Assurance Unit to be notified of:

- a placement
- change of placement
- change of legal status

Supervising social worker from the Fostering Service will be allocated to undertake a full assessment of the carer(s).

Note: If approval is given it is for a named child only.

## Post placement responsibilities

The field social worker will be responsible for:

- Visits to be made weekly to the child in placement whilst the placement is a Regulation 38 placement. The visit should include seeing the child alone, for at least part of the visit. The visit should be recorded on a Statutory Visit form and placed on the Child's case file.
- Full information in relation to the child, their history, care plan, matching considerations that relate to the child and the decision.

- to place with these carers plus any supporting evidence of their ability to provide appropriate and adequate care for the child to be provided to the Fostering Service within 3 weeks.

The supervising social worker in the Fostering Service will be responsible for:

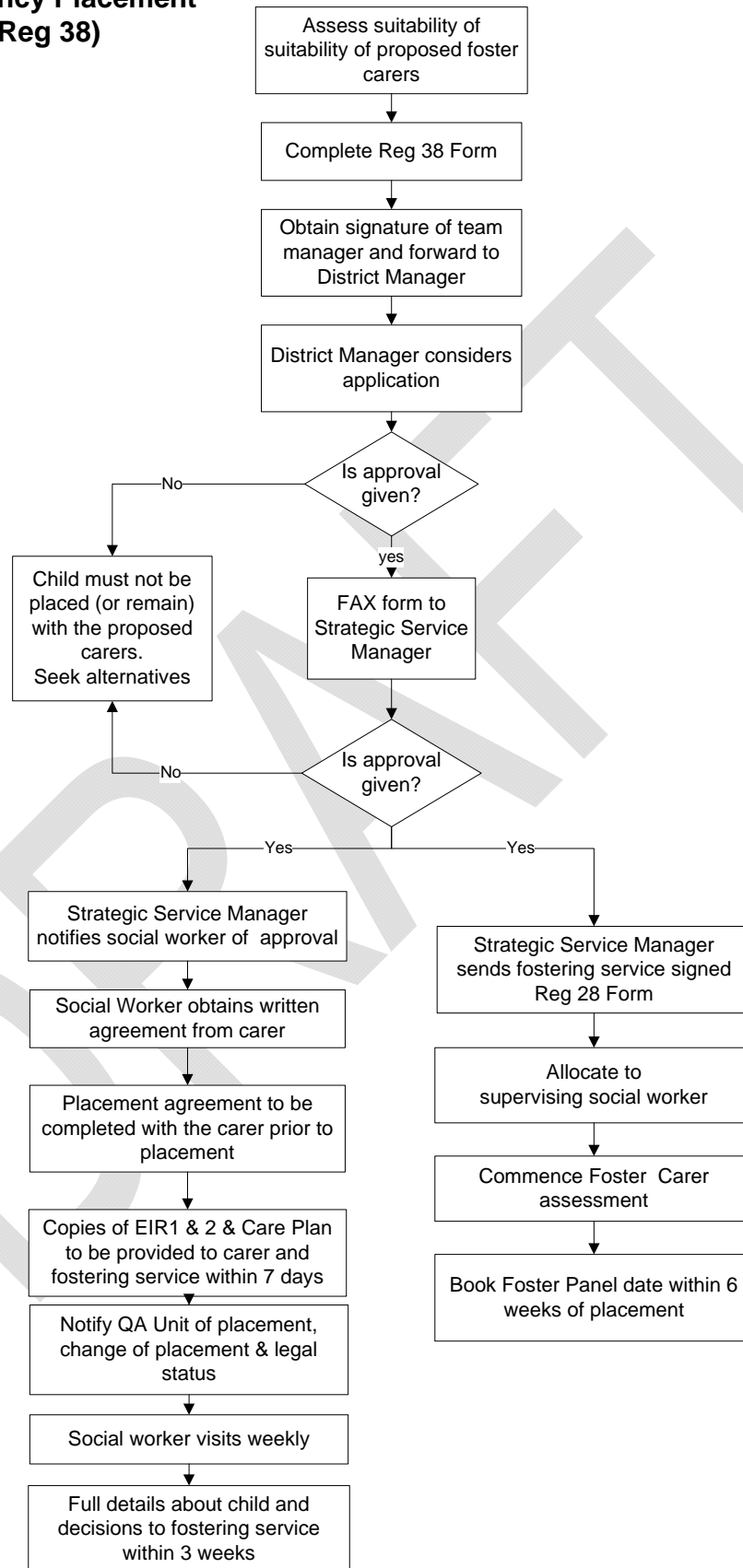
- Foster Care Assessment to commence and Foster Panel date booked within 6 weeks of placement being made.
- Complete Foster Care Assessment to be presented to Fostering Panel within 6 weeks of placement being made.
- Case must be presented to Panel within 6 weeks even if the full assessment has not been completed as failing this the placement would become unlawful.

The Team Manager – Fostering Service will be responsible for:

- Foster Panel recommendation to be passed to decision maker for decision in respect of Foster Carers registration.
- Decision to be notified to Field Social Worker, Applicants, Child (dependant upon age and understanding) and any other relevant parties.

# Flow Chart

## Emergency Placement (Reg 38)





|                              |                                 |                |                           |              |
|------------------------------|---------------------------------|----------------|---------------------------|--------------|
| <b>Date of Police Check:</b> | <b>Outcome of Police Check:</b> | <b>Signed:</b> | <b>Name and Position:</b> | <b>Date:</b> |
|------------------------------|---------------------------------|----------------|---------------------------|--------------|

**Name(s) of Children in Household under 16 years of age (other than children to be placed)**

| Name | Date of Birth | Status, i.e. foster child, own child and any presenting risks | Ethnicity |
|------|---------------|---|-----------|
|      |               |   |           |
|      |               |   |           |
|      |               |   |           |

**Names of Other People in the Household aged 16 years or over**

| Name | Date of Birth | Relationship to Carer(s) and any presenting risks | Ethnicity |
|------|---------------|---|-----------|
|      |               |   |           |
|      |               |   |           |
|      |               |   |           |

**Checks of other people in household**

|                                       |  |                |                           |              |
|---------------------------------------|--|----------------|---------------------------|--------------|
| <b>Date of Local Authority Check:</b> | <b>Outcome of Local Authority Check:</b> | <b>Signed:</b> | <b>Name and Position:</b> | <b>Date:</b> |
| <b>Date of Police Check:</b>          | <b>Outcome of Police Check:</b>          | <b>Signed:</b> | <b>Name and Position:</b> | <b>Date:</b> |

**Plan for the Child(ren) (Attach Care Plan if available)**

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**Has a written referral to the Fostering Service been made? If so, state outcome**

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**Reasons for placement with these carers as preferred option?**

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**Applicant(s) history & relationship to child(ren) being considered for placement**

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|  |
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**Suitability as Foster Carer(s) e.g information checked via SWIFT, health checks and all Police checks (to include other household members)**

|  |
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|  |
|  |
|  |

**Any significant issues for the child(ren) in respect of the placement (e.g. contact with other family members or siblings)?**

|  |
|--|
|  |
|  |
|  |
|  |

\_\_\_\_\_

**Description and assessment of suitability of the property including number of bedrooms and sleeping arrangements for the child(ren) (to include assessment of any risk factors, e.g. pets, weapons)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Date Property Visited:**   

**Property Visited by:** \_\_\_\_\_ **(PRINT NAME and JOB TITLE)**

**Property Suitable to Accommodate the child(ren):**      Yes       No

**If not, state reasons.....**

Do the applicant(s) understand the requirements/responsibilities of becoming a foster carer:    Yes       No

Do the applicant(s) agree to the signing of a foster care agreement: Yes       No

I confirm that the proposed placement is currently the most suitable way of meeting the child's needs:

\_\_\_\_\_  
Signed (Social Worker)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tel No.

\_\_\_\_\_  
Signed (Team Manager)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tel No.

\_\_\_\_\_  
Signed (District Manger)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tel No.

**Completed form to be forwarded to the Strategic Service Manager**

Name of person sending form:

Position:

Date sent:



**For completion by Strategic Service Manager:**

Approved

Not approved

Conditions attached to approval:

Date of approval:

Date of Expiry of approval:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Completed copies to:  
Fieldwork Social Worker  
Fostering Service

Children and Young People's Department

**Foster Care Agreement**

Name of Carer(s):

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Name of Child(ren):

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I/we agree to care for the above named child(ren) as if a member of our family.

I/we agree to allow the child(ren) to be visited by an authorised person at any time.

I/we agree to allow for the child(ren)'s removal by the Local Authority if it is determined that the placement is no longer the most suitable way of meeting the child(ren)'s needs or the placement is detrimental to the child(ren)'s welfare.

I/we understand that any information acquired by us relating to the child(ren) and their family or other people will be treated in confidence, kept confidential and not disclosed without the permission of the Local Authority.

I/we agree to allow the child contact in accordance with the terms of a Court Order or any arrangements made or agreed by the Local Authority.

Signed:

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Date:

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