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Partnership working when considering moving children from stable foster care

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Background

In 2015, NAFP carried out research in England and Wales that resulted in the publication of guidance in relation to fostering arrangements undermined for seemingly financial reasons (1). Nevertheless, there continue to be reports around the United Kingdom of pressure placed on otherwise stable fostering arrangements with foster carers from the independent sector. The earlier guidance made reference to the detrimental effects this has on children and how this undermines the chances of success for the children placed. In addition to revisiting this kind of pressure placed on stable fostering arrangements, this latest good practice guidance now also considers whether children and young people are adequately consulted in these matters.

Independent Reviewing Officers (IROs) conduct regular reviews of children who are in the care of a local authority. They make an important and necessary contribution to ensuring children's experience of care (through care planning) is consistent with a child's needs, that their goals and aspirations are taken into account, and make recommendations to improve outcomes for children ensuring that the child's wishes and feelings are fully considered. The previous research offered support and guidance to enable IROs to be the voice for children (2) and to be a truly independent advocate in what continues to be hugely challenging times for children's services. There continues to be a debate about the level of true independence IROs can have whilst they are predominantly employees of the local authority,

however the argument may be that they do not hold day to day case management.

NAFP's 2015 review still offers sensible and proportionate guidance, especially for IROs and should be used in conjunction with this updated good practice guide, which is centred around:

- when moving children might be considered
- when a move should not be considered
- listening to children, and
- the process that should be followed if alternative care arrangements are being made

This 2022 guidance is intended to remind practitioners of the importance of working together to ensure the best possible decisions can be made for children, that are made with their best interests in mind and which do not disrupt any current care arrangements, including the commitment of foster carers that are willing and able to meet these needs and enable children to flourish. Which fostering service a carer/s chooses to foster for, should not be part of the care planning consideration.

Foster carers should be empowered to make the best informed choices and decisions for them, their family and the children they care for.

A very important point to introduce is how the placing local authority and independent fostering agency (IFA) work together in a transparent, honest and planned way to ensure that the best possible outcomes can be achieved for children.

In March 2021, there were 317 registered IFA branches across England. (4). This is an increase of 6% from March 2020. Ofsted reports 94% of IFA's have a good or outstanding judgement. Although there is always room for improvement, this highlights the value and importance of the independent sector, the care placements currently available, and the standard of their support and care to their foster carers and children who they have the privilege to care for.

2022 marks 33 years since the Children Act 1989, legislation that promoted a "sense of security, continuity, commitment, identity and belonging" for children in care. This is an important message and should be at the heart of any decision making.

The importance of recruitment and retention: The State of the Nation's Foster Care 2021 states (3):

"Recruiting and retaining sufficient foster carers with the right skillset to support vulnerable children continues to pose a problem for local authorities, trusts and independent fostering agencies, too many looked after children are experiencing multiple moves, which impacts on their attachments and development. Half of foster carers had experienced one or more children leave their care in the past two years and over a third of foster carers stated that the last planned move for a child they cared for was not preceded by a care planning review."

"Nearly 70,000 children live with almost 56,000 foster families across the UK each day. This is nearly three-quarters of the 97,000 children in care away from home on any one day in the UK."

There is a well documented national shortage of foster carers. For every approval of a fostering family, it should be acknowledged that there is one additional loving home available for children at a time needed. Retention of foster

carers should be a priority for the entire fostering sector and we should aim to reduce the number of carers choosing to leave fostering prematurely, feeling disillusioned, or their focus of fostering children being disrupted by the kind of poor practice identified in NAFP's 2015 report. The result of this is likely to contribute to the ongoing sufficiency issue.

Recruitment and retention between 2020 and 2021 among IFA services has led to a net increase in capacity: 525 additional households and 765 additional places (4).

It should be celebrated when the "right match" is found and there should be no attempts to entice foster carers from an agency for whom they have chosen to foster. There should be no discussions that indicate a child may be moved if a foster carer does not consider alternative plans, such as becoming a foster carer for an alternative fostering provider (including the local authority), or if they do not choose to terminate their role as a foster carer to take on alternative options such as Special Guardianship Order (SGO).(5) Those that consider becoming a foster carer have often undertaken significant research into why fostering is the best option for them. They consider the value that a fostering agency can bring in relation to support, learning and development, out of hours support, having a "connection" to other carers etc.

Where it is assessed by a local authority, through a care planning process, that a child would benefit from an alternative family arrangement, this should be transparent and shared with the fostering agency as well as foster carers, through discussions together. The process will be considered later in this guidance.

The key legislation for England and Wales underpinning decisions about children in care is the Children Act 1989 (England and Wales).

Legislation, regulations and guidance that support decision making

This act has been significantly amended by various pieces of subsequent legislation. Of recent importance are the Adoption & Children Act 2002, the Children and Young Persons Act 2008 and the Children Act 2013.

The most recent relevant regulations are the Care Planning Placement and Case Review (England) Regulations 2010.

The associated guidance to the Children Act 1989 Guidance and Regulations. Volume 2: Care Planning, Placement and Review. This guidance has been updated to take account of subsequent legislation and regulations.

The Care Planning Placement and Case Review (England) Regulations 2010 (henceforth the Regulations). Sections 4 to 14 of the regulations set out requirements for care planning and placement choice. They generally set out the requirement that care plans and associated placements must be based on proper assessments of the children's needs and that any plans and placements must meet those needs. These requirements are set out in more detail in the Volume 2 guidance.

The authority must, (if unable to place the child with someone with parental responsibility) place the child in *"the placement which is in their opinion, the most appropriate placement available"* (S22C (5)) Guidance about the meaning of the word *"appropriate"* is given (S22C (7) to (9)), but this guidance makes no mention of cost being a consideration in the decision making process.

Guidance

The Children Act, 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review, henceforth the guidance.

The guidance spells out in more detail the implications of the requirements set out in law and regulations. Para 1.5 sets out broad principles. In particular:

- *"continuity of relationships is important and attachments should be respected, sustained and developed."*
- Bullet 6 states *"a change of home, carer, social worker or school almost always carries some risk to a child's development and welfare"*
- the local authority must *"so far as reasonably practical ascertain the wishes and feelings of the child..."* Any decision in relation to the child should give due consideration to those wishes and feelings having regard to the child's age and understanding.

Chapter 2 covers care planning. Permanence is a central consideration and is set out in para 2.3.

"Permanence is the framework of emotional permanence (attachment), physical permanence (stability) and legal permanence (the carer has parental responsibility for the child) which gives a child a sense of security, continuity, commitment and identity. The object of planning for permanence is therefore to ensure that children have a secure, stable and loving family to support them through childhood and beyond. Permanence provides an underpinning

framework for all social work with children and families. One of the key functions of the care plan is to ensure that each child has a plan for permanence by the time of the second review. Achieving permanence for a child will be a key consideration from the day the child becomes looked after”.

In our view, it follows that any plan that threatens to disrupt a stable placement arrangement against the child’s wishes, where the child has made secure attachments, would be contrary to guidance and regulations and would be unlawful.

Regulation for care planning for children in Scotland is underpinned by the Guidance on Looked After Children (Scotland) Regulations 2009. Regulations 3-5 include arrangements for the effective and transparent procedures for children. Regulation 5 and schedule 2 outline the managements for the Child’s Plan.

In summary, for the purposes of best practice, it can be safely said that law, regulations and guidance require that in planning and decision making about children who need to be in care should evidence how:

- The welfare of the child should be the primary consideration
- The wishes and feelings of the child must be given central consideration
- The most “appropriate” placement must be made
- Achieving permanence is of the greatest importance (of which long term foster care is part of)
- Promoting and sustaining affectionate relationships with reliable and trustworthy adults is essential

Child focused planning

The active participation of children in decisions made for and about them Section 22(4) of the 1989 Act, consistent with Article 12 of the UN Convention on the Rights of the Child (UNCRC), provides that, before making any decision with respect to a child whom the local authority are looking after or proposing to look after, the authority must, so far as reasonably practicable, ascertain the wishes and feelings of the child. Section 22(5) provides that, in making any decision in relation to the child, it should give due consideration to those wishes and feelings, having regard to the child's age and understanding.

Children should feel that they are active participants and engaged in the process when adults are trying to solve problems and make decisions about them. When plans are being made for the child's future, they are likely to feel less fearful if they understand what is happening and have been listened to from the beginning. Close involvement will make it more likely that they feel some ownership of what is happening and it may help to understand the purpose of services or other support being provided to them, their family and carer.

[The Promise and the Children \(Scotland\) Act 1995](#) states in its overarching principles that *"the welfare of the child must be paramount and that the child's views should be taken into account in all matters affecting them"*. These principles are underpinned by the UNCRC.

The National Minimum Standards 2011 (NMS) England Child Focused Standards (Values/principles and Standard 1), clearly talks of *"children's views, wishes and feelings are acted upon"* *"children understand how their views have been taken into account"*. *"children communicate their views on all aspects of their care and support"* and *"the central importance of the child's relationship with their foster carer should be acknowledged and foster carers should be recognised as a core member of the team around the child"*

The main message within this guidance is that the voice of children in their future plans is paramount and that foster carers should be empowered to care for children, offering more than *"good enough parenting"* *"children in foster care deserve to be treated as a good parent would treat their own children and to have the opportunity for as full an experience of family life and childhood as possible without unnecessary restrictions"* (Values/Principles NMS11).

If there is strong evidence that this is in place then the impact of moving children may not be within their interests, especially where there is continued evidence of how children are thriving under the current arrangements.

Care options for children

It might be that a child lives very temporarily with foster carers through an emergency situation and their care plan has not been finalised at this point. Children may return home, or an alternative carer found through a family and friend arrangement (kinship care/connected carers/family and friends). However, there are many times where the existing foster carers are asked to carry on fostering a child in a “short term” (6) way whilst care planning is ongoing.

Through the care planning process, including child looked after reviews, decisions are likely to be made for when the options above are not available. A range of options for permanence exist, all of which can deliver excellent outcomes for individual children. For many children, permanence is achieved through a successful return to their birth family, where it has been possible to address the factors in family life which led to the child becoming looked after.

For other children, routes to permanence outside the care system may include:

- **family and friends care**, particularly where such care can be supported by a legal order such as a child arrangement order, special guardianship order or in a few cases, adoption;
- **adoption**, which for many children can offer the best route to a lifelong and legally permanent new family. Twin track or parallel planning, including concurrent planning, may provide a means to securing permanence by adoption at an early stage for some children;

- **other non-family and friends carers (including foster carers)** supported by a legal order such as a child arrangement order or special guardianship order.

For children who remain looked after, an important route to permanence is long term foster care. Where the permanence plan for the child is long-term foster care this may be where the current short term placement is assessed to meet the long term needs of the child for permanence or where a new placement is identified for the child as a result of an assessment and matching process.

Where long term fostering is considered the most suitable option (and not considered as a “last resort”, this is clearly not the intention of long term foster care, it should be considered as a suitable option / type alongside others), the local authority should have prepared a placement plan in partnership with the fostering service which has established how the child’s welfare will be promoted. This is monitored through the child’s own reviews and should there need to be a change to the child’s care plan, this should be considered and agreed with clear reasons prior to any decisions being made to change the placement agreement.

A closing point to this section is understanding “relational permanence”, irrespective of placement type. Physical permanence involves the young person living continuously with the same caregivers, and relational permanence reflects the young person’s enduring parent like connection to caring adults (Semanchin Jones & LaLiberte, 2013) (7).

Although long term foster care had been recognised as a legitimate permanence option in policy and care planning guidance since the 1980s, it was only in 2015 that the Government introduced the first regulations and guidance for long-term foster care in England. This followed wide consultation and detailed development with an expert working group of stakeholders (2013-15). The new regulations and guidance drew on a range of research suggesting that long-term foster care could be a successful permanence option for children. However, success depended on a number of factors: timely care planning; knowledgeable and skilled assessment of children's developmental needs; ascertaining children's wishes and feelings; availability of committed and well supported foster carers; rigorous systems and practice for matching children with current or new foster carers assessed as able to meet the child's needs in the longer term; sensitive work in partnership with birth families; and multi-agency support plans. It was also necessary to develop the role of long-term foster care alongside legal options for permanence outside the birth family through adoption or a special guardianship order (SGO), see the guidance in relation to this below, Planning and supporting permanence in long-term foster care (8).

Best practice when considering options for children

The following process is intended to support transparency and partnership working:

- a) Where there may be considerations about moving children, early discussions should be encouraged through the relevant care planning process to identify the best possible outcome for the child and consideration to the progress they are making within their current foster placement. The fostering agency and their carers should be involved in the planning to ensure things can be achieved in a supported and planned way. This enables the child to transfer to their identified carer in a positive way. The fostering provider must be kept fully informed to ensure they can support their foster carer through the process, encourage "good goodbyes" and support the carers through their loss. *"Social workers did not appreciate the importance of these relationships and that their commitment to continued connection was either overlooked or actively discouraged" - a recognition of the importance of a child's relationship with their foster family, the need to ensure that this relationship is not ended abruptly, and that maintaining contact after a fostered child moves on should be routinely considered part of the role of a foster carer. (The Fostering Network)*
- b) Where the above is unable to be achieved in an identified timeframe, the local authority might have to consider the next best option for children to prevent ongoing delay (usually in line with two reviews), again this should be a transparent process involving the fostering agency and their carers as well as the carers, own and /or foster children (if appropriate).
- c) A best practice meeting in relation to a child's future care should be held between the placing local authority, the fostering provider and the foster carers to consider options and to introduce discussions about how the foster carer might be considered to meet a child's needs until adulthood.
- d) Where a fully assessed care plan states why long term fostering is not within the best interests of a child, the foster carer should be provided with all the information required for them to consider alternative possibilities, such as Special Guardianship Orders (SGO). The meeting should clearly outline why this is the best option and how this will differ from their current fostering arrangements with their provider. The meeting should include representation from the placing local authority alongside the fostering provider who has a "duty of care" to the foster carer.
- e) All best practice meetings in relation to a child's future care should be minuted with clear discussion points that record any positives, vulnerabilities, concerns and worries that have been identified and how they might be overcome. This provides a record of decision making which children have a right to see if they choose to access this information at some point within their lives (see example of a template to capture the minutes - appendix 11).

- f) There should be a further best practice review meeting scheduled to enable the foster carer and their family to have some protected time to consider what is being asked of them. There should be no discussions with the foster carer by the local authority outside of this process as the foster carer must be given the permission to make a *fully informed decision without judgement, or under pressure that a child may be removed from their care if an alternative arrangement is not agreed*. The priority needs to be the child and how their needs are being met, and how their needs will continue to be prioritised. The child's wishes and feelings must be evident throughout.
- g) Where a foster carer is offering long term foster care this should be seen as a permanence option, this is a legitimate and often most suitable option for children, their families and carers and may be the best option to ensure ongoing support, stability of children and retention of foster carers, who may go on to foster other children in the future, supporting sufficiency within the sector.
- h) Working in true partnership is likely to improve sufficiency in the sector through word of mouth and positive supportive experiences of fostering. Carers should not be asked to become a foster carer for an alternative fostering provider (including the placing local authority), unless this is agreed by all as the most suitable option. A clear message should be given that fostering remains the most suitable option, then this will be celebrated and supported by all concerned. The meeting should introduce a plan and timescales for the match and how this can be celebrated with the child (bearing in mind that some children might not wish for a celebration).
- i) The fostering agency should ensure that the foster carer has been assessed and approved at their own fostering panel prior to the match being agreed, as per the fostering regulations.
- j) The placing local authority can then proceed to present the match at their own local authority's permanence/fostering panel (see NAFP guidance in relation to sharing foster carer information for matching purposes (9)).
- k) Should the above not have taken place and foster carers feel pressured to make alternative decisions, this should be challenged directly to the local authority (in writing). It needs to be recognised that this may result in disruption for children where they have been moved from stable loving families without evidence that this is the best option for them. The fostering agency should also signpost the foster carers to independent advisory support where the above has taken place / has not been resolved.
- l) There is a difference where foster carers may choose to apply and move to an alternative fostering service following their own research. The foster carer should be encouraged to discuss this intention with their own agency at the first opportunity to ensure good practice can be maintained. This document is not intending to interrupt this process as foster carers have a right to apply to whoever they feel is the most suitable fostering provider for them. Where a foster carer has chosen to approach an alternative fostering agency or local authority to enquire about transferring there is a clear transfer protocol (10).

Additional supportive guidance to support the above/reference points

- (1) [Placement disruption, A review of cases of children in care in England and Wales where stable placements are threatened for financial reasons, NAFP 5 May 2015](#)
- (2) [IRO - handbook designed to inform children and young people of the role Young people's guide to the independent reviewing officers' handbook](#)
- (3) State of the Nation's Foster Care 2021
- (4) [Fostering in England 2020 to 2021: main findings - GOV.UK](#)
- (5) A Special Guardianship Order (SGO) is an order appointing one or more people as Special Guardian to a child and in doing so, secures the child's home with them and grants them parental responsibility. Special Guardianship

Orders leave existing family relationships intact, meaning that the birth mother and father are still legally the parents. SGO is an alternative legal status for children that offers greater security than long-term fostering but without the absolute legal severance from the birth family that stems from an adoption order. *Special guardianship guidance*
- (6) Short term definition - "looking after children for a few weeks or months while plans are being made for their future" <https://www.gov.uk/becoming-foster-parent/types-of-foster-care>
- (7) [The extent of stability and relational permanence achieved for young children in care in Northern Ireland \(2018\) Queen's University Belfast](#)
- (8) [Planning and supporting permanence in long-term foster care, An investigation of the implementation in England of the first regulations and guidance for long-term foster care as a permanence option \(Department for Education 2015\) Nuffield Foundation](#)
- (9) <https://www.nafp.org.uk/resources/information-about-foster-carers-provided-for-matching-purposes>
- (10) [Transfer of foster carers protocol England \(2014\) \(Reviewed 2019\)](#)
- (11) [Best practice meeting in relation to planning for children \(NAFP Aug 22\)](#)

Post: PO Box 47299, London W7 9BH

Email: contactus@nafp.co.uk

Web: www.nafp.org.uk

Facebook: www.facebook.com/theNAFP

Twitter: www.twitter.com/theNAFP

Registered as a company in England & Wales no. 06717310

Registered office: Unit 2A, The Old Bakery Yard, Princes Street, Corbridge, Northumberland NE45 5AD