

# **North Somerset Council**

## **Children and Young People's Services**

### **Private Fostering Policy & Procedures**

# Part One: Legal Context

## 1. Legal Framework

- Children Act 1989: Part IX and Schedule 7 and 8. (as amended by section 44 of Children Act 2004)
- The Children (Private Arrangement for Fostering) Regulations 2005.
- Children Act 1989 Guidance on Private Fostering (issued 2005).
- National Minimum Standards for Private Fostering 2005.
- The Disqualification from Caring for Children (England) Regulations 2002

## 2. Definitions and Exemptions (schedule 8 of Children Act 1989)

### 1.2.2 Definitions

A '**Privately Fostered child**' is a child who is under the age of 16 years (18 years for a child who is disabled) who is cared for and provided with accommodation under a private arrangement by someone other than:

- The child's parent(s)
- A person who has parental responsibility.
- A relative of the child.

'Relative' in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether full blood or by affinity), or step-parent. 'Affinity' means by marriage to someone of blood relationship with the child.

The arrangement must be intended to last for 28 days or more.

The period for which the child is cared for should be continuous, but that continuity is not broken by the occasional short break.

Where a child is under 16 years and is a pupil at an independent school and lives at the school during school holiday for a period of more than two weeks, he/she will be subject to private fostering regulations, unless one of the exemptions below applies.

Where parents of children placed at independent schools make arrangements for their children to be cared for during holiday periods, such arrangements may constitute private fostering agreements, whether arranged privately or through a guardianship agency, but only where the child is cared for for a continuous period of more than 27 days.

### 1.2.3 Exemptions

Children will not be privately fostered children:

- Where the arrangements last for less than 28 days and are not intended to extend beyond that period.
- Where the child is being looked after by a local authority.
- Where the child is in the care of any person whilst living in one of the following (unless the person caring for the child is doing so in his/her personal capacity, rather than as part of his/her duties in relation to the establishment):
  - A children's home
  - Accommodation provided by, or on behalf of, a voluntary organization.
  - Any school in which he/she is receiving full-time education (either during term time or residing there for less than two weeks of any school holiday).
  - Any health service hospital.
  - Any care home or independent hospital.
  - Any home or institution provided, equipped and maintained by the state.
- Where the child is in care of any person in compliance with:
  - An order under Section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000.
  - A supervision requirement under the Social Work (Scotland) Act 1969.
  - Detention or guardianship orders under the Mental Health Act 1983.
  - Placement for adoption by an adoption agency.

**Note:**

**A person may act as a registered child minder for children under eight years old, including overnight stays for up to 27 days. If the intention is that such an arrangement will last continuously for more than 27 days, the placement is a private foster placement.**

### 1.2.4 Responsible Local Authority

The Local Authority responsible for carrying out duties under the regulations is the Local Authority in whose area the private fostering takes place.

### **1.2.5 Parental Responsibility (Children Act 1989 Section 2 (9))**

A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another, but may arrange for some or all of it to be met by one or more persons acting on his behalf.

### **1.2.6 Responsibility of Carers (Children Act 1989 Section 3 (5))**

A person who does not have parental responsibility, but has care of the child, may do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

## **Part Three: Duties and Powers of the Local Authority**

### **3.1 Local Authorities have a duty to:**

- a. Ensure that there is a high level of public awareness about private fostering through an ongoing communications strategy.
- b. Publicize and make available advice and information to prospective private foster carers, parents and professionals on the requirement to notify private fostering arrangements.
- c. Ensure relevant Local Authority staff are sufficiently conversant with the requirements of the regulations.
- d. Respond appropriately to notifications received, and ensure that proper checks, and visits, are carried out within required timescales;
- e. Satisfy themselves that the welfare of privately fostered children in their area is satisfactorily safeguarded and promoted by assessing the suitability of all aspects of a private fostering arrangement in accordance with the Regulations.
- f. Take steps to ensure that private foster carers, and their households and premises provide an environment in which the welfare of the child concerned will be safeguarded and promoted in accordance with the Regulations;  
(Parents also have a specific duty to ensure their child's welfare is promoted)
- g. Make arrangements for privately fostered children to be visited by an officer of the Authority at prescribed intervals.
- h. Ensure that privately fostered children are seen at each visit, and seen alone unless it is considered inappropriate and that a written report is made after each visit.
- i. Investigate any complaints made by privately fostered children.
- j. Provide private foster carers, parents, and all concerned with such advice and information as they may need to promote the child's welfare.
- k. Inform parents (or others with parental responsibility) of any concerns that they may have about the welfare of privately fostered children.
- l. Consider whether they need to exercise any wider powers allowed under regulations, e.g. prohibition of arrangements, or disqualification of persons from fostering.
- m. Where they are not satisfied that the welfare of a privately fostered child is being, or would be, satisfactorily safeguarded or promoted, take steps to secure that the child is looked after by a parent or relative of his, or someone else with parental responsibility, and consider the extent to which (if at all) they should exercise any of their functions under the Children Act with respect to the child.

- n. Inform the private foster carer and parents and others concerned in writing of any requirements, disqualifications or prohibitions that it may impose during the course of fulfilling its duties and provide information about how they may appeal against any decisions made by the Local Authority in respect of the Private Fostering Arrangement.
- o. Develop systems for monitoring their compliance with the various requirements of the Regulations, including the appointment of a designated person at Service Manager level with responsibility for reporting on such compliance.
- p. Take action to improve practice where necessary.
- q. Provide annually, to the Director of Children's Services, an evaluation of the outcomes of their work in relation to safeguarding and promoting the welfare of the privately fostered children in their area.
- r. Report annually to the Chair of the Area Children Protection Committee (or its successor body the Local Safeguarding Children Board) on how they safeguard and promote the welfare of privately fostered children, including how they co-operate with other agencies in this connection.

### **3.2 The Local Authority may:**

- a. Impose requirements on the person who is or intends to privately foster a child as to:
  - The number, age and sex of children who may be privately fostered by her/him.
  - The standard of the accommodation and equipment to be provided for them.
  - Arrangements with respect to the child's health and safety.
  - Particular arrangements relating to the provision of care which must be carried out.
- b. Impose prohibitions in respect of the private arrangements, in the following circumstances:
  - If the private foster carer is not suitable to care for a child under private arrangements.
  - If the premises are deemed to be unsuitable.
  - If it would be prejudicial to the child's welfare for him/her to be or to continue to be fostered by the person in the premises concerned.
- c. Disqualify the person from acting as a private foster carer in certain circumstances, e.g. if he/she is a parent of a child who has been convicted of offences described in a relevant schedule. Section 68 of the Children Act 1989 deals with disqualification from being a private foster carer. The Regulations made under Section 68 are the Disqualification from Caring for Children (England) Regulations 2002.

***Ratified by Children in Need Steering Group Jan 06***

## Private Fostering - Procedures

### 1. Enquiry / Information

May be received by either intake or AFT or may relate to a case already open to a Caseholding Team. **It is essential that each team is kept informed by the other regarding any private fostering arrangement.**

Action	By	Relevant Forms / Letters	Notes
Take referral	Duty Officer / Social Worker	Referral Form	Notification must be given at least 6 weeks before the start of placement, or immediately if child already placed
Give advice & information	Duty Officer / Social Worker		
Consider any immediate action required to safeguard child	Duty Officer / Social Worker		
Record on SWIFT	Team admin		See SWIFT procedures
Pass copy of referral to intake / AFT	Duty Officer / Social Worker		
Check NS records	Team admin		
Send out notification forms, declaration forms & leaflets to prospective carer / parents or others with PR / 3 <sup>rd</sup> party involved in making arrangements	AFT Team admin	Notification NSPF1 Declaration NSPF2 DfES leaflets	Reg 3 or if child already with carer, Reg 5 or 6

## 2. Notification

<b>Action</b>	<b>By</b>	<b>Relevant Forms / Letters</b>	<b>Notes</b>
Notification form received by AFT - copy to Intake / CC Team	AFT Admin		Reg 3
Send acknowledgement letter & information pack	AFT admin	NSPF3 Information pack	
Record on SWIFT	Child - Intake admin Carer - AFT admin		
Allocate to CC SW and AFT SW for visits	Intake TM & AFT TM		Visits must be made within 7 working days of notification
Inform health, education & GP of placement	AFT admin	Letter	

## 3. Visits & Assessments

<b>Action</b>	<b>By</b>	<b>Relevant Forms / Letters</b>	<b>Notes</b>
Visit carer <u>within 7 working days</u> & complete report (all members of household to be seen)	AFT Social Worker	Assessment NSPF 5(a) report	Reg 4 or 7 Visits must be made within 7 working days of notification
Record visit on SWIFT	AFT Social Worker & admin		See SWIFT procedures
Visit child <u>within 7 working days</u> & complete report. Child to be seen alone unless	Intake or CC Social Worker	Assessment NSPF 5(b) report	Reg 4 or 7 Visits must be made within 7 working days of notification

<p>considered inappropriate</p> <p>Record visit on SWIFT</p> <p>Speak to &amp; visit if practicable every parent or person with parental responsibility <u>within 7 working days</u></p> <p>Consider whether action required to safeguard child / prohibit placement <i>if yes see section 7 below</i></p> <p>Initiate CRB checks on all members of household 16 yrs +</p>	<p>Intake / CC Social Worker / admin</p> <p>CC Social Worker</p> <p>CC &amp; AFT Social Worker with TM's</p> <p>AFT Social Worker</p>	<p>CRB forms &amp; letter</p>	<p>See SWIFT procedures</p> <p>Reg 4 or 7 Contact within 7 working days</p> <p>Child protection procedures apply</p>
<p>Send for checks with appropriate GP, HV, &amp; schools</p>	<p>AFT admin</p>	<p>Checks NSPF6</p>	
<p>CC / AFT sections of report to be signed by TM</p>	<p>CC / AFT TM's</p>		
<p>Joint report to Service Manager for signature</p>			
<p>Suitability of placement agreed</p>	<p>SM</p>		
<p>Letter to Carer</p>	<p>AFT admin</p>	<p>Letter</p>	
<p>Letter to parents</p>	<p>AFT admin</p>	<p>Letter</p>	
<p>Inform Health, Education, parents &amp; GP</p> <p>Case transfer from Intake to CC team</p>	<p>AFT admin</p> <p>Intake TM</p>	<p>Letter</p>	

#### **4. Subsequent Visits**

<b>Action</b>	<b>By</b>	<b>Relevant Forms / Letters</b>	<b>Notes</b>
Visit child at least every 6 weeks in 1 <sup>st</sup> year and at least every 12 weeks thereafter or when reasonably requested by child or carer. Child to be seen alone on each visit unless considered inappropriate	CCSW		Reg 8
Complete report	CCSW	Report NSPF7	Reg 7, Sch 3 or regulation
Each visit to be recorded on SWIFT	CCSW		See SWIFT procedures
Maintain contact with parent/s of child & provide advice / support on necessary	CCSW		
Visit carer at least every 3 months or when reasonably requested to provide advice & support	AFT SW		NS requirement

#### **5. Notification of Change of Circumstances**

<b>Action</b>	<b>By</b>	<b>Relevant Forms / Letters</b>	<b>Notes</b>
Private foster carer must inform of changes of circumstances		NSPF8	Reg 9 Relevant information & forms in information pack sent to carer on notification

Consider action required re change of circumstances	CCSW		
Enter on SWIFT	CC admin		See SWIFT procedures
If change of address to another LA area inform that authority of the move	CCSW	NSPF9	Reg 9
Parents of child must inform of change of own address		NSPF8	Reg 9 Relevant information & forms in information pack
Enter on SWIFT	CC admin		See SWIFT procedures
In the event of death of child, carer must notify LA immediately		NSPF8	Reg 10
Enter on SWIFT	CC admin		See SWIFT procedures
Inform parents immediately	CC SW		
Consider action under CP procedures	CCSW / TM		

## R

### **6. Notification of End of Placement**

<b>Action</b>	<b>By</b>	<b>Relevant Forms / Letters</b>	<b>Notes</b>
Carer & parent/s must notify LA of ending of placement within 48 hours & include name & address of person now caring for child		NSPF8	Reg 10 Relevant information & forms in information pack
Enter on SWIFT	CC admin AFT admin		See SWIFT procedures

## **7. Restrictions / Prohibitions**

<b>Action</b>	<b>By</b>	<b>Relevant Forms / Letters</b>	<b>Notes</b>
<p>If visits to child / carer indicate risks to child, pursue child protection enquiries &amp; inform parents immediately</p> <p>If there are not immediate risks but placement appears unsuitable, discuss with TM and AFT SW. Contact &amp; inform parents immediately, and follow up with letter</p> <p>Seek legal advice re requirements / prohibitions</p>	<p>CC SW &amp; TM</p> <p>CC SW</p> <p>AFT SW / TM</p>	<p>Letter</p>	
<p>Further visits as necessary to gather additional information &amp; complete core assessment</p>	<p>CC SW</p>		
<p>Decision re requirements / prohibition <u>within 42 working days</u> of notification</p>	<p>SM</p>		
<p>Letter to carer &amp; parents</p>	<p>AFT SW</p>	<p>Letter</p>	
<p>Inform Health, Education &amp; GP</p>	<p>AFT admin</p>	<p>Letter</p>	

***Ratified by Children in Need Steering Group Jan 06***

# Private Fostering Procedures

