

**WELFARE OF CHILDREN (OFFICIAL FOSTER CARE) REGULATIONS –
SECTIONS 35 AND 166**

(Legal Notice 1 of 2017)

**PART 1
PRELIMINARY**

Citation and commencement

1. These Regulations may be cited as the Welfare of Children (Official Foster Care) Regulations, 2017, and come into force on the date of publication.

Interpretation

2. In these Regulations—
“**fostering panel**” means the panel referred to in regulation 3;
“**Register**” means the Official Foster Carer Register referred to in regulation 9.

**PART 2
FOSTERING PANEL**

Constitution of fostering panel

3. (1) The Safeguarding Children’s Board may sit as a fostering panel, as and when necessary, in any case brought by the Department to consider and make a recommendation as to any of the matters in Regulation 4.

(2) The fostering panel is properly constituted when the Chief Officer of the Department (or his or her nominee) and at least 6 other members of the Safeguarding Children’s Board are in attendance, provided that for purposes of the fostering panel’s deliberations and decisions, the Chief Officer and any other employees of the Department must abstain from voting.

(3) The chairperson of the Safeguarding Children’s Board, or in his or her absence his or her nominee, must chair the fostering panel.

(4) A person is disqualified from sitting on the fostering panel in any matter if—

- (a) such person is related by blood or affinity in the second degree to either the subject child or the prospective official foster carer in that matter; or
- (b) there are any other reasons that may bring the process into disrepute if that person did not withdraw from sitting on the panel.

Functions of fostering panel

4. (1) The fostering panel must—

- (a) consider all applications for approval as an official foster carer and, if the applicant and the applicant’s household are deemed suitable, the panel may approve the applicant as an official foster carer;
- (b) if an applicant is considered suitable, consider and where necessary approve the applicant subject to conditions (which may include the number of children to be fostered at any one time, the age of the children to be fostered, the type of placements to be offered and whether additional support is required);

- (c) on the first anniversary of approval of an official foster carer and annually after that, consider whether or not a person remains suitable to be an official foster carer and whether or not the terms of his or her approval, if any, remain appropriate and either affirm the approval, revoke the approval or amend the conditions of approval;
 - (d) give advice and make recommendations to the Department on assessment and review process of official foster carers;
 - (e) determine and annually review the standard rate of financial support for official foster carers and publish that rate in the *Gazette*;
 - (f) consider and decide upon any requests for an increase to the standard rate of financial support; and
 - (g) undertake such further or other functions as directed by the Governor.
- (2) In undertaking its work, the fostering panel must consider and take into account all information received.
- (3) The fostering panel may request the Department to obtain any other relevant information or to provide such assistance as it considers necessary and the Department must comply with any such request.

PART 3 ASSESSMENT AND APPROVAL OF OFFICIAL FOSTER CARERS

Minimum requirements for approval

5. A person may be approved as an official foster carer only if that person—
- (a) is over the age of 21;
 - (b) has successfully completed suitable training required by the Department; and
 - (c) has been assessed as suitable by the Department and approved for that purpose by the fostering panel.

Application and assessment

6. (1) A person may apply to the Department to be assessed as an official foster carer.
- (2) The Department must complete the assessment of an applicant under sub-regulation (1) within 3 months from the date of the application:
Provided that if at the time there is no-one on St Helena who is suitably qualified to assess that person, the Department must complete the assessment as soon as is practicable and must immediately inform the prospective official foster carer of the date by which the assessment will be completed.
- (3) The assessment must include, but is not limited to, the matters listed in Schedule 1 and the following investigations:
- (a) a full St Helena police check of the applicant and all members of his or her household and, if any of those persons have lived abroad, police checks from the relevant country;
 - (b) a full medical assessment undertaken by the Senior Medical Officer or a person appointed or approved by the Senior Medical Officer;
 - (c) a minimum of 3 personal references who have known the applicant for at least 5 years, 2 of whom must not be related to the applicant by blood or affinity in the second degree and the assessor must speak to the referees in person in order to complete the assessment;

- (d) a minimum of 5 meetings with the applicant;
- (e) an assessment of the applicant's accommodation, home environment and safety within the home and, in particular, the proposed sleeping arrangements for any child;
- (f) an assessment of the dynamics of the applicant's family and household;
- (g) a minimum of 2 meetings with members of the applicant's household;
- (h) an assessment of the applicant's understanding of child protection;
- (i) an assessment of the applicant's ability to care for someone else's child, including child development in the context of abuse and/or neglect;
- (j) an assessment of the applicant's understanding of the role of an official foster carer.

(4) If the applicant lives outside St Helena and the applicant cannot be assessed directly, the Department may decline to assess that person or may make arrangements with the relevant government authority responsible for social services in the applicant's location or engage a suitably qualified person to undertake the assessment.

(5) The Department must discuss the outcome of the assessment with the applicant within 7 days of its completion and must provide the applicant with a written copy of the assessment.

(6) If the applicant so wishes, the applicant may provide a written response to the assessment within 7 days of its receipt and the Department must assist the applicant in preparing the written response if the applicant so requests.

(7) Within 14 days of completion of the assessment, the Department must send copies of the assessment and any response from the applicant to each member of the fostering panel.

Criminal offences

7. (1) An applicant is deemed not to be suitable as an official foster carer if the applicant or any member of the applicant's household has been convicted of any of the following offences:

- (a) any offence against a child;
- (b) any sexual offence;
- (c) any offence which involves any form of violence or threat of violence or bodily harm;
- (d) conspiring or attempting to commit any of the foregoing offences;
- (e) any other offence so declared by the Governor.

(2) Any other offence, caution, warning or investigation related to an applicant or member of the applicant's household will be considered as part of the assessment of the applicant's suitability to be an official foster carer.

(3) An official foster carer is required to inform the Department immediately of any of the following in relation to the applicant or a member of the applicant's household whilst the applicant remains registered:

- (a) any police investigation;
- (b) any warnings or cautions received;
- (c) any court proceedings; and
- (d) any criminal convictions.

(4) If an official foster carer or a member of his or her household commits any of the offences in sub-regulation (1) whilst registered, the official foster carer must be immediately removed from the Register.

Approval process

8. (1) Upon completion of the assessment of an applicant, the Department must submit the assessment to the fostering panel for consideration and approval of the applicant as an official foster carer.

(2) The fostering panel must convene a meeting to consider the application of a prospective official foster carer within 21 days of receipt of the Department's assessment and any response from the applicant.

(3) The author of the assessment must attend the fostering panel meeting:

Provided that where the author is resident abroad, the fostering panel will use its best endeavours to enable the author to participate.

(4) The applicant must be invited to attend all or part of the fostering panel meeting, which attendance may be in person or by phone, skype or other means.

(5) The fostering panel must, on the same day or as soon as possible thereafter, make a decision whether or not to approve the applicant as an official foster carer and, if so, on what terms.

(6) An official foster carer must not be approved by the fostering panel unless—

(a) the Department has completed its assessment of the applicant's suitability;

(b) any response from the applicant has been received; and

(c) the application has been considered fully and in line with these regulations.

Register of official foster carers

9. (1) The Chief Officer of the Department must maintain a Register of all approved official foster carers.

(2) The contents of the Register must remain confidential save where agreement is reached by the official foster carer and the Department or by order of the court.

(3) The Register must include, but is not limited to—

(a) the details of each child placed with the official foster carer;

(b) any conditions to be taken into account when deciding whether to place with the official foster carer;

(c) details of the police conviction checks relating to the official foster carer;

(d) the persons present in the home of the official foster carer, including the ages, relationship to the official foster carer and the details of the police conviction checks;

(e) the type of placements the official foster carer is willing to provide;

(f) any complaints or allegations made in relation to the official foster carer;

(g) any investigations undertaken in relation to the official foster carer; and

(h) the official foster carer agreement.

(5) Each official foster carer is required to inform the Department immediately if any of the details retained on the Register change subsequent to their first entry on it.

(6) The Department must undertake a review of each official foster carer's Register on a yearly basis.

Official foster carer agreement

10. (1) Upon being approved by the fostering panel, the official foster carer must enter into an agreement with the Department.

(2) The agreement must set out the expectations of the official foster carer, including the policies that must be followed whilst the official foster carer has a child in placement, and what support will be provided by the Department.

(3) The official foster carer agreement must be placed on the Register.

Supervising social worker

11. (1) A supervising social worker must be appointed for each approved official foster carer.

(2) The supervising social worker must provide advice and support and identify further training for the official foster carer.

(3) The official foster carer is not required to undertake any such training, but failure to do so will be taken into account when considering whether to renew their appointment as an official foster carer.

Official foster carer review

12. (1) The approval of each official foster carer and the terms of approval must be reviewed on a yearly basis by the fostering panel.

(2) The fostering panel must undertake a review of every official foster carer who has been investigated following a complaint or allegation against that foster carer or a member of the household.

(3) The Department may at any other time request that the fostering panel undertake a review of an official foster carer and if the fostering panel considers that such review is necessary, it must undertake such a review.

(4) Prior to any review, the Department must prepare a report to include—

(a) the written report at the conclusion of any investigation in respect of the official foster carer or member of the family subsequent to the previous review or initial approval decision, whichever is the latter;

(b) any change in circumstance subsequent to the previous review or initial approval decision, whichever is the latter;

(c) the views of the official foster carer; and

(d) the views of any child, subject to their age and understanding, who has been placed with the official foster carer subsequent to the previous review or initial approval decision, whichever is the latter.

(5) At all reviews the fostering panel must—

(a) take into account the views of the official foster carer and any child placed, subject to the child's age and understanding; and

(b) provide a written report outlining the findings and whether the terms of approval continue to be appropriate.

(6) If the fostering panel decides to revoke the approval or revise and add conditions to the official foster carer's approval, the reasons for this must be provided to the official foster carer.

(7) The official foster care may make representations in writing, within 14 days upon receipt of the reasons, to the Chair of the fostering panel who will consider whether to uphold or vary the decision and the decision of the Chair will be final.

Retention and confidentiality of records

13. The Department must retain the records relating to each official foster carer for 30 years from the date of approval.

PART 4 PLACEMENT OF CHILDREN

Types of placement

14. (1) At the time of being approved, the Department must discuss with each official foster carer the type of placement they are willing to provide.

(2) The decision as to the type of placement that the official foster carer wishes to provide must be made by the official foster carer only, subject to the fostering panel indicating that one or more types of placement are not appropriate.

(3) The types of placement are—

(a) Emergency:

Foster carers who provide time limited placements at short notice.

(b) Respite:

Respite foster carers care for children for short periods, usually on a regular basis to provide a break from their usual home or placement.

(c) Short term:

Foster carers look after children full time in their home but the length of stay can vary depending on the child's family circumstances.

(d) Longer term:

Foster carers who provide longer term care for children to offer permanency.

(e) Remand:

Foster Care to offer children who are remanded by the Courts with a foster care placement while they await court proceedings

Assessment of official foster carer's suitability to care for particular child

15. (1) Before a decision is made to place a particular child with an official foster carer, the Department must—

(a) assess the suitability of the official foster carer to care for the particular child, including the suitability of—

(i) the proposed accommodation; and

(ii) all other persons who are members of the household in which it is proposed that the child will live;

(b) consider whether, in all the circumstances and taking into account the services to be provided by the Department, the placement will safeguard and promote the child's welfare and meet the child's needs set out in the care plan; and

(c) consider whether there should be a change in the standard rate of financial support and if such a change is recommended, the Department must present the request to the fostering panel.

Placement Matching

16. (1) The decision to place the child with an official foster carer lies with Chief Officer of the Department.

(2) A placement cannot be made until matching under Regulation 15 has been approved by the Department and a care plan has been prepared for the child.

(3) Before approving a decision under this Regulation, the Chief Officer must be satisfied that—

(a) the requirements of regulation 15 have been complied with;

(b) the placement will safeguard and promote the child's welfare; and

(c) all attempts have been made to place sibling groups together.

Pre-Placement agreement and meeting

17. (1) Subject to sub-regulation (2), the official foster carer and the Department must meet before a placement—

- (a) to discuss the child's needs;
- (b) for a care plan to be agreed and signed by all parties;
- (c) to discuss what, if any, contact will take place between the child and the child's relatives and friends and how the official foster carer will be involved in this; and
- (d) to consider further the foster care agreement and whether any amendments are required to ensure the child's needs are met.

(2) In the case of an emergency, the meeting referred to in sub-regulation (1) may be held on the next working day or no later than 72 hours after placement, whichever is the earliest.

Circumstances where child may be placed before assessment is complete

18. (1) Where the Chief Officer of the Department considers it to be necessary and consistent with the child's welfare, the Department may place the child with an official foster carer before a regulation 15 assessment is completed, provided that the Department—

- (a) arranges for the official foster carer to be interviewed in order to obtain as much information about them and the other members of their household as soon as possible;
- (b) ensures that the assessment is completed in accordance with regulation 15 within 10 working days of the child being placed with the official foster carer; and
- (c) ensure that a decision in accordance with regulation 16 is made and approved within 10 working days after the assessment is completed, and if the decision is—
 - (i) to confirm the placement, review the placement plan and, if appropriate, amend it; and
 - (ii) not to confirm the placement, terminate the placement.

Emergency placement with an official foster carer

19. (1) Where it is necessary to place the child in an emergency, the Department may place the child with an official foster carer previously approved by it, even if the terms of that approval are not consistent with the placement, but the placement must not be for longer than 6 working days.

(2) When the period of 6 working days referred to in sub-regulation (1) expires, the Department must terminate the placement unless the terms of that official foster carer's approval have been amended to be consistent with the placement.

Support for the official foster carer

20. Where the child is placed, or is to be placed, with an official foster carer, the Department must, where funds are available for this purpose, endeavour to provide such services and support to the official foster carer as appear to them to safeguard and promote the child's welfare and must record details of such services and support in the child's care plan.

Monetary recompense

21. (1) A standard rate of financial support must be provided to all official foster carers whilst having a child placed in their care.

(2) Payments may change depending on the complexity of the child's needs and any increase above the standard rate must first be submitted for the fostering panel's approval.

Frequency of visits to child in official foster care

22. (1) The Department must ensure that a social worker or a social care officer visits every child placed with an official foster carer—

- (a)** within one week of the start of every placement;
- (b)** at intervals of not more than 6 weeks for the first year of the placement; and
- (c)** thereafter—
 - (i)** where the placement is intended to last until the child is aged 18, at intervals of not more than 3 months; and
 - (ii)** in any other case, at intervals of not more than 6 weeks.

Conduct of visits to child in official foster care

23. (1) On each visit, the Department's social worker or social care officer must speak to the child in private, unless—

- (a)** the child, being of sufficient age and understanding to do so, refuses;
- (b)** the social worker or social care officer considers it inappropriate to do so, having regard to the child's age and understanding; or
- (c)** the social worker or social care officer is unable to do so for another reason, in which case the social worker or social care officer must arrange a further visit within 7 days to speak with the child.

Contact between child in foster care and family

24. (1) Unless it is deemed not to be in the child's best interests, the Department must promote and facilitate contact between the child and the child's family and friends whilst residing with an official foster carer.

(2) Official foster carers must promote contact between the child in placement and their family and friends as is advised by the Department.

(3) An official foster carer may be required to supervise direct contact or escort a child to and from direct contact.

Review of placement

25. (1) The Department must hold a review meeting of each official foster care placement every 3 months.

(2) The review meeting must be attended by the official foster carer and the relevant representative of the Department.

- (3)** In advance of the meeting, the Department must investigate and ascertain—
- (a)** the progress of the child's emotional, health and education whilst in placement which must include liaising with the child's school and medical practitioner;
 - (b)** the child's wishes and feelings;
 - (c)** the official foster carer's views on the placement; and
 - (d)** any other matters that are considered appropriate in the circumstances of the case.

(4) In advance of the meeting, the Department must provide a summary of its investigations.

(5) Subject to the child's age and understanding, the child must be invited to attend all or part of the review meeting.

(6) The review must include consideration of the child's care plan and whether any changes are required.

Official foster carer record keeping

26. (1) The official foster carer must maintain detailed records of—

- (a) the official foster carer's agreement;
- (b) any significant occurrences whilst a child is in the placement;
- (c) the child's educational and health progress;
- (d) any matters specifically requested by the Department; and
- (e) any other matters that the official foster carer considers relevant.

Conclusion of placement

27. (1) Any plan to end a placement must be discussed at the placement review.

(2) In the event that a placement ends unexpectedly, the Department must ensure that the child, the family and the official foster carer are met as soon as possible after the termination of placement to discuss what occurred and to ensure all persons are appropriately supported.

(3) Following a premature termination of placement, the Department must meet with the official foster care to discuss—

- (a) why the placement was terminated;
- (b) what can be learned from the situation and how to avoid it in the future;
- (c) identify what services, support or training is further required;
- (d) whether the official foster carer agreement should be amended; and
- (e) any other matters deemed appropriate in the particular circumstances.

Official foster carer supervision and support

28. (1) A representative of the Department must meet with each official foster carer at their home, whilst caring for a child within 7 days of placement and thereafter every 4 weeks until the child has been placed for 6 months when meetings must take place every three months.

(2) Any other further meetings must be in accordance with these regulations, any guidelines provided by the Department and as the Department and official foster carer consider necessary.

(3) The Department must provide training to official foster carers.

PART 5 COMPLAINT PROCEDURES

Complaint procedure

29. (1) In the event that an allegation or complaint is made against an official foster carer or a member of the household, the Department must—

- (a) consider whether the concerns justify removing the child from the placement;

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- (b) start investigating immediately; and
 - (c) at the conclusion of the investigation, provide the official foster carer with a written record of the outcome.
- (2) The Department must provide the official foster carer with a reasonable opportunity to present the official foster carer's views in person or in writing as the Department deems appropriate, in relation to the allegation or complaint.
- (3) In the event that the allegation is made by a child, the Department must ensure that the child is spoken to by a person trained in achieving best evidence, unless—
- (a) the police indicates that it would not be appropriate at that time due to a police enquiry; or
 - (b) a medical professional indicates it is not in the best interests of the child.
- (4) The Department must prepare a policy document detailing the procedure to follow when investigating an allegation or complaint against an official foster carer.

Complaints by official foster carers

30. (1) If an official foster carer wishes to make a complaint about a staff member of the Department, this should be done in writing and addressed to the Chief Officer of the Department who will investigate the complaint and respond within 14 days.
- (2) If an official foster carer is not satisfied with the response to the complaint, then the official foster carer should follow the St Helena Complaints Procedure.

SCHEDULE 1

Matters to be taken into account when assessing suitability of official foster carer applicant

1. The applicant's capacity to care for children and in particular—
 - (a) the applicant's capacity to provide for the child's physical needs and appropriate medical and dental care;
 - (b) the applicant's capacity to protect the child adequately from harm or danger, including from any person who presents a risk of harm to the child;
 - (c) the applicant's capacity to ensure that the home environment is safe for the child;
 - (d) the applicant's capacity to ensure that the child's emotional needs are met and the child is provided with a positive sense of self, including any particular needs arising from the child's religious persuasion, racial origin and cultural and linguistic background, and any disability the child may have;
 - (e) the applicant's capacity to promote the child's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities;
 - (f) the applicant's capacity to enable the child to regulate the child's emotions and behaviour, including by modelling appropriate behaviour and interactions with others;
 - (g) the applicant's capacity to provide a stable family environment to enable the child to develop and maintain secure attachments to the applicant and other persons who provide care for the child.

2. The applicant's state of health including physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems.
 3. The applicant's family relationships and the composition of the household, including—
 - (a) the identity of all other members of the household, including their age and the nature of their relationship with the applicant and with each other, including any sexual relationship;
 - (b) any relationship with any person who is a parent of the child;
 - (c) other adults not being members of the household who are likely to have regular contact with the child; and
 - (d) any current or previous domestic violence between members of the household, including the applicant.
 4. The applicant's family history, including—
 - (a) particulars of the applicant's childhood and upbringing including the strengths and difficulties of the applicant's parents or other persons who cared for the applicant as a child;
 - (b) the applicant's relationships with parents and siblings, and their relationship with each other;
 - (c) applicant's educational achievement and any specific learning difficulty or disability;
 - (d) a chronology of significant life events; and
 - (e) particulars of other relatives and their relationships with the applicant.
 5. The applicant's convictions or cautions.
 6. The applicant's past and presents employment and other sources of income.
 7. The resources available in the community to support any child placed with the applicant and also the applicant.
 8. The applicant's ability to drive and any driving offences.
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