



Department  
for Education

# **IN HOUSE**

**Special Edition on amendments to the  
Children's Homes Regulations from  
January 2014**

**January 2014**

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## Editorial

Welcome to this special edition of 'In House', in which we outline the changes resulting from the coming into effect of The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013.

In summer 2013 we launched a formal consultation on changes to regulations to improve collaboration between children's homes and services in their local communities. Our aim was to put more effective safeguards in place for children relying on residential care, recognising, in particular, the vulnerability of children placed at a distance from their homes

Our proposals for change took forward the recommendations in the report of the Expert Group on Children's Homes Quality, which included conclusions from the Out of Area Placement Task and Finish Group, published on 23 April 2013.

These groups were established in July 2012 following reports from the Office of the Children's Commissioner (OCC) and the Joint All Party Parliamentary Group (APPG) Inquiry on, respectively, child sexual exploitation in gangs and groups and children who go missing from care. These reports highlighted particular concerns about the care of children who were placed, often at short notice, in children's homes a long way from the authorities responsible for their care, children who could be "out of sight, out of mind". These are often young people with the most challenging needs who are more likely to go missing from placement and be targeted for exploitation.

The consultation exercise resulted in 254 formal responses from a very wide range of services involved with safeguarding and portioning the welfare of looked after children. We took these responses into account in finalising these Regulations. Government's response to the consultations are available at: [Care Planning Regulations Consultation Results](#) and [Children's Homes Regulations Consultation Results](#)

Six months on from the consultation, we have brought in revisions to the children's homes regulations to stimulate collaboration, partnership working and help build an understanding of the homes local area and the services within in. The amended regulations are available to view at [here](#). A table guide to the major changes is given from page 12.

*Almudena Lara*

**Head Children in Care Portfolio**

# Regulations that are changing from 27th January

## Regulation 8: Qualifications and training

Registered Managers appointed after 1 April 2014 must achieve or hold the Level 5 qualification within three years of the date they started employment. A Manager already in post who does not yet have the qualification must achieve it by 1<sup>st</sup> April 2017 at the latest.

Children's residential care workers appointed after 1 April 2014 must achieve or hold the Level 3 qualification within two years of the date they started employment. A care worker already in post before 1<sup>st</sup> April must achieve the qualification, at the latest, by 1 April 2016.

Q. What if I am ill, or away from work on Maternity leave?

A. The registered provider may extend a time limit if the manager or care worker has not worked in that capacity for a prolonged period.

### *Points to note*

This change results in regulations now holding information relating to the appointment of managers along with the National Minimum Standards (NMS). It is now a regulatory requirement that the manager must have:

- Achieved the qualification as described above.
- Worked for two years in a position relevant to children's residential care in the last five years.

- Worked for at least one year in a role that has involved supervising or managing care staff.

Revised NMS relating to these regulations will indicate that it is good practice for a manager to achieve the level 5 qualification in 3 years. Managers in role before 1st April 2014 who have been engaged in a qualification, but have not yet completed it, should aim to complete within three years of the date of starting their qualification.

## Regulation 12B: Notifications

The registered person must notify, in writing, the local authority where their children's home is located when children are admitted or leave the home.

Q. How do I find out who in the local authority should be notified?

A. Contact the local authority's children's department and ask for the contact details to send the notification to. If you experience difficulties in finding the right person, ask for the officer who receives notifications of out of authority placements from local authorities.

Q. Do I have to do this for children placed by the local authority in which my home is located?

A. No. Only for children who come from other authorities.

### *Points to note*

The written notification must include;

The child's name and date of birth.

Whether the child is placed under section 20 or 21 or subject to a care or supervision order under section 31.

Contact details for the team manager of the placing authority and the child's IRO.

Whether the child has a statement of special educational needs, and if so, details of the local authority that maintains the statement.

## **Regulation 16: Missing children**

Homes must have in place a "missing child policy" setting out the steps that the home will take to prevent children from being absent without permission and details of staff roles and responsibilities for responding when children are or have been missing. Before implementing or amending the policy homes must consult and take into account the views of appropriate local services and individuals, and have regard to relevant local authority or police protocols on missing children.

The registered person may call for a placing authority to review a child's care plan where the child has been persistently absent from the home, or if they consider them to be at risk of harm.

We have made amendments to the Care Planning, Placement and Care Review Regulations 2010 to place a duty on local authorities to react to these requests.

Most police forces will have a missing persons coordinator, or someone performing that role, who may be

prepared to advise homes on their "missing child policy"

Q. Has the requirement to have a policy that prevents children going missing been removed?

A. Regulations are not prescriptive about the detail of the "missing child policy". Homes should develop a policy that is appropriate to the needs of the children in their care.

Q. What should the registered person do if the local authority do not convene a review after they have asked for one?

A. The registered person could escalate the matter to the LAC service manager or the child's IRO. If the issue remains unresolved they might ultimately have to raise this with the Director of Children's Services (DCS). At the point that the home escalates the concern to the DCS they may decide to copy to Ofsted. Ofsted would expect that the home had pursued the concern through all avenues available in the local authority.

## **Regulation 31: Fitness of premises (Location review)**

The registered person shall make sure that the premises are appropriately and suitably located, so that the children are effectively safeguarded and are able to access all the services to meet the needs of the child (as identified in the child's care or placement plan).

The registered person needs to review the appropriateness and suitability of the location of the home at least once a year. The review process should involve

consulting and taking into account the views of appropriate local bodies or services. These are likely to include local agencies responsible for children's safeguarding –namely children's services for the authority where the home is located and the police.

We will be publishing further guidance to support a consistent national approach to location reviews later this year.

Q: By "location review" do you mean a risk assessment?

A. The review will most certainly identify any risks or concerns about keeping children safe that are associated with the area where the home is located, and would involve the registered person in developing a strategy for minimising these risks.

# Regulations coming into force on 1 April 2014

## Visits by an independent person (Reg. 33 visits)

The registered provider must appoint an independent person to visit and report on the children's home in accordance with regulation 33 as revised. That person cannot be:

A person involved in preparing the care plan of a child placed in the children's home to be visited.

A person involved in managing or supervising the person who prepares the care plan of a child placed in the children's home to be visited.

A person with a financial interest in the children's home.

The responsible individual if nominated.

A person who has, or who has had a connection with:

- The registered person;
- A person working at the children's home; or
- A child accommodated at the children's home

which might give rise to doubts about the person's impartiality in producing the independent person's report.

In addition;

For private /voluntary providers:

- The independent person cannot be employed by the organisation running the home, unless s/he is contracted to provide a service which is to critically examine and

scrutinise the way the children's home is managed and the quality of care that the children's home provides for the children living there.

For local authority providers:

- The independent person cannot be employed in connection with the carrying on of social services functions relating to children.

Q. Currently one of my area managers carries out the Regulation 33 visits of the homes they manage. Is this still possible?

A. No. The manager in this case would have a connection with the manager working at the home and is employed by the organisation managing the home, so would not be sufficiently independent. As an employee of the organisation they could only be included as a regulation 33 visitor if their contract was confined to scrutinising and quality assuring the home's operations.

Q. Can local councillors carry out these visits to LA homes?

A. Yes

Q. Can IROs carry out independent visits to LA homes?

A. An IRO employed by a local authority but managed outside of the children's social services department could be sufficiently independent, as they will be managed outside of the



authority's directorate that carries on social services functions relating to children. However an IRO could not carry out a visit of an LA home where one of the children on their caseload is placed.

#### *Points to note*

The registered provider has an increased role in being aware of and acting on any conflicts of interest in relation to the Independent visitor. ((amended) Reg. 33 (4) (5) (6)).

Visits to the home shall take place once a month and may be unannounced. The independent person must interview (with consent and in private) children, parents, relatives and those working in the home to form an opinion as to whether;

- Children are effectively safeguarded; and
- the conduct of the home promotes the wellbeing of children.

They shall also inspect the premises and any records they require. Where these include children's case records the child and their responsible authority should confirm their consent.

The independent persons report of the visit should be sent to:

- HMCI (Ofsted);
- the authorities responsible for each child in the home (usually to the child's social worker or to the relevant team manager);

- the registered provider (and if applicable the registered manager);
- the responsible individual (if nominated);
- the local authority where the home is located (if requested by that local authority).

## **Regulation 4: Statement of purpose**

The homes statement of purpose should be published on the homes website if they have one, as long as publication in this way does not prejudice the welfare of children cared for in the home.

## **Schedule 1**

We consulted on revising requirements for homes statement of purpose to, in future, require, that the statements of purpose are more specific and detailed, concerning, in particular, the home's approach to safeguarding children; arrangements for their education; and arrangements for addressing children's health needs.

Matters to be included in the statement of purpose, have been revised, with new elements added.

The requirements are now structured into the following headings:

- Caring for children
- Children's behaviour
- Contact details

- Education
- Health
- Staffing matters

Significant revisions to this schedule include:

- The statement of purpose should aim to be more specific on the outcomes for children the home seeks to achieve and its approach to achieving these.
- The statement of purpose must describe the homes policy and approach in relation to anti-discriminatory practice and children's rights.
- The statement of purpose should include a more detailed description of the homes approach to behavioural support.
- The statement of purpose should provide information on the home's approach to responding to children's health needs, including details on the qualifications and supervision of health staff engaged by the home, along with information about how the home measures the effectiveness of its approach to meeting the health/therapeutic needs of children in its care.
- The statement of purpose must include details of staff experience and qualifications, including information about any staff commissioned to provide education or health services; along with information about how staff members are supervised. (The registered person remains

responsible for keeping the statement of purpose up to date (Reg 5 of the Children's Homes Regulations 2001 (as amended))

## Schedule 5

This Schedule has been amended to remove 'involvement of a child in prostitution' to replace this with a reference to 'sexual exploitation'.

## Schedule 6

We consulted on amending Schedule 6 to ensure that a home's registered person is more explicitly accountable for outcomes achieved by the children who rely on the home's care. This would include responsibility for monitoring the home's safeguarding arrangements; patterns of placement (referrals and disruptions); staff turnover and the home's relationship with the authority for the area where it is located.

The revised schedule emphasises the importance of home's working in close collaboration with local services, including local children's services, placing authorities and that the responsible individual must have explicit arrangements in place for consulting children about the quality of home's care and for acting on their views.

The requirements in the revised Schedule are now structured under the following headings:

- Caring for children

- Education
- Encouraging positive behaviour
- Health
- Health and Safety
- Missing Children
- Staffing Matters
- Working with local services

Amongst the issues that the responsible individual must monitor are:

- the effectiveness of the home's safeguarding arrangements;
- how the home listens to children and acts on their views; and
- how the home supports children to develop positive behaviour, including children's involvement with youth justice services.

Schedule 6 monitoring reports should be sent to Ofsted at least once every three months.

## **Care Standards Act 2000 (Registration) (England) Regulations 2010:**

### **Schedule 1**

#### **13(b) A description of the area in which the premises are located**

This schedule has been amended to require, from April 2014, that applicants who wish to register to carry on a new children's home, must describe the steps they have taken to ensure that the home is appropriately and suitably located. (Refer to Reg. 31

of the Children's Homes Regulations above).

This process will involve consulting and taking into account the views of appropriate local bodies or services. Information about this issue will be taken into account by Ofsted as part of the registration process.

We will be publishing further guidance to support a consistent national approach to location reviews later this year.

## Explaining the changes to the regulations

The table below offers a 'quick reference guide' to the changed Children's Homes Regulations

Column 1 provides the numbering of the regulation and subsection of the original 2001 children's homes regulations. Column 2 provides the paragraph and subsection of the related regulation as amended in the 2013 Regulations. Column 3 describes the change that has been introduced with columns 4 and 5 indicating the date that this change comes into effect.

All changes are described in more detail in the body of this newsletter.

Figure 1: Table of changes to the Children's Homes Regulations 2001

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
4 (2A)	4	Where a children's home has a website, the registered person must publish the statement of purpose on that website, unless they consider publication would prejudice the welfare of the children in the home.		X
11 (1) (a)	6	New wording to read:  1) The registered person shall ensure that the children's home is conducted so as to;  (a) Promote and make proper provision for the <i>safeguarding and</i> welfare of children accommodated there.  (b) Make proper provision for the care, education, supervision, <i>support</i> and, where appropriate treatment, of children accommodated there.	X	
*New 12 B to be inserted	7	This new regulation requires that children's homes must notify the local	X	

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
		authority where the home is located of the admission or discharge of a child in their care.		
2	3	<p>Wording to be inserted in Regulation 2 of the 2001 Regulations defining what is meant by a 'missing child policy'.</p> <p>"missing child policy" means a written policy setting out:</p> <ul style="list-style-type: none"> <li>(a) the steps taken in relation to the children's home to prevent children accommodated there from being absent without permission; and</li> <li>(b) the procedures to be followed, and the roles and responsibilities of persons working at the children's home, in relation to a child who is, or has been, so absent</li> </ul>	X	
16 *new (5) and (6)	8	<p>The amended Regulations insert two new subsections (5) and (6) into Regulation 16.</p> <p>Subsection (5) requires that in implementing or changing the home's 'missing child policy' the registered person must consult and take into account the views of appropriate local bodies and have regard to any local authority or police protocols on missing children.</p> <p>Subsection (6) outlines the circumstances under which the registered person shall ask the LA</p>	X	

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
		<p>responsible for the child to review the child's care plan.</p> <p>Note: Regulation 20 of these Regulations amends Regulation 33 of the Care Planning, Placement and Case Review Regulations 2010 to place a corresponding duty on the responsible authority to carry out a review when it is notified (e.g. from the registered person) that a child is at risk of harm.</p>		
31	10	<p><b>Fitness of premises</b></p> <p>This Regulation insert an amended subsection (1A) into Regulation 31 requiring the registered person to take into account the area where the home is located</p> <p>(1A) The registered person shall:</p> <p>(a) ensure that premises used for the purposes of a children's home are appropriately and suitably located, so that children cared for by the children's home are effectively safeguarded and are able to access services to meet needs identified in their care plans or placement plans; and</p> <p>(b) for the purposes of sub-paragraph (a), review the appropriateness and suitability of the location of those premises at least once in each calendar year.</p> <p>Subsection (1B) states that when</p>		X

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
		conducting a review for the purposes of paragraph (1A)(b), the registered person shall consult, and take into account the views of such local bodies or persons as the registered person considers appropriate.		
2	3	<p>Wording to be inserted in Regulation 2 of the 2001 Regulations to define information on the required qualifications for both staff and managers.</p> <p>“required care role qualification” means:</p> <ul style="list-style-type: none"> <li>(a) the Level 3 Diploma for the Children and Young People’s Workforce in the children’s social care pathway (“the Level 3 Diploma”); or</li> <li>(b) a qualification which the registered person considers to be equivalent to the Level 3 Diploma;”</li> </ul> <p>“required manager’s qualification” means:</p> <ul style="list-style-type: none"> <li>(a) the Level 5 Diploma in Leadership for Health and Social Care and Children and Young People’s Services in the children and young people’s residential management pathway (“the Level 5 Diploma”); or</li> <li>(b) a qualification which the registered provider considers to be equivalent to the Level 5 Diploma;”</li> </ul>		X
26	9	<b>Fitness of workers</b>		X

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
		<p>Regulation 9 of the 2013 Regulations inserts a new subsection 4 into Regulation 26 of the 2001 Regulations about the timing over which the required qualification (see above) must be achieved.</p> <p>Subsection (4) Where a person works in the children's home in a care role, that person must attain or hold the required care role qualification by—</p> <p>(a) the date which falls two years after the date on which that person started work in that position, in the case of a person who starts working in a care role in the children's home after 1st April 2014; or</p> <p>(b) 1 April 2016, in the case of a person working in a care role in the children's home on 1st April 2014.</p> <p>(4A) The registered person may extend a time limit in paragraph (4) where the person working in the care role does not work in that capacity for a prolonged period.</p>		
8 (2)	5	<p><b>Fitness of manager</b></p> <p>Regulation 5 of the amended Regulations inserts a new subsection 3 into Regulation 8 of the 2001 Regulations concerning 'Fitness of Manager'.</p> <p>“(3) For the purposes of sub-paragraph</p>		X



Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
		<p>(2)(b)(i), a person does not have the qualifications, skills and experience necessary to manage the children's home unless he has:</p> <ul style="list-style-type: none"> <li>(a) subject to paragraph (4), attained the required manager's qualification;</li> <li>(b) within the last 5 years, worked for at least 2 years in a position relevant to the residential care of children; and</li> <li>(c) worked for at least one year in a role requiring the supervision and management of staff working in a care role.</li> </ul> <p>(4) Where a person manages a children's home, that person must attain or hold the required manager's qualification by:</p> <ul style="list-style-type: none"> <li>(a) the date which falls three years after the date on which that person started managing the children's home, in the case of a person who starts managing the children's home after 1st April 2014; or</li> <li>(b) 1st April 2017, in the case of a person managing the children's home on 1st April 2014.</li> </ul> <p>(5) The registered provider may extend a time limit in paragraph (4) if the person managing the children's home does not work in that capacity for a prolonged</p>		

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
		period.		
33	11	<p><b>Visits by Registered Provider</b> (Reg. 33 visits).</p> <p>The revised regulations set out new criteria for defining the independence required by a person appointed by the registered provider to visit and report on a children's home.</p> <p>They also specify the information that must be included in reports by the 'independent person' and set out the persons who must always receive these monthly reports.</p>		X
Schedule 1	13	<p>In future every home's Statement of Purpose must be more specific and detailed.</p> <p>The requirements for inclusion in the statement of purpose are now structured under the following headings:</p> <ul style="list-style-type: none"> <li>• Caring for children</li> <li>• Children's behaviour</li> <li>• Contact details</li> <li>• Education</li> <li>• Health</li> <li>• Staffing matters</li> </ul>		X
Schedule 5	Schedule 5	Schedule 5 has been amended to replace references to "involvement of a child...in prostitution" with a reference to sexual exploitation.	X	

Original Children's Homes Regulations 2001	Children's home and LAC (Misc. amends) regulations 2013	Description of change	In force- 27 Jan	In force- 1 April
Schedule 6	16	<p>Matters to be monitored by the registered person have been revised to ensure the registered person is more explicitly accountable for outcomes achieved by the children who rely on the home's care. This would include responsibility for monitoring the home's safeguarding arrangements; patterns of placement (referrals and disruptions); staff turnover and the home's relationship with the authority for the area where it is located.</p> <p>The matters to be monitored are now structured under the following headings:</p> <ul style="list-style-type: none"> <li>• Caring for children</li> <li>• Education</li> <li>• Encouraging positive behaviour</li> <li>• Health</li> <li>• Health and Safety</li> <li>• Missing Children</li> <li>• Staffing Matters</li> <li>• Working with local services</li> </ul>		X

**Figure 2: Table of Changes to the Care Standards 2000(Registration) (England) Regulations 2010**

<p>Care Standards Act 2000  (Registration) (England) Regulations 2010: Schedule 1. 13 (b)</p>	<p>26</p>	<p>The 2013 Regulations amend the 'Registration Regulations'</p> <p>This schedule has been amended to require applicants who wish to register to carry on a new children's home, to provide HMCI with a description of the steps they have taken to ensure that the home is appropriately and suitably located. (Refer to Reg. 31 of the Children's Homes Regulations 2001, as amended by Regulation 10 of the 2013 Regulations above).</p>		<p>X</p>
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