



Response to

**The Foster Placement and Fostering Agencies
Regulations (Northern Ireland) 2014**

March 2014

Introduction

Children in Northern Ireland (CiNI) are the regional umbrella body for the children's sector in Northern Ireland.

CiNI represents the interests of its 160 member organisations providing policy, information, training and participation support services to members in their direct work with and for children and young people. CiNI membership also includes colleagues in the children's statutory sector recognising that the best outcomes for children and young people are increasingly achieved working in partnership with all those who are committed to improving the lives of children and young people in NI.

CiNI welcomes this opportunity to provide some feedback on the Foster Placement and Fostering Agencies Regulations (NI) 2014. We trust that our comments will be positively used to inform the next step in the process.

CiNI attended a BAAF consultation event to consider and discuss the draft regulations. CiNI would like to endorse the response from BAAF and its member agencies recognising their knowledge and expertise in this specialist field of work.

Part 1 - General

1. Are you content with the definitions provided in the interpretation? If not, what changes would you suggest?

CiNI notes that the draft regulations use the term foster 'parent'. We would urge caution with regard to the use of this, there could be a potential blurring of the lines between the legal responsibilities of a foster carer and those of a birth parent. It is therefore essential that due regard is given to the particular views of children and young people so that any potential problems or unintended consequences can be avoided when drafting and implementing the regulations in Northern Ireland. CiNI would recommend that the views of children and young people are sought in this regard to ensure they are fed into the process moving forward.

- 2. Do you agree with the content of the written agreements between an independent fostering agency and a Health & Social Care Trust, before that agency can assess and approve foster parents on behalf of the Trust?**

There is a clear need for a coherent and consistent approach across Northern Ireland. CiNI welcomes the written agreements set out within the document between an independent fostering agency and a Health & Social Care Trust. However, it is important that the agreements apply to all Trust areas, are commonly agreed and implemented consistently.

Part 2 – Assessment & Approval of Foster Parents

- 3. Do you agree with the requirements which must be satisfied during the assessment of a prospective foster parent, including the information to be gathered in relation to that person and any members of their household and family under Regulation 5?**

We are supportive for the regulations to ensure a transparent and purposeful recruitment and assessment process for foster carers. However, we would seek justification for the need to conduct Access NI checks for children in the fostering household between the ages of 10-16. This differs from the standards set out in England whereby CRB checks are carried out for young people 16 and over. Checks are to establish the suitability of an adult to work with or look after children, a child between the ages of 10-16 is not going to be looking after children in this instance; therefore we do not see the need for an Access NI Enhanced check. We also seek clarity as to why fostered children are excluded from these checks? This is an inconsistent approach which requires clarification.

- 4. Do you agree with the requirements set out in Regulation 6 which must be satisfied during the approval of a prospective foster parent, including the making of a 'foster care agreement'? If not, what changes would you suggest?**

We have concerns that the regulations do not reference fostering panels. We believe it is important to outline the establishment and operation of such panels. Clearly

there is a need to include the function of panels within the fostering process, the membership and the timescales at each stage of the process and the decision making procedures. CiNI believes this is a weakness of the present draft regulations, we therefore recommend the inclusion of standards and function of panels.

5. Do you agree with the requirements set out in relation to reviews and terminations of a foster parent's approval, including the requirement to carry out reviews at intervals of not more than a year?

We recommend additional wording to 7. (3) (b); that the views of ALL children within the fostering household are sought ***including birth children***. A high priority must be given to listening to and involving foster children and birth children within the household. We would emphasise that engagement with children must include young children. Research evidence demonstrates that from an early age children do exhibit small but significant cultural awareness.¹

The UN Committee gave specific consideration to the article 12 rights of children without parental care during its Day of General Discussion, and this commentary should be given due regard in the re-development of the draft regulations –

'In the light of article 12 of the Convention, the Committee recommends that all stakeholders continue and strengthen their efforts to take into consideration the views of the child and facilitate their participation in all matters affecting them within the evaluation, separation and placement process, in the out-of-home care and during the transition process. It recommends that children should be heard throughout the protection measure process, before making the decision, while it is implemented and also after its implementation. For this purpose, the Committee recommends an establishment of a special mechanism which values children as partners. The family group conferencing is one model to ensure that the child's view is considered. It also recommends that States parties undertake a regular review of the extent to which children's views are taken into consideration and of their impact on policy-making and court decisions and on programme implementation².'

¹ Connolly, P., Smith, A. & Kelly, B. (2002) *Too Young to Notice? The Cultural and Political Awareness of 3-6 Year Olds in Northern Ireland*. Belfast: Northern Ireland Community Relations Council.

² Para 664

To ensure foster carers receive a service which is fair and transparent, CiNI believes a Statutory Appeals process should be detailed within this section. It should incorporate the processes involved to make appeals, representations and complaints.

Part IV - Placements

6. Do you agree with the requirements set out in Regulation 8 in relation to the making of foster placements by a responsible authority, including the requirement for each foster parent to enter into a written agreement with the responsible authority?

It is a welcomed development that the foster care agreements will encompass the support and training to be given to the foster parent. We believe that all foster carers have ongoing learning and development needs; these should be monitored and addressed on a regular basis.

We recommend additional wording within Schedule 3 2. (b) (iii):

“Any other change in the foster parent’s personal circumstances *or change of circumstances within the household...*”

This essential addition would allow for any change within the household that could affect their capacity to care for any child to be reported.

7. Do you agree with the requirements set out in Regulation 9, in relation to the supervision of placements (including the requirement to make arrangements for each child it places to be visited within one week of the start of the placement, and at least once every month thereafter)?

To ensure good outcomes for foster children, we recommend flexibility regarding the timeframes involved in the supervision of placements. The English legislation is 3 monthly, we would advocate for a one month minimum and in some circumstances whereby a child has been in placement for some time in a stable home this may be increased to every 3 months – depending on the needs of the foster carer and those of the foster child.

8. Do you agree that 7 days is an appropriate maximum period of time within which a Health & Social Care Trust should visit a child who has been placed in its area by or on behalf of a voluntary organisation, once the Trust is informed that there may be safeguarding or welfare concerns relating to that child?

It is important that children feel safe and are safe. Children should be protected from significant harm, including neglect, abuse, and accident. We have concerns over the timescale of 7 days. We recommend that contact should be made within 24 hours and a visit within 48 hours.

We would strongly advocate that a culture of openness and trust is promoted between foster carers and foster children. Training on safeguarding issues for foster parents must be mandatory and that children are helped to understand how to keep themselves safe, including when outside of the household or when using the internet or social media.

At this point we would ask that reference be made to the Gateway Teams and the inter-agency working protocols. There is a particular need to work in partnership with other agencies concerned with child protection, e.g. the fostering agency, schools, hospitals, general practitioners, etc., safeguarding cannot be done in isolation.

9. Are the requirements relating to the termination of placements (as set out in Regulation 11), as they apply to a responsible authority or an area authority, sufficiently robust?

We suggest additional wording in section 11 (2):

“Where a child has been placed by some other authority, or by a voluntary organisation in the area of the area authority and it appears to the area authority that continuation of the placement would be detrimental to the welfare of the child, the area authority shall remove the child ***in line with meeting the child protection threshold.***”

We would also welcome an additional line that reflects the decision taken to remove the child will be based on the needs of the child and the assessed level of risk. It is

extremely important that any decision taken to remove a child from foster care ensures the best outcome for that particular child.

Indeed we would advocate that in line with the United Nations Convention on the Rights of the Child and with reference to the UN Committee's Day of General Discussion on Children without parental care, that foster care systems should be developed paying particular attention to the rights recognized in the Convention, including the principle of the best interests of the child, which the Committee recognises as the '*leading basic principle*' with regards to protection and alternative care of children without parental care.

10. Do you agree with the requirements set out in Regulation 12, in relation to short-term placements?

In relation to Regulation 12 (1) we would appreciate clarification on this point and the rationale for the total duration of the placement not to exceed 90 days in any period of 12 months. We believe this may have negative consequences for children with disabilities. For this reason we seek further information and purpose of this regulation.

11. Do you agree with the requirements set out in Regulation 13 in relation to the making of foster care placements outside Northern Ireland?

We agree with the requirements set out within this regulation. The emphasis should be about matching the child with a placement that meets their assessed needs.

12. Do you agree that six working days is an appropriate maximum period that a Health & Social Care Trust should be able to make an emergency placement with an approved foster parent, including circumstances where the placement is not consistent with the foster parent's terms of approval (Regulation 14)?

We are happy with the six working days as outlined within Regulation 14. However, we would seek clarification as to whether this also refers to Kinship Carers and if the Kinship Standards will be taken into account. Again we would advocate that a placement meets the needs of the child at the point of assessment.

Part V – Records to be held by Fostering Service Providers

13. Do you agree with the requirements placed upon fostering service providers in Regulations 15 and 16, in relation to the keeping of records?

CiNI notes Regulation 15 (3) (e) and recommends that a record of any allegations or investigations made against the foster carer and the outcome of any investigations undertaken should be included.

As well as safeguarding the foster child, it is important to ensure that the foster carer and their family are safe also. This aspect of learning and development should be incorporated within any training and any resulting strategies put in place. It is important to recognise the Department's legal duty to ensure that all concerns are listened to and dealt with appropriately.

14. Do you agree with the requirements set out in Regulation 17 in relation to the retention and confidentiality of records by each fostering service provider, which are in keeping with the "Good Management Good Records" framework established by the DHSSPS?

We are happy to endorse this requirement of retaining information and records for at least 40 years.

Part VI – Particular duties of the Responsible Authority

15. Do you agree with the duties that are placed upon the responsible authority in Regulations 18-20?

We would very much welcome this section being reworded to take account of promoting a positive identity and valuing diversity through individualised care for the child. With a more diverse population it is important that children and young people who are in foster care have their linguistic and cultural needs met.

Part VII – Particular Duties of Fostering Agencies

16. Do you agree with the duties that are placed upon the registered provider of a fostering agency in Part VII of the Regulations 21-46?

Children in Northern Ireland are part of an Alliance of organisations who believe it is both wrong and impracticable to seek to define acceptable forms of corporal punishment of children. Hitting children is a lesson in bad behaviour. Removing the defence of “reasonable punishment” and thus giving children in their homes and in all other settings equal protection under the law on assault is the only just, moral and safe way to clarify the law. Using positive forms of discipline reduces stress and improves relationships between children, their parents and other carers.

In reference to Regulation 26 (2) (b) and (c) it is our view that foster carers should be trained in positive parenting and discipline. In regard to 26 (2) (b) we believe this could be interpreted so as to permit control, restraint or discipline which is deemed non-excessive and reasonable, leaving a child extremely vulnerable and open to cruel, inhuman or degrading treatment and punishment. We would strongly advocate this provision should be removed from the draft regulations.

26 (2) (c) goes further to permit physical restraint where it is necessary to prevent likely injury to the child or other persons or likely serious damage to property. CiNI would refer the HPSS to the UN Committee on the Rights of the Child *Concluding Observations* which urge Government –

“To ensure that restraint against children is only used as a last resort and exclusively to prevent harm to the child or others and that all methods of physical restraint for disciplinary purposes be abolished³.”

CiNI would strongly recommend that a fostering agency’s written policy on control, restraint and discipline should be developed with a view to implementing the Committee’s recommendations. It is also imperative that in line with article 12 of the UNCRC ‘Respect for the Views of the Child’ and section 75 of the NI Act 1998 that children and young people with experience of foster care are pro-actively involved and consulted on the development of this written policy.

³ CRC/C/GBR/CO/4 3 October 2008 Paras 38 and 39

CONCLUSION

We have no further comment to make on Questions 17 – 21. We trust that this response will be used to further develop the guidelines. We recommend that the Department should reflect on and consider the experience and learning emerging from England's implementation and operation of its regulations. Most importantly the standards and regulations must be appropriately child-centred and focused on promoting the rights and best interests of those children and young people linked to the foster care system in Northern Ireland.

Please feel free to contact us if you have any queries regarding this response.

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