



Private Fostering

Practice Guide
for Social Care Staff

January 2014

1. Definition of a Private Fostering Arrangement

1.1 In the definition provided by The Children Act 1989, a privately fostered child means:

A child, under the age of 16 (under 18 if disabled) who is cared for, or proposed to be cared for, and provided with accommodation by someone other than:

- Their parent;
- A person who is not a parent of the child but who has parental responsibility for them;
- A close relative of the child, i.e. a close relative is defined as an aunt / uncle / step-parent / grandparent / sibling but **not** a cousin or great-aunt/ uncle;

And the child has been cared for and accommodated by that person for 28 days or more; **or**

The period of actual fostering is less than 28 days but the private foster carer intends to foster the child for a period of 28 days or more.

1.2 If the child is away from placement for more than 27 days it **ceases** to be a private fostering arrangement.

1.3 A child is **not** privately fostered if:

- The person caring for the child has done so for a period of less than 28 days and does not intend to do so for any longer than 28 days.
- The arrangement has been made by the Local Authority. In these circumstances the child may be Looked After.
- The child has been abandoned, or there is no one with parental responsibility. Children who are found to have no responsible parent may need to be accommodated.

1.4 For the purposes of this document, a parent includes unmarried or putative father. Relative means whether by full, half-blood or by affinity or step parent. Affinity refers to the relationship resulting from marriage, between the husband and the blood relations of the wife and also between the wife and the blood relations of the husband. Step parent means step-parent through marriage or civil partnership.

1.5 An arrangement is deemed as private fostering if it meets the above criteria. A privately fostered child is **not** Looked After by the Local Authority. Parents and/or others with parental responsibility for the child retain and exercise full parental responsibility. They make the arrangements with the private foster carer for the child to be privately fostered. Parents often pay the private foster carer for caring for their child, but even where no payment is made, the arrangement is still a private fostering arrangement.

2. **Notifications**

- 2.1 A person who is planning to foster a child privately must notify the local authority at least 6 weeks before the start of the arrangement. If the planned start date is less than 6 weeks away, the notification must be sent immediately. If the arrangement has already started, the notification must be sent immediately.
- 2.2 Any person, including the parent of a child, who is directly or indirectly involved in arranging for a child to be privately fostered, must notify the local authority as soon as possible after the arrangement has been made.
- 2.3 A parent or other person with parental responsibility who is not involved in arranging for their child to be privately fostered but knows that such arrangements are being proposed, must notify the local authority of the proposal as soon as possible.
- 2.4 When notification has been given of a proposed private fostering, then a further notification must be sent by the private foster carer when the child moves in with them and this must be done within 48 hours of the start of the arrangement.
- 2.5 Similarly, parents and other people who have notified the local authority in advance must also notify the local authority

3. **The Local Authority Duty to Assess the Privately Fostered Child**

- 3.1 The Local Authority has a duty to assess the suitability of a private fostering arrangement within **45 working days** of notification, or as soon as the outcome of the DBS checks is known, whichever is the sooner.
- 3.2 Local Authorities are under a legal duty to ensure that the welfare of a privately fostered child is being promoted and safeguarded and therefore are required to undertake assessments of proposed and current private fostering arrangements. The purpose is to assess the capacity of the private foster carer to look after the child adequately. Where assessments are being carried out on existing arrangements, the purpose will be to decide if the arrangements are safeguarding and promoting the child's welfare, and what action needs to be taken if the child's needs are not being met.
- 3.3 **Allocation and Initial Actions**
- 3.4 If a child is an active case or has been an active case within the last three months, the allocated team will maintain responsibility. In all other circumstances the referral will be passed to the appropriate safeguarding, assessment and support team for allocation.
- 3.5 Within **7 working days** of notification the allocated team manager will arrange for a qualified social worker to:
 - Visit the premises where it is proposed that the child will be cared for and accommodated;

- Visit and speak to the proposed private foster carers and all members of the household giving information, including an information leaflet, regarding private fostering;
 - Visit and speak to the child and provide information, including an information leaflet on private fostering, or record why this is not appropriate;
 - Speak to, and if practicable, visit every parent of or person with parental responsibility for the child and provide information including an information leaflet;
 - Consider whether the direct provision of services or a referral to another agency might remove the need for the child to be privately fostered and take action as appropriate.
- 3.6 If it appears that the private fostering arrangement is not going to meet the needs of the child, then the social worker should take reasonable steps to secure a more satisfactory alternative. The child's parent (s) or other person with parental responsibility should be fully involved in planning the alternative. If this is not possible, the social worker should act in the best interests of the child.
- 3.7 These initial actions will form the basis of the single assessment to determine the suitability of the private fostering placement. The assessment should be carried out under the single assessment framework (maximum 45 working days) and should include the following specific components as detailed below.
- 3.8 **Assessment of the Child**
- 3.9 Assessment of the child should look at:
- ❖ Their developmental needs and progress;
 - ❖ The quality and permanence of previous care and relationships;
 - ❖ How separation and loss are being dealt with (parents and carers may need advice on the impact of separation), and any arrangements for contact;
 - ❖ Their sense of self worth, self image and identity;
 - ❖ Their cultural, linguistic and religious needs and how these will be met;
 - ❖ Their wishes and feelings regarding the private fostering arrangement;
 - ❖ Their health needs, social worker should ensure that parents provide the private foster carers with adequate information about the child's health and are informed of any treatment the child is receiving. A written agreement should be drawn up between the parents and the private foster carers that enables the carer to consent to medical examinations and treatment;
 - ❖ Where a privately fostered child has come from abroad, the social worker should actively investigate their immigration status via a Home Office check, and take any necessary steps to ensure that where applicable an application is made on the child's behalf.
- 3.10 The child should be seen alone. If they are not seen alone the reason for this should be recorded on the assessment record and the Team Manager notified.
- 3.11 Children with verbal communication difficulties should be enabled to use a preferred method of communication and where English is not the child's first language, an interpreter who is independent of either parent or the carer should be used.

3.12 **Assessment of the Private Foster Carer**

3.13 Assessment of the Private Foster Carer should look at:

- ❖ Their capacity to look after the child, including their capacity to enable the child to continue to have contact with people from their own race, religion or culture;
- ❖ The suitability of their accommodation, including any health and safety risks and sleeping arrangements;
- ❖ The suitability of household members;
- ❖ Whether they are able to provide a safe and stable environment for the child, including their views on discipline.

3.14 The social worker should meet with the Private Foster Carer and all members of the household who are living at the placement, as part of the assessment process.

3.15 The social worker should also obtain one personal reference from outside the prospective foster carers family.

3.16 The assessment must include the following checks on the foster carer, members of the household above 16 years of age and frequent visitors to the household above 16 years of age.

- ❖ Police checks – Enhanced DBS (written consent must be provided before police checks are made)
- ❖ Other local authorities in which they have lived in the last 5 years, child minding and nursery checks (to check for any disqualifications);
- ❖ Hartlepool’s own records.

3.17 When the assessment is complete, the social worker and team manager should make a recommendation about the overall suitability of the private fostering arrangement. If the assessment has concluded that the proposed private foster carer is not suitable to privately foster a child and/or the proposed foster carer will not safeguard and promote the welfare of the child, legal advice should be sought.

3.18 Private fostering arrangements should be recorded on ICS within the process provided

4. **Ratification of Private Fostering Arrangements**

4.1 All private fostering arrangements must be presented to and considered by the Child Planning Panel.

4.2 The completed assessment document and other relevant paperwork should be presented to the Child Planning Panel for ratification of the private fostering arrangement. The Panel will make a decision about the suitability of the placement and whether additional resources are needed.

4.3 The Child Planning Panel will have particular regard to the following:

- Whether the case meets the definition of private fostering;
 - Whether the private fostering arrangements meet the needs of the child;
 - Whether any other Children Act intervention is required.
- 4.4 If the child is in need, a Child in Need plan must be drawn up, identifying how the arrangement will support the child's needs and specifying any other support and services that are to be provided.
- 4.5 The Child Planning Panel will review all Private Fostering arrangements on an annual basis. The social worker will submit to the panel the most recent assessment, with a recommendation regarding the continuing suitability of the arrangement.
- 4.6 The Panel has delegated authority to:
- Impose requirements on private foster carers;
 - Impose a prohibition;
 - Permit disqualified carers to be private foster carers. (see section 7)
- 4.7 The Chair of the Child Planning Panel must notify the Safeguarding and Review Manager and Private Fostering officer of any decision regarding the above and the decision will be subject to Safeguarding scrutiny.
- 4.8 Prospective private foster carers, parents and children of sufficient age must be notified in writing by the Chair of the Placement Panel of these decisions, including where appropriate their right to appeal.

5. **Safeguarding the Privately Fostered Child**

- 5.1 Every privately fostered child will have an allocated social worker. The social worker will visit the placement in accordance with statutory requirements and make additional visits on reasonable request. The statutory requirement is within **seven days** of the start of the arrangement, then **every six weeks for the first year, and thereafter every twelve weeks**. The child will be seen alone, and in appropriate cases an interpreter will be provided.
- 5.2 Private foster carers will be advised of their responsibility to notify the Local Authority in advance of changes of circumstances i.e.
- Change of address;
 - An offence of which they or a person who is part of, or employed at, their household has been convicted;
 - A disqualification imposed in them or a person who is a part of, or employed at, their household under S68 Children Act 1989;
 - A person who begins to be part of, or employed at, their household, and any offence of which that person has been convicted and any disqualification or prohibition imposed on them under S68 or S69 of the Children Act 1989;
 - A person who ceases to be part of, or employed at, their household.
- 5.3 If the change of address is to another Local Authority the social worker will pass all relevant details of the arrangement to the new authority, and carers will be advised of their responsibility to notify the new authority.

- 5.4 Parents and private foster carers will be advised of their responsibility to notify the Local Authority, in advance, when the placement ends, including the details of the person who has taken over the child's care.
- 5.5 If a privately fostered child dies, the carers must inform the Local Authority, and the social worker must ensure the parents are made aware. Regardless of the circumstances, the Assistant Director, Children's Services, must be notified.
- 5.6 Parents will be advised that they continue to hold over arching responsibility for the child's well-being, and that they must notify Hartlepool Borough Council of any change of address or contact details.
- 5.7 Any child protection concerns that are raised in respect of a privately fostered child will be followed up in accordance with the Tees Child Protection Procedures. The child's parents must be kept fully informed.
- 5.8 In circumstances where private foster carers are failing to meet the child's needs the case will be referred back to the Child Planning Panel or a child protection/section 47 enquiry initiated to consider imposing requirements or a prohibition and to assess if the child's needs are being met. If the placement breaks down, the parents are expected to make an alternative arrangement or return the child back home. The use of local authority accommodation should be the final resort when no other safe alternative is available.

6. Information and Support to Privately Fostered Children

- 6.1 Privately Fostered children will be provided with information about:
- The meaning of Private Fostering, the private foster carer's responsibilities and the child's right to be safeguarded;
 - Their right to speak openly about their experience and to inform the social worker where they are unhappy about any aspect of their care;
 - Help in dealing with separation and problems with identity when they move to the placement, particularly when they are from a different culture to their carer;
 - Advocacy services if they are a child in need;
 - Eligibility for adult services, if they are disabled;
 - Leaving care arrangements, if they are a "qualifying" child, (see Hartlepool's Leaving Care Policy)

7. Imposing Requirements, Prohibitions and Disqualification on Private Fostering Arrangements

7.1 Requirements

- 7.2 These can relate to an individual child or a category of children, for example those over a certain age. The usual fostering limit of not more than three children in any household applies to private fostering although exemptions might be requested. Private foster carers who are looking after more than 3 children must have an exemption from Assistant Director, Children's Services or they will be treated as

running a children's home. This would require them to register the home under Care Standards (2000) and failure to register is an offence. It is the responsibility of the social worker and the Chair of the Child Planning Panel to ensure the exemption is agreed.

- 7.3 Legal advice must be obtained before any requirements are imposed. Requirements can be imposed as to:
- Number, age and sex of the children who may be privately fostered;
 - Standard accommodation and equipment to be provided for them;
 - Arrangements to be made in respect to their health and safety;
 - Arrangements which must be made with respect to the provision of care for privately fostered children.
- 7.4 Where it is considered in the child's best interests, efforts should be made to provide support and advice to address any concerns regarding the private fostering arrangement which enable the child to remain with the private foster carer.
- 7.5 Any imposition of requirements must be notified in writing to the private foster carer together with the reasons for the imposition, the right of appeal and the time limit for doing so. The appeal is made to the Family Proceedings Court and must be made within 14 days from the date of the written notification of requirements was received by the carer.
- 7.6 A requirement does not have effect while an appeal is pending.
- 7.7 **Prohibitions**
- 7.8 The Local Authority has the power to impose a prohibition on a person applying to be a private foster carer as well as those currently privately fostering a child or children. A prohibition may be imposed if, having followed relevant procedures and attempted to negotiate with the private foster carer, the local authority is of the view that:
- They are not suitable to privately a child;
 - The premises are not suitable for private fostering;
 - It would be prejudicial to the welfare of the child for them to be, or to continue to be, accommodated by that person in those premises.
- 7.9 The Local Authority can prohibit a person from privately fostering:
- Any child in any premises;
 - Any child in specified premises;
 - A particular child in specified premises.
- 7.10 The recommendation for a prohibition should be presented in a report to the Child Planning Panel. The Chair of the Panel will arrange for a legal advisor to attend the Panel when the recommendation is discussed. The Panel will consider the situation and with the benefit of legal advice will determine if a prohibition is required in that case.
- 7.11 A prohibition must be notified in writing together with the reasons for the imposition, the right of appeal and the time limit for doing so. Any appeal has to be made to the Family Proceedings Court within 14 days of notification of that decision. The written

notice is the responsibility of the Local Authority solicitor but must have the agreement of the Assistant Director for Children's Services.

7.12 In the event that immediate action is needed, a Head of Business Unit should determine, following legal advice and discussion with Assistant Director for Children's Services if a prohibition is justified. Where a child is already being fostered, the parents should be advised to remove the child. If they refuse, consideration should be given to the grounds for the Local Authority to seek an order to remove the child.

7.13 The Local Authority may, following legal advice, cancel a prohibition if satisfied that it is no longer justified.

7.14 Where a prohibition has been imposed the person is disqualified from:

- Private fostering;
- Working in a children's home;
- Day care or child minding.

7.15 **Disqualification**

7.16 Disqualification from being a private foster carer is covered by the Disqualification from Caring for Children (England) Regulations 2002.

7.17 The Local Authority must make appropriate enquiries to determine whether or not the proposed or actual private foster carer or any member of their household is disqualified. If this is the case, normally, any private fostering arrangement should not proceed. In exceptional circumstances the Local Authority may feel it is appropriate for a child to either remain or be placed with someone disqualified. In this event the decision must be ratified by Assistant Director, Children's Services, who must give their written consent and reasons why this decision has been made.

7.18 **Prosecution**

7.19 The Local Authority may prosecute private foster carers for the following offences:

- Persistent and flagrant failure to notify the authority of private fostering arrangements;
- Refusal to allow a privately fostered child to be visited by an authorised officer who has produced appropriate identification;
- Knowingly continuing to privately foster whilst prohibited or disqualified from doing so;
- Failure to comply with requirements imposed by the local authority;
- Advertising in respect of private fostering without publishing a name and address.

7.20 A social worker must consult with their line manager before seeking legal advice. Legal action against private foster carers in these circumstances will be discussed in a Strategy meeting/Management of Allegations meeting.