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STATUTORY RULES OF NORTHERN IRELAND

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**2005 No. 176**

**The Children's Homes Regulations (Northern Ireland) 2005**

**PART III**

**CONDUCT OF CHILDREN'S HOMES**

**CHAPTER 1**

*Welfare of Children*

**Promotion of welfare**

- 11.—**(1) The registered person shall ensure that the children's home is conducted so as to –
- (a) promote and make proper provision for the welfare of children accommodated there; and
  - (b) make proper provision for the care, protection, education, supervision and, where appropriate, treatment, of children accommodated there.
- (2) The registered person shall make arrangements to ensure that the home is conducted –
- (a) in a manner which respects the privacy and dignity of children accommodated there; and
  - (b) with due regard to the sex, religious persuasion, racial origin, and cultural and linguistic background and any disability of children accommodated there.

**Child's placement plan**

**12.—**(1) The registered person shall consult with the child's placing authority before providing accommodation for a child in a children's home, or if that is not reasonably practicable, as soon as possible thereafter, to ensure a written plan has been prepared for the child setting out, in particular –

- (a) how, on a day to day basis, he will be cared for, and his welfare safeguarded and promoted by the home;
- (b) the arrangements made for his health care, education and social and personal development skills; and
- (c) any arrangements made for contact with his parents, relatives and friends.

(2) The registered person shall contribute to the placing authority's review and revision of the placement plan as necessary.

(3) In contributing to the preparation or review of the placement plan the registered person shall, so far as practicable having regard to the child's age and understanding, seek and take account of his views.

- (4) The registered person shall so far as is reasonably practicable –
- (a) ensure that the implementation of the placement plan is consistent with any plan for the care of the child prepared by his placing authority; and
  - (b) comply with requests made by the child's placing authority to –

- (i) provide it with information relating to the child; and
- (ii) provide a representative to attend any meetings it may hold concerning the child.

### **Food provided for children**

**13.—**(1) The registered person shall ensure that children accommodated in a children's home are provided with –

- (a) food which –
  - (i) is served in adequate quantities and at appropriate intervals;
  - (ii) is properly prepared, wholesome and nutritious;
  - (iii) is suitable for their needs and takes account of their preferences; and
  - (iv) is varied; and
- (b) access to fresh drinking water at all times.

(2) The registered person shall ensure that any special dietary need of a child accommodated in the home, which is due to his health, religious persuasion, racial origin or cultural background, is met.

### **Provision of clothing, pocket money and personal necessities**

**14.—**(1) The registered person shall ensure that the needs and reasonable preferences of each child accommodated in the home for clothing including footwear, and personal necessities are met.

(2) The registered person shall provide children accommodated in the home with such sums of money in respect of their occasional personal expenses as is appropriate to their age and understanding.

### **Contact and access to communications**

**15.—**(1) The registered person shall –

- (a) subject to paragraphs (6) and (8), promote the contact of each child with his parents, relatives and friends in accordance with the arrangements set out in his placement plan as agreed with his placing authority; and
- (b) subject to paragraph (3), ensure that facilities are provided within the children's home for any child accommodated there to meet privately at any reasonable time with his parents, relatives and friends, and the persons listed in paragraph (2).

(2) The persons are –

- (a) any solicitor or other adviser or advocate acting for the child;
- (b) any guardian ad litem appointed for him;
- (c) any social worker for the time being assigned to the child by his placing authority;
- (d) any person appointed in respect of any requirement of the procedure specified in the Representations Procedure (Children) Regulations (Northern Ireland) 1996(1);
- (e) any person appointed as an independent visitor for him;
- (f) any person authorised by the Regulation and Improvement Authority;
- (g) any person authorised by the HSS trust in whose area the children's home is situated;

- (h) any person authorised in accordance with Article 149 of the Children Order (inspection of children's homes, etc.) by the Department to conduct an inspection of the children's home and the children there; and
  - (i) the Commissioner.
- (3) In the case of a home in respect of which a certificate under Article 70 of the Children Order<sup>(2)</sup> (refuges for children at risk) is in force, the facilities may be at a different address.
- (4) Subject to paragraphs (6) and (8), the registered person shall ensure that children accommodated in the home are provided at all reasonable times with access to the following facilities which they may use without reference to persons working in the home –
- (a) a telephone on which to make and receive telephone calls in private; and
  - (b) facilities to send and receive post and, if the necessary facilities are provided for the use of children accommodated in the home, electronic mail, in private.
- (5) The registered person shall ensure that any disabled child accommodated in the home is provided with access to such aids, equipment and support which he may require as a result of his disability in order to facilitate his communication with others.
- (6) The registered person may (subject to paragraphs (7) and (8)) impose such restriction, prohibition or condition upon a child's contact with any person under paragraph (1) or access to communications under paragraph (4) which he is satisfied is necessary for the purpose of safeguarding or promoting the welfare of the child in question.
- (7) No measure may be imposed by the registered person in accordance with paragraph (6) unless –
- (a) the child's placing authority consents to the imposition of the measure; or
  - (b) the measure is imposed in an emergency, and full details are given to the placing authority within 24 hours of its imposition.
- (8) This regulation is subject to the provisions of any relevant order of the court or any relevant order of the Court made under the Children Order relating to contact between the child and any person.

### **Behaviour management, discipline and restraint**

- 16.—(1) No measure of control, restraint, seclusion or discipline, which is contrary to paragraph (3), shall be used at any time on children accommodated in a children's home.
- (2) The registered manager shall ensure that within 24 hours of the use of any measure of control, restraint or discipline in a children's home, a written record is made in a volume kept for the purpose which shall include –
- (a) the name of the child concerned;
  - (b) details of the child's behaviour leading to the use of the measure;
  - (c) details of the action taken by staff to prevent the use of the measure;
  - (d) a description of the measure used;
  - (e) the date, time and location of, the use of the measure, and in the case of any form of restraint, the duration of the restraint;
  - (f) the name of the person using the measure, and of any other person present;
  - (g) the effectiveness and any consequences of the use of the measure, including the outcome of any post-incident monitoring with all involved staff and children; and

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(2) Article 70(1) is amended by Schedule 4 to the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 with effect from 1st April 2005

- (h) the signature of a person authorised by the registered provider to make the record.
- (3) Subject to paragraph (4), the following shall not be used as disciplinary measures on children accommodated in a children's home –
  - (a) any form of corporal punishment;
  - (b) any punishment relating to the consumption or deprivation of food or drink;
  - (c) any restriction, other than one imposed by a court or in accordance with regulation 15, on –
    - (i) a child's contact with his parents, relatives or friends;
    - (ii) visits to him by his parents, relatives or friends;
    - (iii) a child's communications with any of the persons listed in regulation 15(2); or
    - (iv) his access to any telephone helpline providing counselling for children;
  - (d) any seclusion or separation of the child from the group;
  - (e) any requirement that a child wear distinctive or inappropriate clothes;
  - (f) the use or withholding of medication or medical or dental treatment;
  - (g) the intentional deprivation of sleep;
  - (h) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
  - (i) any intimate physical examination of the child;
  - (j) the withholding of any aids or equipment needed by a disabled child;
  - (k) any measure which involves –
    - (i) any child in the imposition of any measure against any other child; or
    - (ii) the punishment of a group of children for the behaviour of an individual child.
- (4) Nothing in this regulation shall prohibit –
  - (a) the taking of any action by, or in accordance with the instructions of, a medical practitioner or a dental practitioner which is necessary to protect the health of a child;
  - (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property; or
  - (c) the imposition of a requirement that a child wear distinctive clothing for sporting purposes, or for purposes connected with his education or with any organisation whose members customarily wear uniform in connection with its activities.

### **Education, employment and leisure activity**

- 17.—(1)** The registered person shall promote the educational attainment of children accommodated in a children's home, in particular by ensuring that –
- (a) the children make use of educational facilities appropriate to their age, aptitude, needs, interests and potential;
  - (b) the routine of the home is organised so as to further children's participation in education, including private study; and
  - (c) effective links are maintained with any schools attended by children accommodated in the home.
- (2) The registered person shall ensure that children accommodated in the home are –
- (a) encouraged to develop and pursue appropriate leisure interests; and
  - (b) provided with appropriate leisure facilities and activities.

(3) Where any child in a children's home has attained the age where he is no longer required to receive compulsory full-time education, the registered person shall assist with the making of, and give effect to, the arrangements made for his education, training and employment.

### **Religious observance**

**18.** The registered person shall ensure that each child accommodated in a children's home is enabled, so far as practicable –

- (a) to attend the services of;
- (b) to receive instruction in; and
- (c) to observe any requirement (whether as to dress, diet or otherwise) of,

the religious persuasion to which he belongs.

### **Health needs of children**

**19.—(1)** The registered person shall promote and protect the health of the children accommodated in a children's home.

(2) In particular the registered person shall ensure that –

- (a) each child is registered with a general practitioner;
- (b) each child is referred to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services, as he may require;
- (c) each child is provided with such individual support, aids and equipment as he may require as a result of any particular health needs or disability he may have;
- (d) each child is provided with guidance, support and advice on health and personal care issues appropriate to his needs and wishes; and
- (e) any person appointed to the position of nurse at the children's home is a nurse on the register maintained under Article 5 of the Nursing and Midwifery Order 2001, by virtue of qualifications in nursing or midwifery as the case may be.

### **Medicines**

**20.—(1)** The registered person shall make arrangements for the recording, handling, safekeeping, safe administration and disposal of any medicines received into the children's home.

(2) In particular the registered person shall ensure, subject to paragraph (3), that –

- (a) any medicine which is kept in a children's home is stored in a secure place so as to prevent any child accommodated there having unsupervised access to it;
- (b) any medicine which is prescribed for a child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
- (c) a written record is kept of the administration of any medicine to any child.

(3) Paragraph (2) does not apply to a medicine which –

- (a) is stored by the child for whom it is provided in such a way that others are prevented from using it; and
- (b) may be safely self-administered by that child.

(4) In this regulation, “prescribed” means –

- (a) ordered for a patient for provision to him under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(3)</sup>; or
- (b) prescribed for a patient under section 58 of the Medicines Act 1968<sup>(4)</sup>.

### **Use of surveillance**

**21.** Subject to any requirements for electronic monitoring imposed by a court under any statutory provision, the registered person shall ensure that electronic or mechanical monitoring devices for the surveillance of children are not used in a children's home, except for the purpose of safeguarding and promoting the welfare of the child concerned, or other children accommodated in the children's home, and where the following conditions are met –

- (a) the child's placing authority consents to the use of the measure in question;
- (b) it is provided for in the child's placement plan;
- (c) so far as practicable in the light of his age and understanding, the child in question is informed in advance of the intention to use the measure; and
- (d) the measure is no more restrictive than necessary, having regard to the child's need for privacy.

### **Hazards and safety**

**22.** The registered person shall ensure that –

- (a) all parts of the home are so far as is reasonably practicable free from hazards to their safety;
- (b) any activities in which children participate are so far as practicable free from avoidable risks;
- (c) unnecessary risks to the health or safety of children accommodated in the home or staff working there are identified and so far as possible eliminated,

and shall make arrangements for persons working at the children's home to be trained in first aid.

### **Complaints and representations**

**23.—(1)** Subject to paragraph (8), the registered person shall establish a written procedure for considering complaints made by or on behalf of children accommodated in the home.

**(2)** The procedure shall, in particular, provide –

- (a) for an opportunity for informal resolution of the complaint at an early stage;
- (b) that no person who is the subject of a complaint takes any part in its consideration other than, if the registered person considers it appropriate, at the informal resolution stage only;
- (c) for dealing with complaints about the registered person;
- (d) for complaints to be made by a person acting on behalf of a child;
- (e) for arrangements for the procedure to be made known to –
  - (i) children accommodated in the home;
  - (ii) their parents;
  - (iii) placing authorities; and
  - (iv) persons working in the home.

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<sup>(3)</sup> S.I.1972/1265 (N.I. 14)

<sup>(4)</sup> 1968 c. 67; as amended by paragraph 7 of Part II of Schedule 2 to the Medicines (Specified Articles and Substances) Order 1976 (S.I. 1976/968)

(3) A copy of the procedure shall be supplied on request to any of the persons mentioned in paragraph (2)(e).

(4) The copy of the procedure supplied under paragraph (3) shall include –

- (a) the name, address and telephone number of the Regulation and Improvement Authority; and
- (b) details of the procedure (if any) which has been notified to the registered person by the Regulation and Improvement Authority for the making of complaints to it relating to children's homes.

(5) The registered person shall ensure that a written record is made of any complaint, the action taken in response, and the outcome of the investigation.

(6) The registered person shall ensure that –

- (a) children accommodated in the home are enabled to make a complaint or representation; and
- (b) no child is subject to any reprisal for making a complaint or representation.

(7) The registered person shall supply to the Regulation and Improvement Authority at its request a statement containing a summary of any complaints made during the preceding twelve months and the action that was taken.

(8) This regulation (apart from paragraph (6)) does not apply to any matter to which the Representations Procedure (Children) Regulations (Northern Ireland) 1996 applies.

## CHAPTER 2

### *Staffing*

#### **Staffing of children's homes**

**24.—**(1) The registered person shall ensure that there is at all times, having regard to –

- (a) the size of the children's home, the statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there; and
- (b) the need to safeguard and promote the health and welfare of the children accommodated in the home,

a sufficient number of suitably qualified, competent and experienced persons working at the children's home.

(2) The registered person shall ensure that the employment of any persons on a temporary basis at the children's home will not prevent children from receiving such continuity of care as is necessary to meet their needs.

#### **Fitness of workers**

**25.—**(1) The registered person shall not –

- (a) employ a person to work at the children's home unless that person is fit to work at a children's home; or
- (b) allow a person to whom paragraph (2) applies to work at the children's home unless that person is fit to work at a children's home.

(2) This paragraph applies to any person who is employed by a person other than the registered person to work at the children's home in a position in which he may in the course of his duties have regular contact with children accommodated there.

(3) For the purposes of paragraph (1), a person is not fit to work at a children's home unless –

- (a) he is of integrity and good character;
  - (b) he has the qualifications, skills and experience necessary for the work he is to perform;
  - (c) in respect of a team leader or a residential social worker, he has the qualifications, skills and experience necessary for the work he is to perform and is registered as a social worker in a relevant register;
  - (d) he is physically and mentally fit for the purposes of the work he is to perform;
  - (e) where he is a social care worker, he is registered in a relevant register<sup>(5)</sup>; and
  - (f) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.
- (4) The registered person shall ensure that –
- (a) any offer of employment to a person is subject to paragraph (3)(f) being complied with in relation to that person; and
  - (b) unless paragraph (5) applies, no person starts work at a children's home until such time as paragraph (3)(f) has been complied with in relation to him.
- (5) Where the following conditions apply, the registered person may permit a person to start work at a children's home notwithstanding paragraph (4)(b) –
- (a) the registered person has taken all reasonable steps to obtain full information in respect of each of the matters listed in Schedule 2 in respect of that person, but the enquiries in relation to any of the matters listed in paragraphs 3 to 6 of Schedule 2 are incomplete;
  - (b) full and satisfactory information in respect of that person has been obtained in relation to the matters specified in paragraphs 1 and 2 of Schedule 2;
  - (c) the registered person considers that the circumstances are exceptional; and
  - (d) pending receipt of, and satisfying himself with regard to, any outstanding information, the registered person ensures that the person is appropriately supervised while carrying out his duties.
- (6) The registered person shall take reasonable steps to ensure that any person working at the children's home who is not employed by him and to whom paragraph (2) does not apply, is appropriately supervised while carrying out his duties.

### **Employment of staff**

**26.—**(1) The registered person shall –

- (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
  - (b) provide all employees with a job description outlining their responsibilities.
- (2) The registered person shall operate a disciplinary procedure which, in particular –
- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children accommodated in the home; and
  - (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse, of a child accommodated in the home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(3) For the purposes of paragraph (2)(b), an appropriate person is the registered person, an officer of the Regulation and Improvement Authority or of the HSS trust in whose area the home is situated, or a police officer.

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(5) See [S.R. 2003 No. 139](#) for description of social care worker for the purposes of registration

- (4) The registered person shall ensure that all persons employed by him –
  - (a) receive appropriate training, supervision and appraisal; and
  - (b) are enabled to obtain further qualifications in respect of the work they perform.

## CHAPTER 3

### *Records*

#### **Children's case records**

**27.**—(1) The registered person shall maintain in respect of each child who is accommodated in a children's home a record in permanent form which –

- (a) includes the information, documents and records specified in Schedule 3 relating to that child;
- (b) is kept up to date, is accurate and necessary; and
- (c) is signed and dated by the author of each written entry and those persons monitoring the records.

(2) The record mentioned in paragraph (1) may not be disclosed to any person except in accordance with –

- (a) any statutory provision under which access to such records is authorised; or
- (b) any court order authorising access to such records.

(3) The record mentioned in paragraph (1) shall be –

- (a) kept securely in the children's home so long as the child to whom it relates is accommodated there; and
- (b) thereafter retained in a place of security,

for at least seventy-five years from the date of birth of the child to whom it relates or, if the child dies before attaining the age of 18, for a period of fifteen years from the date of his death.

#### **Other records**

**28.**—(1) The registered person shall maintain in the children's home the records specified in Schedule 4 and ensure that they are kept up to date, are accurate and necessary.

(2) The records referred to in paragraph (1) shall be retained for at least fifteen years from the date of the last entry, except for records of menus, which need be kept only for one year.

#### **Notifiable events**

**29.**—(1) If, in relation to a children's home, any of the events listed in column 1 of the table in Schedule 5 takes place, the registered person shall without delay notify the persons indicated in respect of the event in column 2 of the table.

(2) The registered person shall take steps to notify the placing authority without delay to enable notification to be provided to the parent of any child accommodated in the home of any significant incident affecting the child's welfare unless to do so is not reasonably practicable or would place the child's welfare at risk.

(3) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.