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Family and Friends Care: becoming a foster carer

References

ACPR: *Arrangement for Placement of Children Regulations 1991*
CA: *Children Act 1989*
CP: *Code of Practice on the recruitment, assessment, approval, training, management and support of foster carers 1999*
FSR: *The Fostering Services Regulations 2002*
NMSFS: *National Minimum Standards for Fostering Services made under section 23(1) of the Care Standards Act 2000*
Vol 1 Guidance: *Children Act 1989 Regulations and Guidance, Volume 1 Court Orders* <http://www.justice.gov.uk/guidance/careproceedings.htm>
PLO: *Public Law Outline* <http://www.justice.gov.uk/guidance/careproceedings.htm>

Introduction

When parents have difficulties at home and their child is suffering as a result, s/he may need to be looked after by someone else, for example relatives or friends. This can be a short term arrangement or may be on a permanent basis.

These arrangements can be made directly between parents and their relatives or friends or the local authority may be involved because they are concerned that the child is suffering significant harm and do not believe it is safe for the child to remain in the parents' home. When this occurs local authorities often (and indeed should) find out whether there are any relatives or friends who can take on the care of the child. If they place a child with a relative or friend for longer than 6 weeks, that person must be approved as a local authority foster carer.

This advice sheet is aimed at those relatives and friends who are already, or who are considering, caring for a child where the local authority is involved and they want to place/have placed, the child with a relative or friend. We have set out the specific legal and practice requirements for becoming a local authority foster carer. The relevant references for these requirements are listed in the narrow column on the right.

Who is a looked after child?

- ❑ **'Looked after'** means that the child is in care or accommodation of the local authority;
- ❑ **'In care'** means that the child is under an interim or full care order or an emergency protection order;
- ❑ **'Accommodation'** means that a child is being looked after by the local authority with the agreement of the parents/those with parental responsibility.

Note about private fostering:

If you are caring for a child in a private arrangement, which is, or is intended to be, for 28 days or more, and you are NOT the child's grandparent, uncle, aunt, sibling or stepparent, you will be considered a private foster carer. You should notify the local authority who will then monitor the arrangement and inspect your home. For further information on this contact FRG's advice line.

*The Children
(Private
Arrangements for
Fostering)
Regulations 2005*

What are the local authority's duties towards a child they are looking after?

When they are looking after a child, the local authority is under the following legal duties:

- they must make a plan for the child's care which will promote his/her welfare and, unless the child is under a care or emergency protection order, this plan should be agreed with the parents, others with parental responsibility or the child him/herself where they are aged 16 or 17. This plan must be kept under regular review;
- they must provide care and accommodation for the child, which can be in a number of different settings;
- they must consider placing a child with a family member before looking for a placement with unrelated foster carers another family unless this would not be reasonably practical or consistent with the child's welfare. If they do place with a family member, that person must be approved as a foster carer for the child (see below);
- except in an emergency, they must only place the child with a person who has been approved as a foster carer in accordance with Fostering Services Regulations 2002;
- In an emergency they may place the child with a relative or

*s.22 and Reg 3,
APCR*

*s.23(2)&(6) CA; Vol 1
Guidance; PLO*

*Re W and X
(Wardship: Relatives
rejected as foster
carers) [2004] 1 FLR
415*

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friend for up to 6 weeks with only minimal checks being made provided a full fostering assessment is then carried out within the 6 weeks;

Reg 38 FSR

- they should try to place the child near home and keep siblings together; and
- promote contact between the child and other members of the family, especially parents and siblings.

s.23(7) CA

Sched 2 para 15 and s.34 CA

Broadly speaking, this means that if you are a relative or friend wanting to care for a child who is looked after by the local authority you will have to be assessed and approved as a foster carer for the child either before, or within 6 weeks of, beginning to care for the child.

The local authority must be confident that the child will be safe from harm and their well-being will be promoted. So if the local authority is considering placing a child with you, their primary concern will be that you can demonstrate you can protect the child from harm and meet his or her needs.

If the child you wish to care for has been harmed and you are related to, or are friends with, the person responsible for that harm, the local authority will want to be absolutely sure that if the child is living with you it does not provide that person with the opportunity to harm the child again. This does not mean they cannot visit you (unless a court order, or the local authority, states this) but it may mean that they cannot be left alone with the child or take the child out on their own. If this arises in your case, it is a good idea to clarify with the local authority exactly what they expect.

What is involved in being assessed as a foster carer?

Although ideally you will have been assessed and approved as a foster carer before the child comes to live with you, it is possible, for practical reasons, that you will undergo the assessment after the child has moved in. The assessment will be undertaken by a social worker, who is likely to be the child's own social worker or someone from the fostering team.

When the local authority assesses someone who wants to become a foster carer, this assessment must comply with the Fostering Services Regulations 2002 (FSR) and the National Minimum Standards for Fostering Services (NMSFS).

Fostering Services Regulations 2002 and the National Minimum Standards for Fostering Services.

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If you are being assessed to care for the child of a relative or friend the assessment process should place a particular emphasis on your capacity to meet the needs of the **specific child** you are wishing to look after.

This assessment will gather information to:

- inform the local authority's decision about whether you should be approved as a foster carer, and
- explore what your support needs are in connection with caring for the child.

It should therefore be conducted in a manner that you feel allows you to share and discuss your needs.

The following information is required as part of the assessment:

- Your name, address and date of birth.
- Details of your health (supported by a medical report), personality, marital status and details of current and previous marriages or similar relationships.
- Particulars of any other adult members living with you.
- Details about your accommodation.
- Your religious persuasion.
- Your racial origin, cultural and linguistic background.
- Your past and present employment.
- Previous experience of caring for children.
- Your skills and competence to care for the child.
- Details of any previous request or application to foster or adopt made by yourself or any adult living with you.
- Names of at least two people who will provide personal references for you.
- Criminal records check

This list may sound daunting and impersonal but in practice the assessment shouldn't be the worker asking questions and ticking boxes like a test but an opportunity to discuss what the realities of caring for the child are for you and to identify what support you may need with this.

How should I approach the assessment?

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By the time you undergo an assessment you are likely to have already made a commitment to the child coming to live with you. It is really important that you are open and honest with the social worker during the assessment so that the appropriate supports are made available to you and the child.

NB: Local authorities have a duty to place looked after children in their families and social networks and they should be sympathetic to your special circumstances and your need for support.

How will the assessment be carried out?

The format of the assessment will vary from one local authority to another and approval can take some time, because of local authorities' workloads, the actual time it takes a worker to carry out a full assessment and the time it takes to complete criminal record checks. If the child is already placed with you as an *emergency placement*, local authorities have a duty to do carry out a full assessment and approve you within six weeks.

see FRG advice sheet on Immediate Placements within the Family for further details

The assessment process has 4 key elements:

1. Criminal records checks – Local authorities are not allowed to approve anyone to be a foster carer who has a conviction for child abuse or neglect, assault or violent offences involving children and young people. They are also prevented from placing a child with you if anyone living with you has any of the above convictions. They will therefore need to carry out police checks on you and all the adult members of your household. The social worker will contact the Criminal Records Bureau to ensure that neither you nor any adult living with you has any criminal convictions involving children and young people. Allegations of such offences may also be taken into account even if there was no criminal conviction.

Reg 27 (6) FSR

Some of you may be worried that old offences which have nothing to do with your ability to care for the child will be taken into account. The Regulations clearly state that local authorities can disregard certain offences committed by those applying to foster if they are satisfied that the welfare of the child requires it. If this applies to you then you may want to seek further advice.

2. Health checks – The social worker will obtain a medical report on you from your GP, subject to your consent, to check that you do not have any health related problems which would affect your

ability to care for the child.

However, if you do have any health difficulties these may not prevent you being approved as a foster carer. It is therefore reasonable for you to expect the local authority to use common sense when assessing the impact of your health on your ability to provide care. For example, if your health is so bad that you are frequently bed bound then caring for a toddler or a small child would be difficult for you. However this type of health problem may not preclude you from taking part in a shared family care arrangement with an older child if it was thought to be in the child's best interests.

It is also reasonable for you to ask local authorities for support that would reduce the impact of your health problem and enable the child to live with you. Such support may take the form of respite care, or day care for younger children.

3. References – The social worker will want references from at least two people who know you well. S/he will visit each person and ask them about how they know you and how they think you will manage caring for the child. The local authority may also seek references from other professional agencies which might know you, such as the local authority whose area you are living in, or your health visitor if you have a young child.

4. Talking to you and people who live with you - This should form the bulk of the assessment and take place over a number of visits. These meetings are likely to take place in your home and will involve:

i) Checking the suitability of the property you live in.

The National Minimum Standards require local authorities to check that the home can comfortably accommodate all who live there.

*Standard 6.2 to 6.6
NMSFS*

It is likely that for many of you space will be an issue and there may be no spare bedrooms. This is another time when you should expect the local authority to use sensible judgement while also considering the needs of the child. If you are facing overcrowding and there are no other concerns, this on its own should not be used as a reason to place the child elsewhere. However overcrowding can have a huge impact on the child, yourself and other family members and it would be helpful to

CP s. 3.18

explore with the local authority possible solutions, for example,

- If you are a council tenant, you could ask the local authority to request a transfer to a larger house or flat. However you should be aware that this may be impossible due to insufficient properties being available; or
- If you are an owner occupier, you could discuss the local authority providing funding for an extension or loft conversion in your house – again this is worth a try though it is not a straightforward process.

ii) Identifying how you will meet the child's needs.

Your assessment is primarily about your suitability to care for a specific child. You and the worker must therefore have a clear idea of what the needs of the child are. These will be described in the core assessment which will be or will have already been undertaken on the child to identify his/her developmental needs as well as his/her strengths.

Every looked after child should have a care plan that clearly states their needs. If for some reason a care plan does not exist it is important that you ask that one is drawn up so that the child's needs, and how they will be met, are clearly set out, including details of support for carers.

Each local authority will have its own assessment process. Some have been piloting a new form produced by Family Rights Group for family and friends assessments. It is worth asking the social worker who does the assessment at the outset what they are planning to cover in this part of the assessment. Some of the areas they are likely to ask you about are as follows:

How you will care for the child?	Will you take care of their health and their education? Do you have a reasonable knowledge of how children grow and develop? How will you handle contact with the parents and the impact this has on the child? Will you offer appropriate behaviour boundaries to the child?
Can you provide a safe and caring environment for	Can you keep them safe from harm and promote their welfare?

the child?	
Can you work with the local authority to ensure the child is safe and their development is promoted?	<p>Will you be able to take part in local authority meetings to monitor the development of the child?</p> <p>Will you co-operate with the local authority around any areas of concern?</p>
Will you be willing to undertake training and personal development?	<p>A lot of the training provided by local authorities is aimed at foster carers who are not related or connected to the child. In other words people who take in different children over a period of time.</p> <p>You may feel you are different from these carers and question if this training is really for you. This is an understandable reaction but before dismissing the idea of training completely, think about some of the areas about which you would like some more information. It may be that some of the information sessions about specific topics, such as caring for a child who has been sexually abused, would be very relevant to you. It may be possible for the local authority to organise training especially for carers in your position – ask them.</p> <p>It may be that other family and friends carers go to the existing training – ask. It may offer you an opportunity to meet people in the same position as yourself.</p>

What happens when the assessment is completed?

The social worker will write a report which will include:

- Information required by Schedule 3 Fostering Services Regulations 2002 set out on page 5 above;
- Social worker’s assessment of your suitability to care for the child; and

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- Proposals about any terms and conditions for approval.

This report is presented to the **fostering panel**, which is made up of people who have not been involved in the assessment process. Most local authorities will invite you to attend part of the meeting where they are discussing your assessment, and they may ask you a few questions for clarification. This panel has the power to make any of the following recommendation:

- To approve you;
- To approve you subject to any specific conditions identified during the assessment;
- To ask the social worker to come back to the panel at a later date, and provide additional information; or
- Not to approve you.

The local authority decision maker (who will not have been involved in the assessment or in the fostering panel) will then take account of the recommendation and make a decision. You will then be notified of the decision.

What happens if you are approved?

Approval will last for up to a year, after which time you will have an annual review. This does not mean going through the assessment again, but it will mean discussing what has gone well and what you have found difficult in the last year, and any changes which have taken place in your household, such as people moving in and out of your home. A social worker will write another report to go to the fostering panel and will comment on your suitability to continue caring.

Once you are approved, the local authority can place a child with you as a foster carer and they must pay you a fostering allowance. You will be asked to sign a Foster Care agreement, which is an agreement that all approved foster carers are expected to sign, stating:

- what the local authority expect in terms of the care you provide for the child,
- what support and training the local authority are going to provide for you,
- that you will give the local authority written notice of any important changes in your circumstances, such as a change of address or people moving in or out of your home.

Reg. 28 (5)(b) and
Schedule 5 FSR

Once the child is placed with you s/he will be visited by a social worker at least once every six weeks for the first year and every three months thereafter.

What can you do if you are not approved?

If the Panel recommends that you should not be approved and the decision maker agrees with this recommendation, the Regulations require the decision maker to write to you and give the reasons. This letter should also tell you that you have 28 days to make a written representation. This means challenging the reasons you have been given for not being approved. If the reasons are unclear or not understandable contact the local authority as soon as you can to get a clear explanation.

The fostering panel will meet to consider your representation. If they still decide not to recommend you and the local authority decision maker agrees with this, then you can make a complaint.

For further information see FRG advice sheet on complaints

What are the pros and cons of being a foster carer?

The advantages and disadvantages of any situation will differ for each individual and it may be worth you spending some time clarifying your own situation regarding becoming and remaining a foster carer.

However, there are some general factors that are likely to affect Some questions to help you explore these are:.

<p>Do I want the local authority involved in my life?</p>	<p>Looked after children should be visited by their social worker every six weeks for the first year and then at least once every three months.</p> <p>When the child is placed with you, the local authority should provide you with a Foster Placement Agreement. This should contain details of the child’s background and needs, the financial support you will get, the arrangements for the child to have contact with their parents and others, and frequency of social work visits to the child.</p>	<p>Reg 35 (1) FSR</p> <p>Reg 34 (3) and Schedule 6 FSR</p>
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<p>What can the local authority offer me and the child that we will find useful?</p>	<p>You can get support to care for the child, both financial support in terms of a fostering allowance and other support e.g. nursery place, respite care, supervised contact etc. You will need to negotiate with the local authority about the kind of support you think you need. Further information about this can be obtained from FRG advice service.</p>
<p>How will becoming a foster carer affect my ability to make decisions about the child?</p>	<p>Being a foster carer does not give you parental responsibility (PR) for the child. PR remains with the parents if a child is accommodated and is shared between parent and local authority if a child is on a care order.</p> <p>Written information about the child's daily life while they are with you should be in the Placement Plan, which is a document that should be drawn up whenever a child becomes looked after, with a copy being given to the child's carers. It comes in two parts. Part 1 provides essential names and addresses, immediate arrangements for contact, and whether there is agreement for the child to be looked after and to receive medical treatment. Part 2 records more detailed information about the child or young person's day to day routines including significant issues such as health, education and contact. It should be regularly updated. These arrangements should have been discussed with you, and the parents and child if appropriate. You may find that you have to go back to the local authority if certain permissions are needed, for example for medical treatment.</p>
<p>If I am a foster carer – can the local authority remove the child at any time without my permission?</p>	<p>They can remove the child but the local authority should act in a reasonable way. So, for example, if things are difficult at home with the child you should be offered support to ease the situation.</p>

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<p>Will I have to go to lots of meetings?</p>	<p>Looked after children should have their care plans reviewed at least once every six months and you will be invited to these and expected to attend as you know the child best.</p> <p>From time to time you may be invited to other meetings to discuss other issues to do with the child.</p>
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Most of the above questions focus on the support and day to day needs of you and the child but of course for many of you finance will be a big issue you need to consider.

What are the alternatives to being a foster carer?

If you want to care for him/her but you do not want to be assessed as a local authority foster carer, you should consider applying to court for a residence order or a special guardianship order. You may need to apply for leave (i.e. permission of the court) to apply for these orders unless you have been looking after the child for three out of the last five years. The court would only grant these orders if it considered this would be in the child's best interests.

Both orders would give you parental responsibility but the effect of each of them is slightly different both in terms of what you can decide about the child's care and your entitlement to support. For further information about this see FRG advice sheets on 'Placements of looked after children', 'Reunification of children with their families from local authority care' and 'Support for relatives or friends caring for a child'.

For further information about this contact FRG advice line – details at the end of this advice sheet.

What if the local authority placed the child with me, but are now saying that it was a private arrangement and they are not involved?

Unfortunately in practice, local authorities sometimes place children with a relative or friend but then claim at a later date that they were only helping to make a private arrangement and that

they do not have any further financial or other responsibility or involvement with the child.

Recent case law has disapproved of this and confirmed that if the local authority is involved in making the placement of the child with the carer, then, unless they specify otherwise **at the time of the placement**, the child is to be treated as a 'looked after child' and is therefore placed with the relative or friend either as an approved foster carer or under Regulation 38 as an emergency placement. If you are in this situation you could refer to the Southwark ruling and ask to be paid the full fostering allowance to which you are entitled from when the child first comes to live with you.

*D-v- Southwark LBC
[2007] EWCA Civ 182*

Note: If you did agree with the local authority when they placed the child with you that it was to be a private arrangement then it is likely to be treated as such. This has implications for the support you will receive.

For further information see advice sheet on 'Support for relatives and friends who are caring for children' or contact FRG advice line - details at end of this advice sheet.

This is a complicated area of law and practice is variable. If you would like further advice about it contact FRG's advice line.

Where can I get further help?

- ❑ Contact FRG's freephone advice line for further advice, on 0808 801 0366 Monday-Friday 10-3:30pm or visit www.frg.org.uk/advice_sheets.html where you can download other relevant advice sheets.
- ❑ Contact a solicitor who specialises in child care law. Ask your local Citizens Advice Bureau to recommend one or search www.lawsociety.org.uk. If you are on a low wage, or on income support or job seeker's allowance, you may be able to get free advice initially under the Legal Services Commission public funding scheme.
- ❑ The Fostering Network is a national charity which works with everyone involved in foster care. You can contact Fosterline, on 0800 040 7675 or www.fostering.net.

This document was developed as part of a project funded by the Department for Children, Schools and Families. However, the facts and views expressed are those of the Family Rights Group and not necessarily those of the Department.

Last update Oct 2008

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