

# **DRAFT THE FOSTER PLACEMENT AND FOSTERING AGENCIES REGULATIONS (NORTHERN IRELAND)**

## **SUMMARY OF 2014 CONSULTATION RESPONSES**

### Consultation period

The draft Foster Placement and Fostering Agencies Regulations (Northern Ireland) (“the Fostering Regulations”) were the subject of public consultation from 13 January 2014 until 7 April 2014. Prior to the consultation, views were sought from groups representing foster children, foster carers, the then HSC Board, Health & Social Care Trust fostering services, and fostering agencies from both the voluntary and independent sectors.

### Consultation responses

Nineteen responses to the consultation were received and these were largely welcoming of the Regulations.

### Analysis of consultation responses

The Department has taken account of comments in so far as we consider it is possible to do so, in consultation with legal advisors. Many of the consultation comments requested references to be added to the Regulations about aspects that the Department considers are more appropriate for inclusion in guidance or standards to support the Regulations.

Detailed comments and individual Departmental responses against each consultation question are included.

## LIST OF COMMENTS FROM CONSULTATION RESPONDENTS AND DEPARTMENTAL RESPONSE TO EACH ISSUE

In the Departmental responses below, the following abbreviations have been used:

Legislation:	Abbreviated reference:
The Children (Northern Ireland) Order (1995).	The Children Order
The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003	The HPSS Order
The Children's Homes Regulations (Northern Ireland) 2005	The Children's Homes Regulations
The Voluntary Adoption Agencies Regulations (Northern Ireland) 2010	The Voluntary Adoption Agencies Regulations
The Residential Family Centres Regulations (Northern Ireland) 2007	The Residential Family Centres Regulations
The Residential Care Homes Regulations (Northern Ireland) 2005.	The Residential Care Homes Regulations
The Adoption and Children Act (Northern Ireland) 2022	The Act

**QUESTION 1:** Are you content with the definitions provided in the Interpretation? If not, what changes would you suggest?

Ref No.	ISSUES RAISED IN CONSULTATION	DEPARTMENTAL RESPONSE	Y/N
1	Use the term foster carer instead of foster parent or alongside.	The wording of secondary legislation needs to be consistent with primary legislation and 'foster parent' is the terminology used in the Children's Order.	N
2	Use placing agency or Trust instead of responsible authority. Also amend area authority to reflect NI context.  Clearer to use the term 'Independent Fostering Provider'; rather than 'Placing Agency'.  Clarify "area authority" and "responsible authority" to avoid confusion.	The Regulations distinguish between the terms 'responsible authority' and 'area authority' in the Interpretation section at Regulation 2. The terms are defined in relation to the relevant parts of the primary legislation (the Children Order). Should further clarification be necessary, it can be covered in guidance that will support the Regulations.	N
3	Suggest that the term "an authority" is either prefixed by "responsible" or "area" as appropriate (or that "authority" gets its own definition).	The Regulations have been amended throughout to pre-fix the term "authority" with 'responsible' or 'area' where appropriate.	Y
4	Need interpretation for each type of placement in definitions (e.g. short break).	The Children Order Guidance and Regulations Volume 3 (Family Placements and Private Fostering) paragraphs 2.14, 5.23 and 5.24 provide guidance on the different types of	N

		placement. Should further clarification be necessary, it can be covered in revised guidance that will support the Regulations.	
5	Registered provider references should also include registered manager as with other service type regs. The FPFA Regulations refer to “registered provider”, whereas in other service-type regs, “registered person” refers to both the provider and manager. By referring to only the registered provider, this appears to exclude the registered manager from responsibilities that would be held in other service types.	Amendments have been made throughout the Regulations to replace ‘registered provider’ with ‘registered person’ where appropriate.	Y
6	Registered manager, registered person, registered provider/registered/registration/statement of purpose all defined in RQIA (Registration) Regs (NI) 2005 and should be here for consistency.	The Regulations include in the definitions of ‘Registered Provider’ and ‘Registered Manager’, “a person who is registered under Part III of the 2003 Order.” The Regulations maintain parity with the Children’s Homes Regulations and the Residential Care Homes Regulations.	N
7	As Reg 6 is silent on what constitutes approval; to underscore practice, useful to include a definition for approval in the interpretation which would say “‘approval’ means approval as a foster parent by a fostering panel in accordance with Reg 6.”	Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.  However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.	N
8	“Standard of living” Sched 2 point 8 requires clarification i.e. financial situation, commitments and any potential stresses arising.	“Standard of living” is the wording used in Schedule 1 of the current Foster Placement (Children) Regulations (Northern Ireland) 1996. It is also the wording used in Schedule 3, paragraph 14 of The Fostering Services (England) Regulations 2011. Guidance on the issues covered by the term is provided in the Children Order Guidance and Regulations, Volume 3 (Family Placements and Private Fostering).	N
9	Regulation 3 (1) (b) refers to any placement of a child by a voluntary organisation... The rationale for retaining this power is unclear as voluntary organisations do not place children within the meaning of ‘placement’ in these Regulations. If this is to be retained it is important that there is clarity with regard to its meaning i.e. that it pertains to ‘placing’ children rather than providing accommodation on behalf of a Trust.	The Department had sought legal advice on whether to revoke the provisions of the Children Order relating to the placement of children by voluntary organisations. The legal advice received was that these provisions should not be revoked and the references to the relevant provisions have therefore been retained in the draft Regulations. However, it	N

		is acknowledged that voluntary organisations do not place children under the provisions of Article 75 of the Children Order, and that the responsibility for placing children in foster care remains with HSC Trusts. 'Placement' is defined in Regulation 2 of the draft definitions.	
10	Part IV 8 (3)(c) it is unclear as to the purpose of this requirement i.e. to 'consult' with the authority in whose area a child is placed if that authority is not the approving authority. The implication being that this exceeds asking if a prospective applicant is known to the Trust. Consideration regarding any potential resource implications for Trusts following clarification should also be considered.	The wording of Regulation 8(3)(c) is identical to the wording of the Foster Placement (Children) Regulations (Northern Ireland) 1996 which are currently in place. It is not therefore intended to clarify the term "consult" in the Regulations. It may be as simple as finding out that the prospective applicant is known to the Trust.	N

**QUESTION 2: Do you agree with the content of the written agreements between an independent fostering agency and a Health and Social Care Trust, before that agency can assess and approve foster parents on behalf of the Trust (Regulation 4 and Schedule 1).**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
11	Disagree with need for agreement. We do not agree with this regulation. We have specifically compared this regulation to that contained within the English Regulations of 2011 and the Scottish regulations and cannot find a direct comparison. In the regulations of the other jurisdictions it is the case that independent providers are enabled to recruit, assess and approve foster carers on the basis that they are subject to regulation and inspection by the appropriate body. In our case the RQIA. The proposed regulations do make it a requirement for the independent fostering providers to be subject to regulation and inspection, therefore adding another layer before they could operate seems out of sync with developments in the other jurisdictions and to add un-necessary barriers and bureaucracy. When regulation 4 is read in-conjunction with part 1 of Schedule 1 it creates a set of requirements that are not mirrored in any of the other jurisdictions and which seem particularly onerous and to undermine the intention of the Regulations to ensure that independent providers are regulated and inspected independently from the Trusts with whom they are providing placements. We would	The vast majority of consultees were keen to retain this provision. England and Scotland also require responsible authorities to make written agreements with independent providers of foster care relating to the discharge of the responsible authority's functions (Regulation 26(2) of The Care Planning, Placement and Case Review (England) Regulations 2010 and Regulation 48 of the Looked After Children (Scotland) Regulations 2009 refer). It is intended to retain this provision in the new NI Fostering Regulations.	N

	ask the Department to remove this clause.		
12	Content with agreement between IFA and Trust. (Trust would want to be satisfied as to capacity of registered person to discharge duties on the Trust's behalf.)	Noted.	Y
13	<p>Agreement should clarify in writing any payments that are to be made and period of time they cover. Schedule 1, 2(3) the only reference to financial remuneration for foster carers – needs to clearly outline financial arrangements and terms for paying a fostering fee.</p> <p>We believe that it would be helpful within the regulations to require the fostering agency and the fostering provider to specifically provide foster carers with the level of allowances that are to be provided for each child in their care. Furthermore if the foster carer is to be paid a fee then this agreement should specify the amount of that fee, when or if it will be reviewed and the reason for its payment.</p>	The level of allowances is updated every year and there may be some changes to fees, whereas agreements may cover a different time period. The Regulations need to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time – this level of detail is considered inappropriate to cover in legislation.	N
14	Request to remove 4(1) on basis that it isn't needed given 4(2). (Or clarification)	The Care Planning, Placement and Case Review (England) Regulations 2010 and The Looked After Children (Scotland) Regulations 2009 have similar wording. Regulation 4(1) is the part which gives fostering agencies the power to assess and approve foster parents. Regulation 4(2) is about how they do this. Both parts are deemed necessary.	N
15	<p>Disagree with it reading that individual Trusts to decide if IFAs can register and approve own carers – should be Board or Dept level and regulated by RQIA.</p> <p>We believe that regulation 4(1) should be removed or would benefit from further clarification. It reads that it would be up to individual Trusts to decide if an Independent Fostering Agency (IFA) could register and approve its own carers. We believe this decision should be made at a Departmental or Board level and regulated by RQIA. This regulation appears to be out of step with other jurisdictions in the UK where regulations enable IFAs to recruit, assess and approve foster carers on the basis they are subject to statutory regulations and external inspection.</p> <p>Whilst there is a clear need for a coherent and consistent approach across Northern Ireland, we would suggest</p>	<p>The Care Planning, Placement and Case Review (England) Regulations 2010 and The Looked After Children (Scotland) Regulations 2009 have similar wording to Regulation 4(1) and it is a necessary part of the Regulations.</p> <p>Following the passage of the Health and Social Care Act (Northern Ireland) 2022, which gave effect to the closure of the Health and Social Care Board, references to an "authority" in the Children Order are a reference to a HSC trust that is exercising social care and children functions within the meaning of Article 10A of the Health and Personal Social Services (Northern Ireland) Order 1991.</p>	N

<p>that the authority to operate as a provider of fostering services, approving/terminating and reviewing foster carers, would be better served coming from the Health and Social Care Board and not from individual Health and Social Care Trusts. HSC Trusts are providers of fostering services as well as purchasers from the independent sector; this potentially puts them in a position of conflict. If each Trust holds the authority to enter into a 'written agreement' with service providers from the independent sector there is little opportunity for there to be a level of independence and consistency that would be required to ensure that all providers of fostering services can be measured and held to account. It is recognised that HSC Trusts would prefer not to use the independent sector where possible, evidenced in the recent RQIA report 'Independent Review of Statutory Fostering Services, December 2013' "The fostering teams in the trusts confirmed their reluctance to use IFPs, other than in crisis circumstances". -Trusts hold a view that the independent sector charges excessively for their services but the report highlights that the figures quoted by the HSC trusts in respect of their own services do not include a range of overheads and therefore do not allow for a true comparison. "the perceived high cost of some of the independent providers may be a deterrent in trusts purchasing placements in the current financial climate...but until a full cost comparison has been completed, it is difficult to determine the most cost effective placement". It is reported that all HSC trusts believe that children and young people should feel secure and stable in their placement. Yet it was also reported in the review that "some children and young people were facing placement moves due to financial pressure within trusts...moving from private to trusts foster placements." This suggests that any agreement between the HSC Trusts and the independent sector to provide placements would be vulnerable. It is acknowledged in the report that a mixed economy of care drives up standards. We believe that If the 'written agreement' was with the HSC Board, registered and inspected by RQIA, there would be reduced potential for</p>		
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	conflict of interest, improved data monitoring to determine cost effectiveness and measure outcomes for children and young people and improved access to fair and transparent fostering service provision for children across Northern Ireland as a whole.		
16	Agreements should be consistent across all Trusts. Guidance on content could be given.	It is considered that Schedule 1 sets out the requirements for the content of the agreements adequately. The Regulations are intended to deliver consistency in that each agreement must comply with Regulation 4 and Schedule 1. Within this consistency, however, Trusts may have individual requirements for services depending on the needs of their population.	N
17	Needs to address electronic records – not all agencies have secure servers that link with Trusts.	The Schedule refers to “the arrangements for record keeping” which would cover all records, including electronic ones. Schedule 1, 2(4) enables Trusts and the registered person to agree appropriate arrangements for record-keeping.	N
18	Schedule 1.4 – don’t agree that all records should be returned to the Trust by the placing agency. Carers should be able to keep diaries or provision for Trust to return to foster parent in event of historical allegation. Also clarity about Data Protection.	Schedule 1, 2(4) refers to “the arrangements for ... the return of records at the end of the placement.” Arrangements about retaining copies or having access to the information in the event of a challenge can therefore be addressed between the authority and the registered person and will form part of the agreement.	N
19	Sch1, 2(5) requirement to notify Trust of “any concerns” is too broad and requires guidance.	The wording in Schedule 1, 2(5) is consistent with the wording in Schedule 5, 2(5) of the Care Planning, Placement and Case Review (England) Regulations 2010 and is deemed appropriate for legislative purposes.	N

**QUESTION 3: Do you agree with the requirements which must be satisfied during the assessment of a prospective foster parent, including the information to be gathered in relation to that person and any members of their household and family under Regulation 5 (as read in conjunction with Schedule 2)? If not, what changes would you suggest?**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
20	<p>Sched 2, 12: Not content with ACCESS NI checks for children aged 10 and above. In England aged 16 and above/age 18 and above. Checks to cover suitability of adults to <u>look after</u> children and other children will not be required to do that. UNCRC quoted and Review of Youth Justice System in NI re criminal age of responsibility being too low in NI/UK.</p> <p>Reference to Scotland where young person has to give permission for such a check.</p> <p>Cost implications for agencies in processing checks for</p>	<p>Regulation 5(3)(a) requires the fostering service provider to consider not only whether the prospective foster parent is suitable to be a foster parent but also whether the prospective foster parent’s household is suitable for any child – it is not just about the adult caring for the foster child. The criminal age of responsibility in Northern Ireland is currently set at age 10 and requiring enhanced disclosure checks is current practice and in line with provisions in other Northern Ireland legislation. It is therefore intended to retain this provision.</p> <p>The Department of Justice issued a consultation on 3<sup>rd</sup> October 2022 seeking views on increasing from the current minimum age of criminal responsibility from 10 years to 14 years. Further amendments to legislation may need to be made pending the outcome of this consultation</p>	N

	foster carers' children.		
21	Yes.	Noted.	Y
22	If checks are to take place, do they cover other foster children? And if stay in household after 18?	The checks do not include other foster children as, unlike birth children, they will be known to the authorities. If, after placement, there is an allegation that a foster child has committed a serious crime, this must be notified to the responsible authority and to the police, under Schedule 7. Under Schedule 3, 2(b)(iii), the foster parent is required to notify the fostering service provider of any change in the foster parent's personal circumstances and any other event affecting either their capacity to care for any child placed or the suitability of the household. Schedule 1, 2(5) requires the registered person to notify the responsible authority immediately in the event of any concerns about the placement. Where a foster child stays in the household after age 18 and is no longer looked after, a check would be required as they would be a member of the foster parent's household.	Y
23	If checks are to take place, do they occur when children in the household (whether foster or birth children) reach age 10?	This is considered unnecessary; foster children reaching the age of 10 would have their circumstances known by the authorities. If, after placement, there is an allegation that a foster child has committed a serious crime, this must be notified to the responsible authority and to the police, under Schedule 7. For birth children, under Schedule 3, 2(b)(iii), the foster parent is required to notify the fostering service provider of any change in the foster parent's personal circumstances and any other event affecting either their capacity to care for any child placed or the suitability of the household. Schedule 1, 2(5) requires the registered person to notify the responsible authority immediately in the event of any concerns about the placement. Guidance to support the Regulations will include clarity that "any other event affecting the suitability of the household" would include any change in birth children's circumstances which would be relevant to safeguarding issues. Birth children aged 10 and above currently would be included as part of the household in Access NI checks at the Review stage.	Y
24	Reg 5 (2)(c) A responsibility should be placed on the authority to carry out reasonable checks including its SOSKARE database 5(2)(c)  Conducting statutory checks only a small part. Whole process must be robust and involve effective joint working.	This check is already undertaken when the authority is consulted but given that systems and processes can change over time, it is not deemed appropriate to cover this level of detail in subordinate legislation.	N
25	Reg 5 (2)(b) – one of the two referees must not be related to applicant.	Whilst, in practice, referees are required to be unrelated to the applicant, it is considered that this level of detail is more appropriate to guidance than to subordinate legislation.	N
26	Sch 1, 2(3) – helpful if Regs required the fostering agency and the fostering provider to specifically provide	The level of allowances is updated every year and there may be some changes to fees, whereas agreements may cover a different time period. The Regulations need	N

	foster carers with the <b>level of allowances</b> that are to be provided for each child in their care. If the foster carer is to be paid a <b>fee</b> then this agreement should specify the amount of that fee, when or if will be reviewed and reason for payment.	to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time – this level of detail is considered inappropriate to cover in legislation.	
27	Trust finds reference to ‘written report’ problematic in Reg 5 (3) (b) – should relate to the Assessment report completed by the relevant social worker in fostering services.  Term too broad and doesn’t take into account the professional social work assessment required in compiling the report.	Regulation 5(4)(a) to (c) makes it clear what is meant by “written report” at Regulation 5(3)(b).	N
28	Who consents to the inspection in Reg 5 (2) (d)?	Regulation 5(2)(d) states that ‘X’ consents to the inspection. Regulation 5(1) makes it clear that ‘X’ is the individual applying to be considered as a foster parent.	

**QUESTION 4: Do you agree with the requirements set out in Regulation 6 (as read in conjunction with Schedule 3), which must be satisfied during the approval of a prospective foster parent, including the making of a ‘foster care agreement’? If not, what changes would you suggest?**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
29	Regulations need to set out function, membership and timescales for foster panels as in Eng, Scot, Wales.  Suggestion to include in interpretation section that “approval” means approval as a foster parent by a fostering panel in accordance with Regulation 6.’	Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.  However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.	N
30	Reg 6(2) does not include provision for transfer of carers from one agency to another if a child is placed.	Regulation 6(2) allows for the transfer of carers from one agency to another but only where there is a termination by one fostering service provider to allow the other fostering service provider to approve the foster parent. Some fostering service providers have an arrangement whereby they notify the new fostering service provider that they have terminated the approval so that the new provider can take on the foster parent. Regulation 5(6) facilitates registration with another fostering service provider by allowing access to records about a foster parent held by another fostering service provider.	N

31	Reg 6(3) - clarification if the term “consultation” includes a requirement to take up background checks, otherwise this could be open to differing interpretations.	The wording of draft Regulation 6(3) is identical to the wording of the Foster Placement (Children) Regulations (Northern Ireland) 1996 which are currently in place. It is not therefore intended to clarify the term “consult” in the Regulations. It may be as simple as finding out that the prospective applicant is known to the Trust.	N
32	Reg 6(6)(a) – need a timescale for giving notice in writing. 7 or 14 days. And for 7 (a) also and also 6(7)(b) and Reg 7(10) (“as soon as practicable” needs to be clarified).	The current Foster Placement (Children) Regulations (Northern Ireland) 1996 do not specify a timescale. In practice, notice is normally provided within 7 days. It is intended that Fostering Standards will be developed which will cover aspects of the Regulations at a more detailed level.	N
33	Reg 6(7)a should be more explicit – iro enabling a foster parent to make written representations to the fostering provider within 28 days  Reg 6(7) b should be amended to include the fostering panel’s recommendation.	Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.  However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.	N
34	In English Regs there is an independent review mechanism. Currently confusion in HSCTs about whether applications are appealed or reviewed and if appealed by an independent panel or independently chaired. Lack of guidance has potential to lead to further JRs of panel decisions.  No reference to independent advocacy and support during appeal process.	The Adoption and Children Act (NI) 2022 introduced provision for a statutory independent review mechanism (IRM) to consider appeals of decisions.  The intention is to introduce legislation for an IRM process for both the adoption and fostering decisions and is currently timetabled for 2026/27.	N
35	Unlike Eng and Wales, no inclusion of an agency decision maker for fostering – the absence has potential to cause delay if agencies have to wait for the next available panel, e.g., to enable a change to be made in the terms of the foster carer’s approval.	Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.  However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.	N
36	Reg 6 (10) – suggest a third option to continue with further enquiries.	It is considered that the inclusion of the wording “as soon as practicable after making the decision” in Regulation 6(10) allows for further enquiries before this point.	N
37	Sched 2 – suggest “motivation” is included in info to be	True motivation is difficult to measure. The focus of Schedule 2 is on the prospective	N

	gathered iro prospective foster parent.	foster parent's capacity to care effectively for a child and it is considered that the information to be considered throughout Schedule 2 should address this.	
38	Sched 2(2) – suggest inclusion of “civil partnership”.	A reference to civil partnership and the relevant legislation has been inserted at Schedule 2(2).	Y
39	Sched 2(6) – “the degree of his religious observance” is an additional requirement to that of other jurisdictions and we ask is this strictly necessary?	The phrase ‘degree of his religious observance’ has been removed from Schedule 2(6). The latter part of paragraph 6 (“his capacity to care for a child from any particular religious persuasion”) will still allow for consideration of the prospective foster parent's degree of religious observance where this is deemed relevant but the removal of “degree of his religious observance’ ensures that the focus is on the capacity to care for a child from any particular persuasion.	Y
40	Sched 2(8) – term ‘standard of living’ too subjective – needs defined to reflect lifestyle, financial circumstances and appropriateness of living accommodation.	“Standard of living” is the wording used in Schedule 1 of the current Foster Placement (Children) Regulations (Northern Ireland) 1996. It is also the wording used in Schedule 3 paragraph 14 of The Fostering Services (England) Regulations 2011. Guidance on the issues covered by the term is provided in the Children Order Guidance and Regulations, Volume 3 (Family Placements and Private Fostering).	N

**QUESTION 5: Do you agree with the requirements set out in relation to reviews and terminations of a foster parent's approval, including the requirement to carry out reviews at intervals of not more than a year? If not, what changes would you suggest? (Regulation 7)**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
41	<p>We recommend additional wording to 7. (3) (b); that the views of ALL children within the fostering household are sought including birth children. A high priority must be given to listening to and involving foster children and birth children within the household. We would emphasise that engagement with children must include young children. Research evidence demonstrates that from an early age children do exhibit small but significant cultural awareness.</p> <p>The UN Committee gave specific consideration to the article 12 rights of children without parental care during its Day of General Discussion, and this commentary should be given due regard in the re-development of the draft regulations –</p> <p>‘In the light of article 12 of the Convention, the Committee recommends that all stakeholders continue and strengthen their efforts to take into consideration the views of the child and facilitate their participation in all matters affecting them within the evaluation, separation and placement process, in the out-of-home care and</p>	<p>Regulation 7(3)(a) would include considering household members such as grandparents or any other person living in the household but given Article 12 of the United Nations Convention on the Rights of the Child, Regulation 7(3)(b)(iii) has been amended to include “any other child in the foster parent's household”. Further detail can be included in guidance. Article 12 of the UN Committee on the Rights of the Child requires state parties to “assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” Regulation 9(1)(a) and 9(3) provides for the child to be visited every 4 weeks and, unless he considers it inappropriate, for the authorised person to arrange to see the child alone. There will therefore be regular opportunity for the child's views to be heard.</p>	N

	<p>during the transition process. It recommends that children should be heard throughout the protection measure process, before making the decision, while it is implemented and after its implementation. For this purpose, the Committee recommends an establishment of a special mechanism which values children as partners. The family group conferencing is one model to ensure that the child’s view is considered. It also recommends that States parties undertake a regular review of the extent to which children’s views are taken into consideration and of their impact on policy-making and court decisions and on programme implementation.”</p> <p>Also, engagement must include young children. The views of any child placed with the foster parent should not be “subject to the child’s age and understanding” but can be determined in an age appropriate manner. We are concerned the views of very young children could be excluded and it will be important to listen to their views via their behaviour/actions.</p> <p>Reg 7 (3) (b) also needs to include other household members such as grandparent.</p> <p>It is also important that the child is seen alone in addition to being seen with the family during the review process and in order for the child’s voice to be heard.</p> <p>It is critical that children and young people have the support of an independent advocate to support them during the termination of a foster placement – should be statutory.</p>		
42	<p>To ensure foster carers receive a service which is fair and transparent, we believe a Statutory Appeals process should be detailed within this section. It should incorporate the processes involved to make appeals, representations and complaints. The recent Judicial Review NIQB133 states “The various Statutory Rules and Regulations relating to fostering are silent as to any appeal or review process”. There is a clear need to ensure that any new regulations are also not silent on</p>	<p>The Adoption and Children Act (NI) 2022 introduced provision for a statutory independent review mechanism (IRM) to consider appeals of decisions.</p> <p>The intention is to introduce of legislation for an IRM process for both the adoption and fostering decisions and is currently timetabled for 2026/27.</p>	N

	<p>this matter to ensure fairness and transparency and prevent further challenges arising in the future.</p> <p>Fostering appeals process used more in England than for adoption. Expense of JRs if not dealt with. Also makes local authority more accountable.</p>		
43	<p>Difficult to take forward Regs without being able to address the issue of fostering panels as in practice these are critical to review and termination of foster carers.</p> <p>Seek re-assurance from Department that panels will be address in new Adoption and Children Act (NI) 2022 legislation?</p> <p>Also should reviews not be presented to panel after carers' first year of fostering and every third year thereafter as is current practice in UK?</p>	<p>Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.</p> <p>However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.</p>	Y
44	<p>Trusts should be required under Reg 7 to ensure carers can access independent advocacy and support.</p> <p>And support for children during termination.</p>	<p>Regulation 20 places a requirement on the responsible authority to provide foster parents with information on independent advocacy services.</p>	N
45	<p>Reg 7(4) – the preparation of a written report at conclusion of review seems confusing. It is our practice to prepare a report in advance of the review meeting, which includes views of any birth children, the Trust placing Social Worker and the foster carers. Views of the child in placement and his parents are also represented. At conclusion of review a minute is prepared and then letter sent to the carers detailing 7(4) (a) and (b). The term 'written report' should be revised.</p>	<p>This wording reflects the wording in The Fostering Services (England) Regulations 2011. Whilst this may differ from one agency's current practice, no comments were received about this written report from other consultees. It is considered that the draft regulation contains the necessary clarity.</p>	N
46	<p>Reg 7(9) – good practice for a carer to be given the option to attend – the current format does not provide this option?</p>	<p>Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.</p> <p>However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.</p>	N

47	Reg 7 (10) (a) (b) (c) - Review process needs to be more transparent. Prior to review meetings, foster carers need access to reports written about them which will be tabled. Also need to see Review minutes (or extract). Need to see reasons for termination and foster panel's recommendations (as in England)	Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.  However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.	N
48	Reg 7(10)(b) - In relation to the termination of foster carers this we suggest should have a line timeline included to avoid drift. We suggest 14 working days.	It is intended that Fostering Standards will be developed which will cover issues in more detail	N
49	Reg 7(11) - would suggest changing the timescale for a foster parent to give notice, to "a minimum of 28 days" to allow for some flexibility in the interests of effective care planning if there was a child or young person in placement and an alternative placement was required to be identified.	The wording of this regulation reflects the wording in The Fostering Services (England) Regulations 2011. Where a foster parent has decided that they no longer wish to act as a foster parent, it is considered in the best interests of the child that there is certainty about the ending of the placement.	N
50	Regs should require the approving authority to seek views of key service providers involved in the child's care.	Regulation 7(3)(a) requires the approving authority to "make such enquiries and obtain such information as it considers necessary in order to review whether the foster parent continues to be suitable to act as a foster parent and whether the foster parent's household continues to be suitable". Given the difficulty in defining key service providers, it is considered that it would not be appropriate to specify this in legislation.	N

**QUESTION 6:** Do you agree with the requirements set out in Regulation 8 (as read in conjunction with Schedule 4) in relation to the making of foster placements by a responsible authority, including the requirement for each foster parent to enter into a written agreement with the responsible authority? If not, what changes would you suggest?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
51	With regard to Regulation 8(3)(b), we do not believe it is necessary that the responsible authority should be required to agree to the placement. We will consult with that authority and make a decision to proceed based on the best interests of the children involved.	Regulation 5(4)(b) of The Foster Placement (Children) Regulations (Northern Ireland) 1996 currently requires the responsible authority to obtain the consent of any other authority or voluntary organisation who already has a child placed with the foster parent. The responsible authority which has already placed a child with the foster parents has responsibility for the welfare of that child and therefore must give consent.	N
52	In relation to 8. [3] [c] we would propose that instead of reading "the area authority...is consulted, and its views	Regulation 5(2)(c) of The Foster Placement (Children) Regulations (Northern Ireland) 1996 currently requires the responsible authority to consult the area authority and to	N

	<p>taken into account” We believe it should read, ‘the area authority...is notified by the approving authority’. The area authority in which the foster carer resides should be notified upon approval/termination of approval and any authority with another child in placement would be consulted and approval sought before placing a child. We would seek clarity as to why the area authority would need to be consulted in relation to all placements, unless they were the responsible authority?</p>	<p>take into account its views. The area authority may have knowledge about issues that are relevant to the placement of the child and these should be considered.</p>	
53	<p>An insert could be put into Schedule 3.2 (b) ‘any caution or conviction received by any member of the household’. This would provide a safety net should arrangements to raise the age where a criminal records check is required be agreed, as suggested re age 10.</p>	<p>The DoJ issued a consultation on 3<sup>rd</sup> October 2022 seeking views on increasing from the current minimum age of criminal responsibility from 10 years to 14 years. Further amendments to legislation may need to be made pending the outcome of this consultation</p>	N
54	<p>Additional wording within Schedule 3 2. (b) (iii):  “Any other change in the foster parent’s personal circumstances <u>or change of circumstances within the household....</u>”  This essential addition would allow for any change within the household that could affect their capacity to care for any child to be reported.</p>	<p>It is considered that the wording of Schedule 3, 2(b)(iii) (“any other event affecting either their capacity to care for any child placed or the suitability of the household”) extends to changes of circumstances and this will be made clear in guidance to support the Regulations. The wording in Schedule 3, 2(b)(iii) reflects the wording in Schedule 5, 2(b)(iii) of the Fostering Services (England) Regulations 2011.</p>	N
55	<p>Believe that the Matters and Obligations in Foster Care agreements should cover the issue of both allowances and any fee that is to be paid.</p>	<p>The level of allowances is updated every year and there may be some changes to fees, whereas agreements may cover a different time period. The Regulations need to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time – this level of detail is considered inappropriate to cover in legislation.</p>	N
56	<p>We believe the duty that is placed upon the carer should be re-worded in the following manner; “to care for the child according to their assessed needs” rather than “as a member of their own family”.</p> <p>Schedule 3,2(a) fails to recognize the unique difference of the foster parent’s role in caring for a child with often complex needs.</p> <p>The issue of delegated authority is one that is important for many foster carers here and we welcome that the initial foster carer agreement should identify the extent to which authority to make every day decisions is to be delegated to the foster carer and that this should then be reviewed annually to allow for changes. It is vital that all such changes are recorded in writing.</p>	<p>The wording of Schedule 3(2)(a) reflects the wording in other jurisdictions. It is considered that each child in a family should have care based on their individual needs and birth children may also have complex and unique needs. To require the foster parent to care for the child placed with them as if the child were a child of the foster parent’s family does not prevent their unique needs from being met, but rather provides a sense of belonging to a family which is vital for looked after children in those cases where a family placement is appropriate.</p> <p>Schedule 4(3) now reads, “any arrangements for giving consent to the medical or dental examination or treatment of the child.” This is consistent with Regulation 20(2)(b).</p>	N

57	<p>Training and support for foster parents to be kept under review.</p> <p>Duty on foster parents to attend training to be included in foster care agreement.</p> <p>We endorse the carer's obligation to avail of training and support offered as outlined in Schedule 3 (2).</p>	<p>Training covers a wide range of issues, not all of which would be appropriate to make mandatory. It is intended that Fostering Standards will be developed which will cover training and support in more detail.</p>	N
58	<p>The foster care agreement should include and focus on issues such as:</p> <ul style="list-style-type: none"> <li>• Mental health and emotional well-being of the child or young person</li> <li>• Information on the role of the foster parent in promoting contact</li> <li>• The role of the foster parent in promoting and supporting transition to independence and adulthood</li> <li>• Promoting the role of the foster parent in care planning and Personal Education Plans (PEPs)</li> </ul> <p>By focusing on these issues, the foster parent is able to fully understand their role in supporting the child or young person in all aspects of their lives.</p>	<p>The more general obligation 'to promote welfare' is considered more appropriate for subordinate legislation. It is intended that Fostering Standards will be developed which will cover issues at a more detailed level.</p>	N

**QUESTION 7:** Do you agree with the requirements set out in Regulation 9, in relation to the supervision of placements (including the requirement to make arrangements for each child it places to be visited within one week of the start of the placement, and at least once every month thereafter)? If not, what changes would you suggest?

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
59	<p>Timeframe for visits should be more flexible depending on circumstances, particularly those in longer placements.</p> <p>Note the DfE consultation on Improving Permanence for Looked After Children suggested that in long-term stable placements that visits could be reduced to as little as every six months.</p> <p>But with agreement of child and by a LAC review.</p>	<p>During the last Consultation on the draft Regulations, children and young people suggested that six-month visits were not viewed as appropriate. Visiting has been set at the frequency of every 4 weeks because it is important for safeguarding reasons and, in addition, to build up a relationship between the child and the social worker.</p>	N
60	<p>9. (2) We welcome this but feel it needs to be made clearer that this visit is the responsibility of the placing Trust and not to be delegated out to the IFA providing the placement. In line with good practice, it is important</p>	<p>Regulation 9(2) places responsibility on the responsible authority to arrange for the child to be visited. The responsible authority remains responsible under Regulation 9(1) for satisfying itself that the welfare of each child placed by it continues to be suitably provided for by the placement.</p>	N

	that LAC in placement have access to a person independent of the fostering agency where they can raise concerns if necessary.		
61	We feel the heading used in Regulation 9 is misleading – ‘Supervision of Placement’ implies supervision of the foster carer – ‘Supervision of Child in Placement’ is clearer. We recommend flexibility in the frequency of visiting arrangements for stable long-term placements, as we believe high frequency social work visits may contribute to children’s sense of impermanence and insecurity. In England and Wales, the visiting requirement in respect of placements intended to last until the child reaches 18 years, after the first year in placement, is at intervals of not more than 3 months.	The title “Supervision of Placement” is considered appropriate as it covers both the child and the placement. During the last Consultation on the draft Regulations children and young people suggested that the English approach of six-month visits was not viewed as appropriate. Visiting has been set at the frequency of every 4 weeks because it is important for safeguarding reasons and, in addition, to build up a relationship between the child and the social worker.	N
62	We would seek clarification that the ‘authorised person’ referred to [in Reg 9(3)] is the Social Worker from the ‘responsible authority’/Trust?	“Authorised person” is defined in Regulation 9(5) and could, on occasion, be the social worker’s line manager or a child psychologist, etc.	N
63	A query around 9 (b) – “give such advice” may require a multi-disciplinary dimension e.g. medical needs of a child. Suggest an add on ..... “or consult or refer to other agencies to enable the foster carer to act on the advice given”.	It is considered that the wording of Regulation 9 (1)(b) is appropriate. It is intended that Fostering Standards will be developed which will cover issues at a more detailed level.	N

QUESTION 8: Do you agree that 7 days is an appropriate maximum period of time within which a Health and Social Care Trust should visit a child who has been placed in its area by or on behalf of a voluntary organisation, once the Trust is informed that there may be safeguarding or welfare concerns relating to that child (Regulation 10)? If not, what changes would you suggest?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
64	7 days too long where safeguarding concerns: child should be visited within 24 hrs/2 working days/  Align with Regional Child Protection Procedures. – 24 hrs.  Training on safeguarding issues for foster parents must be mandatory and that children are helped to understand how to keep themselves safe, including when outside of the household or when using the internet or social media. At this point we would ask that reference be	Guidance to support the Regulations will clarify that duties under this Regulation will need to be fulfilled in accordance with established operational child protection policy and procedures, which specify timescales. References to training and protocols are not considered appropriate in subordinate legislation, which needs to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time.	N

	made to the Gateway Teams and the inter-agency working protocols. There is a particular need to work in partnership with other agencies concerned with child protection, e.g. the fostering agency, schools, hospitals, general practitioners, etc., safeguarding cannot be done in isolation.		
65	Clarify if calendar or working days.	The reference to “7 days” is taken to mean 7 calendar days unless otherwise expressed in the legislation.	N
66	Agree 7 days appropriate	Noted.	Y
67	Needs to be clarity re safeguarding and linkage to voluntary and independent fostering agencies, e.g. 10(2).  We feel Regulation 10 (2) is misleading as it suggests requirements around safeguarding in placement do not apply to a child placed in a voluntary or independent fostering agency placement.	Regulation 10(2) clarifies that Regulation 10 only applies to authority visits to children who have been placed <u>by</u> a voluntary organisation, and not with a child placed by a Trust with a foster parent approved by a fostering agency under the arrangements provided for by Regulation 4.  The Department had sought legal advice on whether to revoke the provisions of the Children Order relating to the placement of children by voluntary organisations. The legal advice received was that these provisions should not be revoked and the references to the relevant provisions have therefore been retained in the draft Regulations. However, it is acknowledged that voluntary organisations do not place children under the provisions of Article 75 of the Children Order, and that the responsibility for placing children in foster care remains with HSC Trusts.	N

**QUESTION 9: Are the requirements relating to the termination of placements (as set out in Regulation 11), as they apply to a responsible authority or an area authority, sufficiently robust? If not, what changes would you suggest?**

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
68	Removal forthwith when detriment to the child’s welfare – terminating a placement should take a measured approach. Threshold in other jurisdictions is “risk of significant harm.” (See Reg 14 of Care Planning Regs (England) 2010.)  Or “in line with meeting the child protection threshold.” Or “in line with safeguarding procedures.” And based on assessment of risk.  Unless a risk of significant harm, no termination should take place without a LAC review.  Should be in best interests of child – reg 11(1) and	The wording of Regulation 11(2) and 11(3) has been amended to say: “immediately.” Regulation 11(2) of the current Foster Placement (Children) Regulations (Northern Ireland) 1996 requires removal of the child ‘immediately.’ Where continuation of a placement appears to an area authority to be detrimental to the welfare of the child, then the placement must be terminated but generally it is expected that placements will be ended in a planned way. It is intended that Fostering Standards will be developed which will cover issues at a more detailed level.	N

	<p>disruption to child.</p> <p>Reg 11(1), as currently drafted is potentially open to wide interpretation and we would be concerned that childrens' placements could be terminated without due regard to process or individual needs.</p> <p>We would suggest that Regulation 11 should include reference to:</p> <p>a) process (including appeals) and,</p> <p>b) notice periods which allow sufficient time for negotiation and discussion in the interests of responsive care planning.</p> <p>The Children Order Guidance and Regulations Volume 3 and the Protocol for Joint Investigation by Social Workers and Police Officers Of Alleged and Suspected Cases of Child Abuse – NI (2013) makes it clear that while responsible authorities should not hesitate to remove a child when needed to safeguard the child, the aim should be to bring placements to a planned conclusion. Therefore, there may be circumstances where the responsible authority has decided that the placement must be brought to an end but removal may be delayed without disadvantage to the child. The above has the potential to confuse or to be literally interpreted when a more measured response would be appropriate. This regulation should reflect the need for a proportionate response.</p> <p>More detail needed – in guidance?</p>		
69	Agree with 'forthwith'.	Noted.	Y
70	In Regulation 11 (1) recommend that the reference to "No longer the most suitable way of performing its duty" is replaced with "placement is no longer meeting the child's assessed needs" which emphasizes the need for placement decisions to be child focused.	The duty would include the child's best interests and it is important that the point about the responsible authority performing its duty is not diluted.	N
71	11 (2) we feel wording of this is confusing and where the	The term 'area authority' is defined in Regulation 2.	N

	term “area authority” is used, it might be preferable to refer to H&SCT/statutory agency.		
72	The term responsible authority needs to be replaced with Health and Social Care Trust (HSCT) in keeping with the NI context.	The draft Regulations already distinguish between the terms ‘responsible authority’ and ‘area authority’ in the Interpretation section at Regulation 2. The terms are defined in relation to the relevant parts of the primary legislation (the Children Order). Should further clarification be necessary, it can be covered in guidance which will support the Regulations.	N
73	Specific reference needs to be made as to expectations pertaining to cross border placements where a child has been placed from England or the South of Ireland.	These Regulations deal with placements into foster care made by responsible authorities in Northern Ireland.	N

**QUESTION 10: Do you agree with the requirements set out in Regulation 12, in relation to short-term placements? If not, what changes would you suggest?**

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
74	Clarity about respite or renaming of “short-term placements.”	The Children Order Guidance and Regulations Volume 3 (Family Placements and Private Fostering) paragraph 2.14 provides guidance on short-term placements. Should further clarification be necessary, it can be covered in revised guidance which will support the Regulations.	N
75	Rationale not to exceed 90 days in 12 months – negative impact on children with disabilities.  Need for flexibility. We would suggest there should be some provision for the exceptional ‘exceeding’ of the 90 days in anyone period, i.e. to avoid situations arising where a child will be moved to prevent a breach of the regulation rather than to meet the child’s need for example where circumstances might unexpectedly change.  For some children a longer period of support may provide the required stability for to enable a positive move to an alternative placement or a return home. This would also enable provision for children requiring a ‘shared care’ arrangement.	The criteria set out in Regulation 12(1) should not be read as a cap on the amount of short break care permitted. The level of care provided should be based on an assessment of the needs of the individual child concerned. However, if at any point, it is assessed that the short break care that is necessary for a child should extend beyond the criteria set out in Regulation 12(1), then there is no easement for visiting arrangements as set out in Regulation 12(2) to (4) i.e. the series is not treated as a single placement, and the normal visiting and review arrangements for a looked after child apply. It is for the responsible authority, taking account of all the circumstances and information available in relation to a child’s case, to determine what short break care would be in the child’s best interests.	Y
76	If with one carer, reduce to one week rather than 4 weeks.	A number of other consultees asked for more flexibility rather than less. The period of 4 weeks is built into other sets of Regulations including the current Foster Placement (Children) Regulations (Northern Ireland) 1996.	N
77	Further clarity is required in relation to situations where a young person receives respite care under the Arrangements for the placement of Children (1996) and regulation 12. Does the 4 week/90 day rule apply	Each Regulation can only apply to the situation which it relates to (i.e. these Regulations would only apply where the placement is ‘with the same foster parent’ and The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 would only apply to a placement which is “at the same place.” It is for	N

	simultaneously across both placements? If so how is this going to be monitored between two separate services?	the responsible authority, taking account of all the circumstances and information available in relation to a child's case, to determine the short break care that would be in the child's best interests.	
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QUESTION 11: Do you agree with the requirements set out in Regulation 13, in relation to the making of foster care placements outside Northern Ireland? If not, what changes would you suggest?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
78	It is important that the same safeguards for children and young people cared for away from home in Northern Ireland are extended to those placed outside Northern Ireland. The same monitoring and review should take place with the responsible authority carrying out appropriate checks and balances.	Regulation 13(2) requires the responsible authority to ensure, that so far as is reasonably practicable, requirements are complied with in relation to the child which would have applied under these Regulations had the child been placed in Northern Ireland. This relates to all aspects of the Regulations.	Y
79	Clarification is required in respect of arrangements for children placed within NI from outside the jurisdiction specifically the South of Ireland.	These Regulations deal with placements into foster care made by responsible authorities in Northern Ireland.	N
80	A definition of 'British Islands' would be helpful.	'British Islands' is already defined in the Interpretation Act (Northern Ireland) 1954 (43(i)): "'British Islands' shall mean the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland."	N

QUESTION 12: Do you agree that six working days is an appropriate maximum period of time that a Health and Social Care Trust should be able to make an emergency placement with an approved foster parent, including circumstances where the placement is not consistent with the foster parent's terms of approval (Regulation 14)? If not, what changes would you suggest?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
81	No. Regulations should allow an emergency placement with approved foster parents for up to two weeks. If this is deemed to be in the child's best interests and the foster parents are provided with the support that they need to meet the child's needs. Regulations should not create requirements that potentially contribute to unnecessary changes in placement. The views of children and their family should be sought as part of the decision making process.  In all circumstances we would propose that the Agency	Regulation 14(1) is already a significant relaxation of Regulation 11 of The Foster Placement (Children) Regulations (Northern Ireland) 1996. There was no consensus from consultees: a significant number of consultees agreed that 6 working days was appropriate. Fourteen working days could, at some periods of public holiday, equate to nearly 3 or 4 calendar weeks. Given that these are emergency placements, extending the period beyond 6 working days could increase the impact of the subsequent move for the child.  Kinship fostering has its own distinctiveness and it is not always the case that provisions have to be consistent, hence the difference in treatment between emergency and immediate placements.	N

	<p>Decision Maker, on behalf of the Service Provider, has the authority to make a temporary variation to the approval criteria of foster carers upon receipt of a written report to allow the placement to continue past the 6 days. The matter would then be brought back to the next available panel for further consideration.</p> <p>We feel that 6 working days would be difficult for Trusts to achieve as this may require changing the terms of the carers' approval by bringing the case to a fostering panel, in the absence of a fostering agency decision maker (see response given to question 4). We suggest 14 working days would be more realistic given the need to bring these cases to the next available panel meeting.</p> <p>Compliance with this Regulation may prove to be challenging for Trusts. Adjustment to approval status to facilitate placement is noted. A reasonable timeline needs to be specified given linkage to Fostering Panel's role to adjust or amend approval status. 12 working days seems a reasonable compromise.</p> <p>Some flexibility is required to prevent unnecessary moves for children and also to enable a change of approval status for foster carers where it is assessed the best option for the child would be to remain with the 'emergency carer' e.g. where a return home is planned but will take longer than 6 working days. Extension to 14 working days would be preferred to enable circumstances to be considered by the Trust Fostering Panel.</p> <p>6 working days may be unrealistic. It is important to ensure that there is consistency with the regional kinship care policy and procedures. We suggest that 14 working days would be more realistic given the need to bring these cases to the next available panel meeting.</p>		
82	<p>Content with 6 working days</p> <p>It is important that an emergency placement is only used only for emergencies and not for short-term placements.</p>	<p>Regulations 12 and 14 clearly set out the provisions which are appropriate in each case. Regulation 14 makes specific reference to an emergency. It is for the responsible authority, taking account of all the circumstances and information available in relation to a child's case, to determine the type of placement that is in the</p>	Y

		child's best interests, and also to comply with the provisions of the relevant legislation.	
83	We believe the timescale to be appropriate, however the Regulation does not specify what should happen within the six working days. We would comment that the omission of any regulation in respect of the role and function of Fostering Panels is of relevance here and that there should be a process which requires notifications of such placements to the appropriate approvals panel.	<p>Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.</p> <p>However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.</p> <p>Regulation 9(2) requires the responsible authority to arrange for the child to be visited at least once in each week during the emergency or immediate placement.</p>	N
84	<p>Clarification about whether this also refers to Kinship Carers and if the Kinship Standards will be taken into account.</p> <p>We welcome the placing of Kinship Policy and Standards on a legal footing.</p>	Kinship fostering has its own distinctiveness and it is not always the case that provisions have to be consistent, hence the difference in treatment between emergency and immediate placements (the latter applying to kinship fostering). This has been the case under The Foster Placement (Children) Regulations (Northern Ireland) 1996, and the wording on immediate placements in Regulation 14(3) reflects that used in The Foster Placement (Children) Regulations (Northern Ireland) 1996. It is intended that guidance to support the draft Regulations will clarify the relationship between the Minimum Kinship Care Standards and Regulation 14.	Y
85	We feel the reference to statutory visiting arrangements at 9 (2) should be cross- referenced in Regulation 14	Consideration was given to including a cross-reference but Regulation 9(2) relates to the responsible authority whilst Regulation 14 also covers the area authority.	N
86	We asked participants what times should be prioritised and when it was essential to have the support of an independent advocate. One of the occasions identified was when they are living in an emergency foster placement.	The Adoption and Children Act (NI) 2022 provides for advocacy services for looked after children.	N

**QUESTION 13:** Do you agree with the requirements placed upon fostering service providers in Regulations 15 and 16, in relation to the keeping of records? If not, what changes would you suggest?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
87	We note Regulation 15 (3) (e) and recommend that a record of any allegations or investigations made against the foster carer and the outcome of any investigations	Regulation 15(3) has been amended to include: "(f) a record of any allegations or complaints about the foster parent, and the findings of any investigation into those allegations or complaints." An associated reference in Schedule 7 has also been	Y

	<p>undertaken should be included. As well as safeguarding the foster child, it is important to ensure that the foster carer and their family are safe also. This aspect of learning and development should be incorporated within any training and any resulting strategies put in place. It is important to recognise the Department's legal duty to ensure that all concerns are listened to and dealt with appropriately.</p> <p>We would suggest a requirement to include any allegations or complaints. Regulation 15 (3) (e) does refer to serious incidents however; specific reference would ensure the inclusion of allegations and complaints.</p>	amended to include "allegation."	
88	<p>Suggest the addition of an exit interview.</p> <p>And for a record of this meeting to be retained.</p>	It is not considered appropriate to cover this level of detail in subordinate legislation but should an exit interview be considered appropriate, it can be included as part of the agreement in Schedule 1.	N
89	15. (3) (d) Should include the words 'if known' as in practice this information can often be difficult to obtain.	There is a similar requirement in The Fostering Services (England) Regulations 2011, Schedule 2.	N

**QUESTION 14:** Do you agree with the requirements set out in Regulation 17 in relation to the retention and confidentiality of records by each fostering service provider, which are in keeping with the "Good Management Good Records" framework established by the Department of Health, Social Services and Public Safety? If not, what changes would you suggest?

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
90	<p>We are concerned that the period for which fostering records are required to be retained differs from that required in respect of adoption records as per the Regional Adoption Policy and Procedures. We feel these timeframes should be consistent particularly given the growing number of dual approved carers who are approved as both foster carers and adopters. 17 (6) we recommend that the reference to a fostering provider accessing records should also include an adoption agency accessing records 17 (2) We are concerned that records would be destroyed on death of foster carer in advance of the usual time frame for which records are to be retained given the possibility of an allegation resulting</p>	<p>There was no consistent view from consultees about the period that records should be held for and there was considerable variation in the timescales suggested. Forty years is a significant increase on the 10 years required under the current Foster Placement (Children) Regulations (Northern Ireland) 1996.</p> <p>We are seeking views in the current consultation regarding extending this time period to 75 years to match the adoption records requirements.</p> <p>Relevant information will be held on the child's records and it is therefore considered reasonable that the foster carer's records can be destroyed on death.</p> <p>Regulation 17(6) has been amended to include access to relevant records by adoption agencies.</p>	

	<p>in an historical enquiry. We recommend 40 years after the death of carer.</p> <p>Would advocate for records in relation to children and young people in placement be held for 75 years.</p>		
91	Agree with Regs wording.	Noted.	Y
92	<p>It does state that FC and applicants records should be kept for 40 years after termination or death. Would it not be in order to reduce the time for retention of record in line with practice in England and Wales to 10 years after termination or death?</p> <p>Cite Regulation 36 – that staff records only be kept for 15 years – same as in England and Wales so why the FC records required for 40 years.</p>	<p>There was no consistent view from consultees about the period that records should be held for, and there was considerable variation in the timescales suggested. Foster placement records and staff records are very different in nature and it is not considered necessary that these should be consistent.</p>	N
93	17 (6) the request for information should be available to Adoption Services where the foster carer is being considered as a prospective adoptive parent.	Regulation 17(6) has been amended to make relevant records available for inspection by an adoption agency.	Y

QUESTION 15: Do you agree with the duties that are placed upon the responsible authority in Regulations 18-20? If not, what changes would you suggest?

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
(1) 9 4	<p>This section appears to need rewording? We would propose that some of the duties included here should be the responsibility of the service provider and not the responsible authority.</p> <p>The duties in 18 [1] &amp; 18 [2] [a] should sit with the service provider. Whilst 18 [2] [b-d] remains the responsibility of the responsible authority, they should be supported by the service provider.</p> <p>In relation to 19 [1] &amp; [2] [a-c &amp; e], the service provider should be responsible for these duties but could not be held responsible for 19 [2] [d] as they would have no</p>	<p>It is considered appropriate that the duties in Regulations 18 – 20 belong to the responsible authority. In England, independent fostering agencies have been given authority to place children and therefore these duties can be appropriate to the foster service provider. This is not the case in Northern Ireland where placement remains with the responsible authority. The wording of the Regulation therefore accurately reflects the role of the responsible authority as the child's corporate parent.</p>	N

	authority to ensure that the child's educational needs were met under these circumstances.		
95	We broadly welcome Regulations 18 – 20; specifically the focus on training and support of approved foster carers. However, consultation with health colleagues raised issues pertinent to 18 (b) and (d) and linkage to resource implications for the Trust.	Regulation 18(2)(b) has been amended to make the wording consistent with the wording of the Children's Homes Regulations so that looked after children have the same entitlement wherever they are cared for. The relevant wording in the Children's Homes Regulations is: "each child is referred to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services, as he may require."	Y
96	While we concur with 18 (2) (b) in terms of services which should be available to children looked after i.e. each child has access to such medical, dental psychological, psychiatric advice treatment or other services as the child may require, we have some reservation re capacity to deliver without additional resources given the demand on LAC therapeutic services and CAMHS. If a Trust fails to provide might this result in a judicial review based on this regulation being breached?	Regulation 18(2)(b) has been amended to make the wording consistent with the wording of the Children's Homes Regulations (Northern Ireland) 2005 so that looked after children have the same entitlement wherever they are cared for. The relevant wording in the Children's Homes Regulations is: "each child is referred to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services, as he may require."	Y
97	19 (2) (d) refers to a Trust's duty to ensure that education provided for a child who is not attending school is efficient and suitable etc. We would suggest this is a duty for the educational authorities or at least a joint duty.	The wording of the Regulation accurately reflects the role of the responsible authority as the child's corporate parent. We do not have power under the Regulations to place a duty on an educational authority or on another NI Department however the Children's Services Cooperation Act 2015 provides scope to engage with DE/EA.	N
98	In addition there should be a requirement to: <ul style="list-style-type: none"> <li>• develop a Personal Health Plan in partnership with the child and foster parents that addresses identified health needs;</li> <li>• register the child with a dentist (as well as a general practitioner);</li> <li>• ensure that the child has 'prompt' access to medical, health related services (2) (b)</li> </ul>	It is considered this level of detail is more appropriate to standards or guidance. Dental services may be provided through a clinic or school. As a result of other consultation comments, Regulation 18(2)(b) has been amended to read: "each child is referred to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services, as the child may require."	N
99	We welcome the specific duties of the responsible authority in relation to education and leisure activities. However we believe the Regulations should go further and ensure that the responsible authority are "actively promoting and supporting" the leisure interests of children. Whilst we welcome Regulation 19(2), it is important that education and leisure activities are not only promoted but that children are actively supported and facilitated to engage in these activities. We believe that children and young people in care should be able	Regulation 19(2)(c) places a duty on the responsible authority to provide foster parents with such information and assistance, including equipment, as may be necessary to meet the educational needs of children placed with them – this is considered to be actively supporting and facilitating the child's educational needs rather than just promoting them. It is considered appropriate that the wording of Regulation 19(2)(e) relates to the promotion of leisure interests, as a legislative requirement to facilitate certain leisure interests may not be practicable if, for example, it is an extremely expensive hobby.	N

	<p>to avail of leisure activities to help promote well-being and to build their confidence.</p> <p>In our e-consultation, the practical matter of transport was highlighted recommending that foster carers should facilitate transport to promote children's leisure time activities and hobbies. Some children and young people have told us that they have been unable to attend leisure activities due to lack of transport. We acknowledge that there is an on-going discussion between social workers and foster parents around transport. We believe this is an issue that needs further discussion and clarification.</p> <p>Respondents felt that providing transport would help encourage and motivate a young person to become involved in groups and clubs in their community all promoting a greater sense of inclusion.</p>		
100	<p>The obligation to attend training should be explicit to ensure that a foster parent understands training as part of the foster care agreement. As well as outlining the duty to attend training, the foster care agreement should also state what happens if a foster parent fails to comply and does not attend training. Any training given to the foster parents should reflect training needed to meet the individual needs of the child or young person. The foster care agreement should emphasise the importance of attending training as part of the role as a foster parent.</p> <p>These findings were similar to the responses from the e-consultation with 86% of respondents saying foster carers should get training and support with children's general health. In addition, 100% said foster carers should get training in:</p> <ul style="list-style-type: none"> <li>• Children's emotional health and well being</li> <li>• Helping children with their education</li> <li>• Protecting children</li> <li>• Issues facing children and young people in care</li> </ul> <p>In addition to the prompted responses, there were recommendations that foster carers should get training</p>	<p>Each foster parent's needs will be individual and it is not considered appropriate to make all training mandatory. It is considered that the specific content of training, which may change through time and as issues come to the fore, is more relevant to standards than to subordinate legislation.</p>	N

	about the impact of trauma and separation on young people, the impact of contact on the child, and how to build resilience.		
101	<p>We would also suggest the inclusion of employment at 19(3) alongside the need to promote education and training.</p> <p>We believe that there should be more emphasis and detail outlined in relation to the responsible authority's role to support a child or young person during transition to independence and adulthood. It is important that foster parents are provided with information around higher and further education, careers services and other support services that a young person can access.</p>	Regulation 19(3) has been amended to read: "Where any child placed with foster parents has attained the age where he is no longer required to receive compulsory full-time education, the responsible authority shall assist with the making of, and give effect to, the arrangements made for his continued education, training and employment."	Y
102	We would very much welcome this section being reworded to take account of promoting a positive identity and valuing diversity through individualised care for the child. With a more diverse population it is important that children and young people who are in foster care have their linguistic and cultural needs meet.	It is considered that the Regulations, which include phrases such as "as the child may have, or "appropriate to the child's needs and wishes" provide for individualised care for the child. It may also be possible to emphasise these issues in Standards.	N
103	Yes we do agree and welcome these duties and think it would be helpful to clarify in the proposed new Standards more of the detail on these.	It is intended that Standards will be developed to support the Regulations.	Y
104	We believe that there should be a stronger emphasis on access to user-friendly information and to independent advocacy throughout the regulations. Access to independent advocacy should not be issue driven and only accessed when incidents occur. A child or young person should be informed of their right to independent support when they enter care and all through their time in care. It is important that foster parents are made aware of independent advocacy services, how to access them and the benefits they have for both the foster parent and the child or young person.	Regulation 20 places a requirement on the responsible authority to provide foster parents with information on independent advocacy services. The Adoption and Children Act (NI) 2022 provides for advocacy services for looked after children.	N

QUESTION 16: Do you agree with the duties that are placed upon the registered provider of a fostering agency in Part VII of the Regulations (Regulations 21-46)? If not, what changes would you suggest?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
105	Clarity needs to be given to ensure regulations 21-46 pertain to the Trusts as well as the IFA's.	Relevant Trust responsibilities are already covered under the Children Order and other sets of Regulations, e.g. the duty to safeguard and promote a looked after child's welfare, to promote contact, deal with representations etc.	
106	Reg 21 (1) should include a timescale e.g. reviewed annually (a)	Consultee clarified that they intended to refer to Regulation 24(1) instead of Regulation 21(1). It is intended that Standards will be published to support the Regulations and such timescales would be more appropriately contained within Standards.	N
107	Reg 21(b) During our consultation workshop, we asked how important it is that a foster carer comes from the same cultural background or shares the same religious beliefs as the child they foster. There was a mixed response with 57% saying it is "very important" or "fairly important" and 43% saying it was not important at all. This suggests that there should be flexibility around the cultural background of the foster carers and it should be assessed on the individual needs and circumstances of the child. However it is important that the welfare and wishes of the child is paramount to any decision made about their placement and that the child is safeguarded at all times.	Article 28 of the Children Order allows for regulations to be made which make provision for securing that where possible the authority foster parent with whom a child is to be placed is— (i) of the same religious persuasion as the child; or (ii) gives an undertaking that the child will be brought up in that religious persuasion. The Regulations require "due consideration" to be given to the child's religious persuasion, racial origin and cultural and linguistic background. There are occasions when placement with a foster parent from the same cultural background or religious beliefs is not possible and therefore the Regulations have to include a degree of flexibility.	Y
108	Comment on FPFA Regulation 21 – (Duty to secure welfare) The proposed FPFA regulations at 21 (a) are not as detailed as the Children's Homes Regulations (NI) 2005 Regulation 11 Promotion of welfare and at 21(b) do not reference privacy and dignity; gender and disability. Note "registered person" – this refers to the provider and manager.	Regulation 21(b) has been amended to read: "religious persuasion, racial origin, cultural and linguistic background, and any disability the child may have." "Registered person" is defined in the same way in these draft regulations as in the Children's Homes Regulations.	Y
109	In reference to Regulation 22 it is our view that additional wording to include "as specified in the child's care plan" would further clarify the expectation.  Duty to promote contact - we believe that Regulation 22 should be more detailed and the foster care agreement should explicitly outline the foster parent's role to promote and support a child or young person	The Adoption and Children Act (NI) 2022 will, when implemented, place care plans on a statutory footing.  Regulation 22 belongs to Part VII of the Regulations, which covers the particular duties of fostering agencies. Schedule 4 deals with the matters and obligations to be covered in foster placement agreements between the responsible authority and the foster parent and paragraph 6 requires the foster placement agreement to include the arrangements for the child to have contact with his parents and other persons.	N

	through their contact with family, relatives and friends.		
110	<p>Reg 22 (Duty to Promote Contact) - we feel this should primarily be the responsibility of the responsible authority rather than the registered manager.</p> <p>Reg 22 infers that there is a duty on the fostering agency to promote contact which remains with the placing HSCT. It would be helpful to establish if this will place a statutory responsibility on fostering agencies to promote contact.</p>	The Regulations do not include reference to the responsible authority with regard to the promotion of contact between the child and his family as this duty is already set out in Article 29 of the Children Order. Regulation 22 does place a statutory responsibility on the registered manager of a fostering agency to promote contact subject to the other provisions in Regulation 22.	Y
111	<p>Reg 23 Statement of Purpose and Children's Guide - we welcome Regulation 23 which requires the registered provider to develop statement of purpose and children's guide. We welcome the reference to producing a children's guide to the fostering agency. However when we consulted with children and young people they expressed a desire to have a guide that contains information about their prospective foster placement. It is important to ensure that any children's guide should be age appropriate and accessible to all. Guides should contain information about the foster carer and the type of family the child will be living with and have photographs of the foster carer, their family and their birth family. The guide should be:</p> <ul style="list-style-type: none"> <li>• A small booklet</li> <li>• Age appropriate</li> <li>• Designed by foster carers, young people and social workers</li> </ul>	It is intended that Standards will be published to support the Regulations, and they will cover aspects such as content in greater detail.	N
112	<p>Regulation 24 refers to the review of the Statement of Purpose and Children's Guide. We would propose including timescales for these to be reviewed and would suggest a minimum of annually to ensure these documents remain up to date and relevant to the service being provided.</p>	It is intended that Standards will be published to support the Regulations and such timescales would be more appropriately contained within Standards.	N
113	<p>25 (2) (b) should refer to the need to adhere to regional child protection policy and procedures rather than 'prompt' referral;</p> <p>We would wish to comment that Reg. 25(2) (b) would be strengthened by the provision of a timescale for the referral of an allegation of abuse or neglect in respect of a child in foster care. We would suggest that this should be "within the same working day" of the</p>	<p>Guidance to support the Regulations will clarify that duties under this Regulation will need to be fulfilled in accordance with established operational child protection policy and procedures, which specify timescales.</p> <p>References to training and protocols are not considered appropriate in subordinate legislation, which needs to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time.</p>	N

	allegation being made.		
114	<p>Reg 26 should be divided into two separate regulations:</p> <ol style="list-style-type: none"> <li>1. Children missing from foster carer's home</li> <li>2. Behaviour Management</li> </ol> <p>The regulations regarding missing children needs to be developed to reflect the seriousness of this situation and the support required by professionals and foster carers.</p> <p>26 (3) We feel a definition of a missing child would be helpful and agreed across the Trusts, and an agreed protocol for the recording and planning around how to report, respond and plan where there is a history of a child going missing. This should include other key agencies for example Police, to ensure consistency in response.</p> <p>In addition to the duties out lined we would add at 26(3) that the procedure to be followed if a child is missing from a foster home is consistent with that used by Trusts (developed in partnership with the PSNI).</p>	<p>Guidance to support the Regulations will clarify that duties under this Regulation will need to be fulfilled in accordance with established operational child protection policy and procedures, which specify timescales.</p> <p>References to training and protocols are not considered appropriate in subordinate legislation, which needs to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time.</p>	N
115	<p>We are part of an Alliance of organisations who believe it is both wrong and impracticable to seek to define acceptable forms of corporal punishment of children. Hitting children is a lesson in bad behaviour. Removing the defence of "reasonable punishment" and thus giving children in their homes and in all other settings equal protection under the law on assault is the only just, moral and safe way to clarify the law. Using positive forms of discipline reduces stress and improves relationships between children, their parents and other carers. In regard to 26 (2) (b) we believe this could be interpreted so as to permit control, restraint or discipline which is deemed non-excessive and</p>	<p>Regulation 26(2)(b) follows Regulation 26(2)(a) which clearly requires the registered provider to take all reasonable steps to ensure that no form of corporal punishment is used on any child placed with a foster parent approved by the registered provider.</p> <p>It is considered that serious damage to property is potentially harmful to the child and to others. The wording of the draft Regulation is consistent with other sets of Regulations, including the Children's Homes Regulations (Northern Ireland) 2005.</p> <p>It is intended to develop Standards to support the Regulations, which will deal with issues in greater detail.</p>	N

<p>reasonable, leaving a child extremely vulnerable and open to cruel, inhuman or degrading treatment and punishment. We would strongly advocate this provision should be removed from the draft regulations.</p> <p>In reference to Regulation 26 (2) (b) and (c) it is our view that foster carers should be trained in positive parenting and discipline/behaviour management.</p> <p>The regulation regarding behaviour management should reflect the need for a proactive approach to positive behaviour so that the need for restraint etc is reduced and minimized – should require the Authority to provide access to psychology advice and supervision when required; staff support, training.</p> <p>26 (c) – Physical Restraint should reference where foster carers are approved (TCI) and have been appropriately trained to use this technique.</p> <p>26 (c) – physical restraint – important to add “where the foster parent has been appropriately trained in the use of an agreed restraint technique”</p> <p>26 (2) (a) &amp; (b) need to incorporate support and training in respect of what constitutes appropriate restraint and the use of agreed restraint techniques.</p> <p>We strongly recommend that all fostering agencies should be required to develop a written policy on control, restraint and discipline and provide training for all foster carers and kinship carers on the policy.</p> <p>We endorse the suggestion from another consultee that a written policy on control, restraint and discipline should be developed. An area for standardisation across all Trusts.</p> <p>26 (2) (c) goes further to permit physical restraint where it is necessary to prevent likely injury to the child</p>		
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or other persons or likely serious damage to property. We would refer the HPSS to the UN Committee on the Rights of the Child Concluding Observations which urge Government –“To ensure that restraint against children is only used as a last resort and exclusively to prevent harm to the child or others and that all methods of physical restraint for disciplinary purposes be abolished.” We would strongly recommend that a fostering agency’s written policy on control, restraint and discipline should be developed with a view to implementing the Committee’s recommendations. It is also imperative that in line with article 12 of the UNCRC ‘Respect for the Views of the Child’ and section 75 of the NI Act 1998 that children and young people with experience of foster care are pro-actively involved and consulted on the development of this written policy.

The regulation should be explicit about the use of restraint “only where it is necessary to prevent likely injury to the child or other persons, or serious damage to property or specified as part of the care plan and risk assessment plan for an individual child.”

26(2)(c) We feel that a clear definition of ‘restraint’ should be given here.

The five Health and Social Care (HSC) Trusts in Northern Ireland have all introduced “therapeutic approaches” in children’s homes and in the regional secure units. The aim is to improve staff skills and outcomes for young people. There are a variety of models across all five Health and Social Care Trusts:• Belfast Health and Social Care Trust –social pedagogy• Northern Health and Social Care Trust – Children and Residential Experiences (CARE) model• South Eastern Health and Social Care Trust – Sanctuary model• Southern Health and Social Care Trust –Attachment, Self-Regulation and Competency (ARC) model• Western Health and Social Care Trust –

	<p>Model of Attachment Practice (MAP) The models focus on various areas of practice, including non-confrontational approaches to working with young people, creating a 'trauma informed' environment to maximise development and well-being and modelling positive behaviours and skills. We believe that foster parents should be appropriately trained on child sexual exploitation, using therapeutic models of practice to help them understand child sexual exploitation. This would help foster parents to work preventatively with children and young people and adopt non-confrontational approaches to dealing with issues.</p>		
116	<p>Reg 27 Representations and complaints - we are very supportive of the focus on ensuring that a registered provider should enable a child or young person to make a complaint or representation. Furthermore, timely access to independent advocacy can reduce the need for and use of formal complaints procedures, as issues can be resolved quickly and informally. We want all children and young people in care to have a statutory right to independent advocacy. We want independent advocacy services promoted actively amongst foster carers to help them understand the benefits of advocacy for children in care.</p>	<p>The Adoption and Children Act (NI) 2022 will, when implemented, provide for advocacy services for looked after children.</p>	Y
117	<p>Reg 33 - We feel that 'qualified and registered social worker' should be included here.</p>	<p>Regulation 33 is consistent with the relevant Regulation in The Voluntary Adoption Agencies Regulations (Northern Ireland) 2010. Qualifications, which may change over time, can be covered in guidance and standards.</p>	N
118	<p>Regulation 39 refers to the provision of a report to RQIA that comments on the matters set out in Schedule 6. This report should form part of the inspection process if one is to be introduced and therefore timescales to ensure it is provided on a regular basis [annually] need to be included here.</p>	<p>It is intended that Standards will be published to support the Regulations and such timescales would be more appropriately contained within Standards.</p>	N
119	<p>In relation to Schedule 6 [12] we would seek clarity around the statement, "Duty rosters of persons working for the fostering agency, as arranged and as actually worked". This appears to refer more to residential services and may need to be reworded to more accurately reflect fostering services that provide an 'on call' service out of office hours.</p>	<p>Schedule 6(12) has been amended to read: "Records of persons working for the fostering agency on any given day."</p>	Y

QUESTION 17: Do you agree with the duties that are placed upon the registered manager of a fostering agency in Part VII of the Regulations (Regulations 21-46)? If not, what changes would you suggest?

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
120	<p>We are in agreement with the duties place upon the registered person of the fostering agency. Regulation 34 – “Fitness of Workers” should reference qualification and experience.</p> <p>We agree with the duties placed on the registered manager. Regulation 34 Fitness of workers – we would like to see this strengthened in relation to the qualifications and experience of the worker in relation to undertaking assessment (alternatively could this be included in Standards?)</p>	<p>Regulation 34(3)(b) specifies that a person is not fit to work for the purposes of a fostering agency unless he has the qualifications, skills and experience necessary for the work he is to perform. This is consistent with the relevant Regulation in The Voluntary Adoption Agencies Regulations. Qualifications, which may change over time, can be covered in guidance and standards.</p>	N
121	<p>Regulation 22 – duty to promote contact</p> <p>Refer to the Children’s Homes Regulations (NI) 2005, Regulation 15 Contact and access to communications. We consider that the proposed FPFA regulations are not as detailed and the responsibility for this duty appears to lie with Registered Manager only.</p>	<p>The Regulations are less detailed than the Children’s Homes Regulations in this respect, as a Children’s Home may be used as a facility for contact and the accommodation therefore needs to provide for this, in contrast to the foster household’s being a family setting.</p> <p>It is considered appropriate that this responsibility lies with the registered manager.</p>	
122	<p>Regulation 23 – statement of purpose and children’s guide - refer to the Children’s Homes Regulations (NI) 2005, Regulation 4 Statement of purpose and children’s guide and Schedule 1 The proposed FPFA regulations at 23(1) (a) and (b) are not as detailed and the responsibility for this duty appears to lie with the Registered Provider only.</p>	<p>It is considered that the differences are appropriate as greater detail is required to be available for a Children’s Home (such as the organisational structure of the Home, the numbers of children for whom it is intended that accommodation should be provided etc.) as a Home is a residential setting where children are accommodated. The fostering agency will not itself accommodate children but will arrange the placement of children into families.</p> <p>It is considered appropriate that Regulation 23 places responsibility on the registered provider.</p>	
123	<p>The proposed FPFA regulations at 23 (2) (b) includes any child placed. In other regulations copy made available to child upon request and includes “for inspection by”</p>	<p>Regulation 23(2) requires the registered provider to provide a copy of the statement of purpose to any child placed with a foster parent of the fostering agency as there is a greater distance between the child placed with a foster parent and the registered provider than there would be in a Children’s Home setting and it is considered that making the Statement available without having to be requested will make it more accessible for the child. Freedom of Information is now a widely-known means of accessing information and is available to the other parties listed in the Children’s Home Regulations should the agency not provide the information on request.</p>	

<p>The proposed FPFA regulations at 23 (4) query whether (b) is required as this would be included in (a) a summary of the statement of purpose – 23(1)(a) and (b) defines what is in the SoP. In addition 23(4)(b) does not include word “facilities” and introduces term “service user” rather than child or children.</p> <p>23(5)(c) each child .... subject to the child’s age and understanding Query does this have same meaning as in Children’s Home Regulations (4) The children’s guide shall be produced in a form appropriate to the age, understanding and communication needs of the children to be accommodated in the home.</p> <p>General: SoP/Children’s Guide – details of the Commissioner to be included (as per Children’s Home regulations?)</p> <p>Supply of children’s guide to a broader group than in the Children’s Homes regulations (5) The registered person shall supply a copy of the children’s guide to the Regulation and Improvement Authority and, on admission, to each child accommodated in the home.</p> <p>The proposed FPFA regulations at 23(6) “of this regulation” – is this required? Refers to Registered Provider only; The proposed FPFA regulations at 23(7) appears to exclude the Registered Manager from responsibility etc.</p> <p>Comment on FA Regulation 24 – Review of SoP and Children’s Guide The proposed FPFA regulations at 24(c) note that parties listed are not the same as in 23(5) (a)-(d). This</p>	<p>Regulation 23(2)(b) has been amended to include “subject to the child’s age and understanding.”</p> <p>Regulation 23(4)(b) is necessary as 23(4)(a) is only a summary. Regulation 23(4)(b) has been amended to read, “a statement as to the services and facilities to be provided by the fostering agency.”</p> <p>The Children’s Homes Regulations set out different requirements for the Children’s Guide as the requirements for Children’s Homes do not have to cover children from birth upwards.</p> <p>No other consultees requested this and it is not included in the Voluntary Adoption Agency Regulations.</p> <p>The Children’s Guide is supplied to a broader group because the Children’s Homes Regulations do not need to take account of foster parents.</p> <p>Regulation 23(6) has been amended to remove “of this regulation.” It is considered that the registered manager will not necessarily have the power to ensure this and it is therefore appropriate to place the onus on the registered provider.</p> <p>It is considered important that the documents go to the responsible authority on their introduction, but at review stage, the RQIA would deal with any issues or concerns about the revisions and can draw these to the attention of the responsible authority as necessary.</p>	
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<p>is the responsibility of provider not the manager.</p> <p>Comment on FA Regulation 25 – Arrangements for the protection of children Wording of proposed FPFA regulations at 25 are similar to but not the same as that of Voluntary Adoption Agency Regs and Residential Family Centre Regulations. FPFA Regs refer to Registered Provider and appear to exclude the Registered Manager</p> <p>Comment on FA Regulation 26 – Behaviour Management etc.. Note: not as detailed as the Children’s Home Regulations. Should requirements re record keeping be stated here?</p> <p>Comment on FA Regulation 27 Representations and complaints FPFA Regulations at 27(1)(a) and (b) – should parent/guardian of child be included here?</p> <p>FPFA regulations at 27(1)(c) refer to representations, however, 27(1) refers to complaints only ” .....shall establish a written procedure for considering complaints .....</p> <p>FPFA Regulations at 27(5) – Note that Voluntary Adoption Agencies Regulations is more detailed here</p> <p>FA Regulations at 27(6)(b) “no child .....</p> <p>Comment on FPFA Regulation 28 Fitness of registered provider</p>	<p>It is considered appropriate that Regulation 24 places responsibility on the registered provider.</p> <p>Differences in wording in this area between the sets of Regulations has been considered and the differences are considered appropriate. It is considered appropriate that regulation 25 places responsibility on the registered provider.</p> <p>The Children’s Homes Regulations are more detailed as they specify directly what can be carried out or not in the Home; the Fostering Regulations provide for a written policy to be prepared and implemented by the registered provider about their responsibilities towards children placed with foster parents approved by them. Schedules 3 and 4 set out obligations on the part of the foster parent.</p> <p>The Fostering Regulations differ from the Voluntary Adoption Agencies Regulations in this respect. Where a child is in foster care, the responsible authority has responsibility for the child and therefore contact would be through the responsible authority. For adoption, the voluntary adoption agency can work directly with birth parents in some adoption placements.</p> <p>Regulation 27(8) has been amended to add paragraph (6) as an exception as well as paragraph (5). Regulation 27(8) exempts regulation 27 from applying to any matter to which the Representations Procedure (Children) Regulations (Northern Ireland) 1996 apply except for regulation 27(5) (and now 27(6)). Regulation 27(5) – and 27(6) therefore needs to refer to ‘representations.’</p> <p>More detail is required in the Voluntary Adoption Agencies Regulations as not all complaints concerning voluntary adoption agencies are covered by the Children’s Order Representations.</p> <p>Regulation 27(6)(b) has been amended to refer to “no person.”</p> <p>A reference to the NISCC Code of Practice is not deemed appropriate for secondary legislation but can be covered in Standards if appropriate.</p>	
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<p>28(3) RQIA would query if adherence to NISCC Code of Practice for Employers is relevant here?</p> <p>Note that 28(4) contains more exclusions than those cited in other Regulations. It is unclear why this is the case? Implications for Registration.</p> <p>Comment on FPFA Regulation 29 Appointment of Manager Note 29(2)(a) and (b) this is different to other service type regulations This has implications for Registration.</p> <p>Comment on FPFA Regulation 33 Staffing of fostering agency Note: only responsibility of Registered Provider, not the Registered Manager</p> <p>Comment on FPFA Regulation 34 Fitness of Workers Note 34(2) refers to “registered person” not registered provider.</p> <p>Comment on FPFA Regulation 35 Employment of staff Ref 35(2)(a) should this read “suspension” rather than “supervision”?</p> <p>Comment on FPFA Regulation 36 Staff records 36(2) is not as per Voluntary Adoption Regulations (Schedule 3)</p> <p>Comment on FPFA Regulation 37 Notifications and records This has implications for registration FPFA Regulation appears more detailed, however, 37(1) “must without delay notify” suggest consideration of a minimum timescale here e.g. three months VAA regs require RQIA approval to be sought prior to transfer of records, FPFA Regulations do not appear to do so.</p>	<p>Where appropriate, these exclusions mirror those for appointment to the Safeguarding Board for Northern Ireland which are set out in the Safeguarding Board for Northern Ireland (Membership, Procedures, Functions and Committee) Regulations (Northern Ireland) 2012.</p> <p>Whilst the wording varies, regulations 29(2)(a) and (b) have the same effect as the wording in regulation 7(1)(b) of the Children’s Homes Regulations, and in regulation 8(1)(b) of the Residential Family Centre Regulations.</p> <p>It is considered that the registered manager will not necessarily have the power to decide on staffing and it is therefore appropriate to place the onus on the registered provider.</p> <p>Regulation 34(2) has been amended to read “registered provider.”</p> <p>The reference in Regulation 35(2)(a) to ‘supervision’ has been amended to read ‘suspension.’</p> <p>Schedule 6(13) has been amended to read: “Records of employees’ training, supervision, appraisal, and disciplinary action (if any) taken against them.”</p> <p>It is not considered feasible that notice such as a period of 3 months will always be able to be given and therefore “must without delay notify” is deemed appropriate. Given the life-long nature of adoption, it is considered appropriate that the Voluntary Adoption Agencies Regulations require RQIA approval for the transfer of adoption records.</p> <p>Noted.</p>	
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<p>Comment on FPFA Regulation 38 New fostering service providers Implications for registration – 16 weeks’ timescale noted</p> <p>38(1) “unless it is not reasonably practicable to do so,” and 38(3) – will this leave the duty of the new fostering service provider too open ended? Should this be required to be agreed with RQIA</p> <p>Comment on FPFA Regulation 39 Review of quality of care 39(1)(a) term “at appropriate intervals” consider being more specific e.g. annually 39(2) “any authority” should children, foster parents, parents, etc. be included?</p> <p>Comment on FPFA Regulation 40 Notifiable Events Implications for incident reporting Refer to The Children’s Home Regulations 29(1), Schedule 5 – if comparison is made with FPFA Regulations Schedule 7, the listing of incidents is not exactly the same and there are differences in the agencies to be notified. Not clear why this should be.</p> <p>The Children’s Home Regulations 29 (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. FPFA Regulations do not refer to this – should do so? FPFA Regulations 29[40?](2) – “must be confirmed in writing” no timescale noted – leaves this open ended</p> <p>Comment on FPFA Regulation 41 Financial Position Note this is similar to The Children’s Home Regulation 35</p>	<p>Regulation 38(2) has been amended to read, “subject to approval by the Regulation and Quality Improvement Authority.”</p> <p>It is considered more appropriate to include any specification of appropriate intervals in Standards. Foster parents and children placed with foster parents are consulted under regulation 39(3).</p> <p>The relevant Schedules have been reviewed and amendments made as appropriate.</p> <p>Regulation 40 requires the registered person to advise the responsible authority. As the corporate parent, it would be for the responsible authority to notify parents. No timescale is specified in The Children’s Home Regulations and it is considered more appropriate to include any timescale in Standards.</p> <p>Regulation 41(2) relates to the annual accounts being provided on a yearly basis. 41(3) allows for historical annual accounts to be requested by the RQIA.</p>	
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<p>FPFA Regulations 41(2)(b) suggest inclusion of “at its request” otherwise is this the same meaning as 41(3)(a)</p> <p>Comment on FPFA Regulation 43 Notice of changes This has implications for registration Note this is in keeping with The Children’s Home Regulation, However, FPFA Regulation 43(2) refers to notification to RQIA of the death of the registered manager. In other registered services, the death of registered person is stated as a separate regulation e.g. The Children’s Home Regulations Death of registered person In Voluntary Adoption Agency Regs 23(2) The registered provider shall notify the RQIA in writing and without delay of the death of the responsible individual or the manager.</p> <p>Comment on FPFA Regulations 46 Compliance with regulations Suggest “registered provider” be replaced with “registered person”</p> <p>Comment on Schedule 5 Differences noted with Children’s Home Regulation and VAA Regulation, in that no medical declaration appears to be required. Schedule 5, 2 this is not how this appears in other regulations – not clear what this means or why this is the case?</p> <p>Comment on Schedule 7 Implications for incident reporting Refer to The Children’s Home Regulations 29(1), Schedule 5 – if comparison is made with FPFA Regulations Schedule 7, the listing of incidents is not exactly the same and there are differences in the agencies to be notified. Not clear why this should be. Similarly in Regulation to FPFA Regulation 40 Notifiable Events</p>	<p>Regulation 43(2) has been amended to read: “The registered person shall notify the Regulation and Quality Improvement Authority in writing and without delay of the death of the registered provider or the registered manager.”</p> <p>Regulation 46 has been amended to refer to the “registered person.”</p> <p>Regulations 28, 30 and 34 require physical and mental fitness on the part of the registered provider, the registered manager and workers in a fostering agency. The means of assessing this will be included in Standards.</p> <p>The Schedules have been reviewed and amendments made as appropriate.</p>	
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**QUESTION 18: Do you agree with the requirements set out in Regulation 44, in relation to the appointment of liquidators to a fostering agency?**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
124	In cases where the receiver or manager of a company or partnership is a registered provider of a fostering agency, we would concur that RQIA should be notified of the appointment of liquidators and the reasons for this. We agree with the requirements set out in Reg. 44 (1) and (2) as part of this regulation.	Noted.	Y

**QUESTION 19: Do you agree that it should be an offence to contravene any of the provisions of Regulations 23 to 43, as set out in Regulation 45? If not, what changes would you suggest?**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
125	We feel that there should be some clarity given as to what type of offence this would be, civil or criminal?	These Regulations are made under Article 25 of the HPSS Order which enables the Department to provide for offences in the Regulations. This Article specifies that “25. -(2) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.” The reference to “summary offence” denotes that it is a criminal offence. As this is specified in the primary legislation, it does not need to be replicated in the Regulations.	N
126	Yes agree that it would be an offence to contravene any of the provisions as set out in regulation 45 but it would be worthwhile arranging a meeting with the RQIA to discuss their role and what action they will take.	NOTED	Y
127	Offences are in relation to 23-43 Query why not regs prior to 23?	Regulation 45 only applies to Regulations 23 to 43 as the Department is bound to act within the parameters of Articles 23 and 25 of the HPSS Order. This power only extends to regulated fostering agencies for the purposes of Article 8(2)(b) of the HPSS Order. It is considered that contraventions of Regulations 23 – 43 are significant to the extent that it is appropriate to pursue a criminal conviction where necessary. For earlier Regulations, prosecutions may be pursued, where appropriate, under other relevant statutory provisions.  The Department has no power to impose offences on HSC Trusts, as they are not regulated fostering agencies (the definition of “fostering agency” in Article 2(2) of the HPSS Order exempts an authority i.e. an HSC Trust. However, the HPSS Order, whilst not subjecting HSC Trusts to registration by the RQIA for the purpose of	

		delivery of fostering services, does provide powers at Article 35 for the RQIA to conduct inspections of services delivered by the HSC within the context of RQIA reviews and to make a report to the Department where services are of unacceptably poor quality (whether generally or in particular), or there are significant failings in the way the service is being run. The RQIA may also recommend special measures if such circumstances were to arise.	
128	Comment on FPPA Regulation 32 - Notification of offences Note: Children's Home Regulations also refer to "criminal charges pending" and providing details of same Implications for Registration	The RQIA are unlikely to be able to take any action on the basis of criminal charges pending and for that reason, "criminal charges pending" has not been included.	N
129	Comment on FPPA Regulation 35 Employment of staff Ref 35(2)(a) should this read "suspension" rather than "supervision"?	Regulation 35(2)(a) should have read "suspension" instead of "supervision" and this has now been amended.	Y

QUESTION 20: What data do you think will be required to ensure effective monitoring of these Regulations following implementation?

	ISSUE	DEPARTMENTAL RESPONSE	Y/N
130	Annual reports to be presented as part of local and regional governance arrangements; Staffing levels and qualifications; Numbers relating to: <ul style="list-style-type: none"> <li>• Assessments carried out on prospective foster parents</li> <li>• Approvals</li> <li>• Reasons for non-approval</li> <li>• Placements made and type</li> <li>• Terminations and reasons</li> <li>• Breaches regarding timescales</li> <li>• SAIs</li> <li>• Complaints</li> <li>• Training</li> </ul>	All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.	N/A
131	We think the following are the minimum that will be required for effective monitoring: Development of clear fostering standards Baseline data on foster carers reported on annually by RQIA Baseline data on outcomes for children in foster care reported on annually by RQIA	All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.	N/A

	Consideration be given to a National Register of Foster Carers		
132	<p>Annual RQIA monitoring report to include –</p> <ul style="list-style-type: none"> <li>• f/c and LAC registers</li> <li>• placement stability</li> <li>• placement numbers</li> <li>• diversity of placements –siblings, disabilities, cultural diversity, etc</li> <li>• applications to become foster carers</li> <li>• exemptions to the fostering limit granted</li> <li>• Outcomes for ILAC</li> <li>• Complaints received</li> <li>• Educational information</li> <li>• Care plans</li> <li>• Allocated FSW</li> <li>• Allegations regarding foster carers</li> <li>• Safeguarding enquiries regarding IAC</li> <li>• Disciplinary matters for staff</li> <li>• Panel statistics –deregistrations, resignations, approvals, annual reviews</li> <li>• Diversity of carers</li> <li>• Training offered to carers</li> <li>• Incidents of physical restraint</li> <li>• Episodes of missing</li> <li>• LAC vulnerable to sexual exploitation</li> <li>• LAC vulnerable to gang violence</li> <li>• Types of fostering offered</li> <li>• Staying put placements</li> <li>• Recruitment and retention of carers</li> </ul> <p>Compliance with regulations and standards should be monitored in an annual report as above</p>	All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.	N/A
133	<p>§ Development of clear fostering standards § Baseline data on foster carers reported on annually by RQIA§ Baseline data on outcomes for children in foster care reported annually by RQIA.</p>	All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.	N/A
134	<p>Who does this question apply to: RQIA or RM? E.g. Who is doing the monitoring? Regulation 39 Schedule 6 sets out the matters to be monitored by the registered provider – data that applies to all of Schedule 6 would provide the RP with effective monitoring of compliance with regulations.</p>	<p>This question refers to monitoring by the Department, whether via the RQIA or by other means such as statistical analysis.</p> <p>All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.</p>	N/A

	<p>An annual data submission to RQIA of the following:  Numbers and information about placements  Numbers and information about foster carers  Ethnicity of children and foster carers  Information about the quality of care e.g. allegations.  CP, education, missing from care,  Numbers/information about complaints</p> <p>That a meeting with RQIA is undertaken with the independent agencies prior to any inspection and that some mechanism is established with them that will allow the independent agencies to complete a yearly monitoring form which will be sent to RQIA. That process would be determined following the meeting that all the independents should be invited to. Advice should be sought from Ofsted as to the type of reporting that Independent agencies have to comply with in England and Wales.</p>		
135	<p>A monitoring data and commentary self-assessment audit feedback system from fostering agencies will be required in respect of all sections of the regulations (Reg 1-42 and Schedules 1-6) in order to monitor adherence to the statutory requirements set out in The Foster Placement and Fostering Agencies Regulations (Northern Ireland) 2014.</p>	<p>All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.</p>	N/A
136	<p>The number of young people in foster placements provided by the Agency, the duration of individual placements, the numbers of individual children placed in foster care at any given time</p>	<p>All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.</p>	N/A
137	<p>The implementation of these regulations and linkage to standards should not be resource neutral. While the regulations are to be welcomed, the impact on current stretched resources should not be overlooked. Effective monitoring and assurance will impact. Resource assessments needs to be explored. In terms of effective monitoring per se: • Baseline data analysis re: placements. • Training needs of foster carers. • DSF – meeting statutory functions. • Annual Report from Fostering Panel – similar to adoption panel - and</p>	<p>In many cases, the new Regulations do not change current practice but improve and strengthen current arrangements for the benefit of children. It is accepted that there may be some additional resource requirements in some areas but some resource savings are also likely in other areas to counterbalance this, resulting in a cost-neutral outcome.</p> <p>All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.</p>	N/A

	submitted to the Corporate Parent. • Statement of purpose. • Permanency/stability for children in need.		
138	We will comply fully with the requirements of RQIA in respect of the annual inspection process.	Noted.	N/A
139	Trusts provide a range of data via the Delegated Statutory Reporting mechanism, it will be critical Independent Sector Providers have in place systems to make available to Trusts and HSCB as required consistent data to ensure a wider fostering perspective and also to evidence good internal governance (i.e. compliance with the regulations).	The provision of necessary data from the independent sector can be achieved by way of the written agreement specified in Schedule 1 of the Regulations which provides for an agreement to be made between the authority and the registered person of the fostering agency as to the discharge of the authority's functions.	Y
140	We believe a register of approved foster carers, fostering standards, and the role of RQIA in inspection and review will assist in ensuring effective monitoring of the regulations.	All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.	N/A
141	<p>We believe the following mechanisms will assist in ensuring effective monitoring of the regulations; Register of approved foster carers – could this be a regional register? Section 75 – Quality Assurance, Equality Legislation Foster care records Fostering Standards In order to effectively monitor there is a need for baseline data to be maintained and published annually.</p> <p>We recommend therefore the collation of regional accurate and detailed information on outcomes for children of fostering service by which the effectiveness of fostering services, including the implementation of the regulations can be monitored.</p> <p>RQIA's role in fostering inspection/review.</p>	All consultee suggestions about data which would ensure effective monitoring of these Regulations have been noted and further consideration will be given to them in the development of standards.	N/A

**QUESTION 21: Do you have any other comments on these Regulations and/or screening exercise?**

No.	ISSUE	DEPARTMENTAL RESPONSE	Y/N
142	Re H&S considerations for assessment of prospective foster parents, Reg 5, Schedule 2 para 5 relates to foster parents who are undergoing an assessment and	Regulation 14(3)(c) has been amended to include a reference to considering any health or safety matters.	Y

	<p>while this may well include kinship placements made on the foot of an emergency, it may be useful to add the following addition in Regulation 14(3): "Where the authority is satisfied that the immediate placement of a child is necessary it may, for a period not exceeding 12 weeks, place the child with a person who has not been approved under regulation 6 provided, after interviewing the person, inspecting the accommodation, <u>considering any health or safety matters</u> and obtaining information about other persons living in the household, the authority is satisfied that..."</p> <p>This addition would dovetail and fit with recently issued guidance and developments in practice standards.</p>		
143	<p>Welcome the extension of arrangements for the approval of foster carers to Independent Fostering Providers and Voluntary Fostering Agencies which we feel will reduce time delay and duplication and has the potential to contribute to a more efficient and effective fostering service.</p>	Noted.	N/A
144	<p>The emphasis on promoting the health of children is welcome. Understandably, the focus of the regulations is on children. However, this is an opportunity to develop appropriate regulations regarding the requirement to support foster parents including the impact of fostering on them as individuals and their families.</p>	<p>It is considered that aspects of the Regulations such as Regulation 20 (support, training and information to be provided to foster parents) and Schedule 3, 1(b), (e) and (f) focus on the requirement to support foster parents.</p>	N
145	<p>Inspection of Statutory Fostering Provision: these Regulations make provision for the inspection of independent providers of fostering provision in NI. However, the position with regard to the inspection of statutory fostering services is unclear and needs to be clarified. Independent Fostering Provision is only 6% of all provision with the statutory sector making up 94% of fostering places. We consider it equally important that statutory fostering services are inspected by RQIA. We would ask for clarification on the inspection of statutory fostering services.</p>	<p>The HPSS Order, whilst not subjecting HSC Trusts to registration by the RQIA for the purpose of delivery of fostering services, does provide powers at Article 35 for the RQIA to conduct inspections of services delivered by the HSC within the context of RQIA reviews.</p> <p>Article 38 of the HPSS Order also provides that the Department may prepare and publish statements of minimum standards. It is intended to publish minimum care standards for fostering services that will have some application to both the independent/voluntary providers and to statutory providers. In any future review of statutory fostering services commissioned by the Department (or initiated by the RQIA), the RQIA will use the relevant minimum care standards as part of the evidence gathering process. Similarly, the RQIA will use the relevant standards for fostering agencies as the basis of the registration and inspection process for these agencies.</p> <p>The wording in Schedule 7 has been amended to read "Concerns or confirmation</p>	Y

	<p>Schedule 7 the list of notifiable events: this list contains a reference to children involved in prostitution we would suggest that this is removed and replaced with children who are subject to sexual exploitation and that this is notifiable to the DHSSPS as well as RQIA.</p> <p>Schedule 7 again refers to children absconding we would suggest this needs to be replaced with missing and that this is notifiable to RQIA.</p>	<p>that a child placed with foster parents is being sexually exploited.” The Department does not need to be included as, for other than individual cases, it will be notified under procedures already in existence outside the Regulations.</p> <p>Schedule 7 has been amended to replace ‘absconding’ with ‘missing.’ It is not considered appropriate to notify missing children to the RQIA as individual children being missing would not affect the registration of fostering agencies.</p>	
146	<p>In Schedule 4 - we would suggest that the schedule should include information around how long a placement is for and what is the required notice period as this should enable proper planning around placements to take place.</p> <p>Schedule 7 - we feel that where it mentions 'Allegations that a child placed with foster parents has committed a serious crime' RQIA should also be notified.</p> <p>It is our understanding that the inspection and regulation of foster care will be applicable to Independent Foster Care providers only. We believe that to achieve a higher standard of care for all children in foster care within the province, the Trusts must also be subject to the same inspection process carried out by RQIA. Within NI Trusts provide the vast majority of the foster placements throughout the province and for them not to be regulated in the same way as the independent fostering agencies would create a two tiered system.</p> <p>As highlighted in our responses to the core questions above, there is no reference to the role of foster panels in the regulations which is concerning. We understand that the regulations are aiming to allow independent fostering agencies to register and approve their own carers. There needs to be regulations governing panels to enable RQIA to ensure standards are being met. It</p>	<p>Whilst planning, wherever possible, is to be encouraged, some changes cannot be anticipated and placement agreements need to be flexible and to take cognisance of legal status (e.g. court order/interim care order/accommodated).</p> <p>It is not considered appropriate that “Allegations that a child has committed a serious crime” should be reported to the RQIA as action is for the responsible authority and for the police – the RQIA would not take action on individual cases.</p> <p>The HPSS Order, whilst not subjecting HSC Trusts to registration by the RQIA for the purpose of delivery of fostering services, does provide powers at Article 35 for the RQIA to conduct inspections of services delivered by the HSC within the context of RQIA reviews.</p> <p>Article 38 of the HPSS Order also provides that the Department may prepare and publish statements of minimum standards. It is intended to publish minimum care standards for fostering services that will have some application to both the independent/voluntary providers and to statutory providers. In any future review of statutory fostering services commissioned by the Department (or initiated by the RQIA), the RQIA will use the relevant minimum care standards as part of the evidence gathering process. Similarly, the RQIA will use the relevant standards for fostering agencies as the basis of the registration and inspection process for these agencies.</p> <p>Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.</p> <p>However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not</p>	

	<p>would be helpful for all providers of foster care to have an understanding of when the standards to enhance the regulations will be available. When drafted and will they apply right across all foster care providers?</p> <p>Do Regulations 21-46, need to apply to both fostering sectors? If so, this needs to be made clearer.</p> <p>There appears to be no guidance or recommendations on maximum placement numbers (ie the number of unrelated children placed within a foster carer's home). This should be addressed to ensure children in foster care are living in suitable accommodation and receiving the highest level of support required. We would suggest that the Department consider setting a maximum limit of 3 unrelated children within any fostering households. Where there are households exceeding this at the time of the legislation being enacted, it would be anticipated that this arrangements would remain for the lifetime of the placements in situ, so long as it is deemed by all involved that the current arrangements best meet the needs of the children concerned.</p> <p>We would recommend consistent collection of data from each Trust to ensure needs are being met and to enable greater placement planning and cooperation across all fostering agencies.</p>	<p>be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.</p> <p>Work on Standards will commence in parallel with consultation on Regulations and process to make the Regulations.</p> <p>Relevant Trust responsibilities are already covered under the Children Order and other sets of Regulations, e.g. the duty to safeguard and promote a looked after child's welfare, to promote contact, deal with representations etc.</p> <p>As this is already specified in the primary legislation (Schedule 5, paragraphs 2 and 3, of the Children Order), it does not need to be replicated in the Regulations.</p> <p>Consideration will be given as to whether the current data collection needs to be amended to reflect the new statutory requirements. The provision of necessary data from the independent sector can be achieved by way of the written agreement specified in Schedule 1 of the Regulations which provides for an agreement to be made between the authority and the registered person of the fostering agency as to the discharge of the authority's functions.</p>	
147	<p>Inspection of Statutory Fostering Provision: these Regulations make provision for the inspection of independent providers of fostering provision in NI. However, the position with regard to the inspection of statutory fostering services is unclear and needs to be clarified. Independent Fostering Provision is only 6% of all provision with the statutory sector making up 94% of fostering places. We consider it equally important that statutory fostering services are inspected by RQIA. We would ask for clarification on the inspection of statutory fostering services.</p>	<p>The HPSS Order, whilst not subjecting HSC Trusts to registration by the RQIA for the purpose of delivery of fostering services, does provide powers at Article 35 for the RQIA to conduct inspections of services delivered by the HSC within the context of RQIA reviews.</p> <p>Article 38 of the HPSS Order also provides that the Department may prepare and publish statements of minimum standards. It is intended to publish minimum care standards for fostering services that will have some application to both the independent/voluntary providers and to statutory providers. In any future review of statutory fostering services commissioned by the Department (or initiated by the RQIA), the RQIA will use the relevant minimum care standards as part of the evidence gathering process. Similarly, the RQIA will use the relevant standards for fostering agencies as the basis of the registration and inspection process for these</p>	

	<p>Schedule 7 refers to children absconding, we would suggest this needs to be replaced with missing and that this is notifiable to RQIA.</p> <p>We note that there is no reference to the role of the support given by fostering providers to foster carers and proposes that this should be included, perhaps in Regulation 33. Suggested wording could be: 'Fostering agencies provide such support, advice, guidance and training to foster carers as is required to sustain and nurture the foster placement'.</p> <p>There is a need to distinguish the role of the fostering supervising social worker (link worker) from that of the authorized person from a responsible authority, which is set out in Regulation 9.</p>	<p>agencies.</p> <p>Schedule 7 has been amended to replace 'absconding' with 'missing.' It is not considered appropriate to notify missing children to the RQIA as individual children being missing would not affect the registration of fostering agencies.</p> <p>It is envisaged that support to foster parents will be included in the Fostering Service Provider's Statement of Purpose under Regulation 23(1)(b).</p> <p>It is intended to publish Standards to support the Regulations which will cover issues in more detail.</p>	
148	<p>It is our opinion that a meeting with RQIA should be arranged to allow for further discussion around their own role before the first round of formal inspections occur with the independent sector. The omission of panel regulations is a significant shortfall and should be addressed immediately to provide regulations that address all the task and regulatory activity of a fostering service. When is that likely to happen? Will the trusts be open to the same formal inspection as will be the case as for the independent agencies? Will the regulations be implemented across all fostering agencies irrespective of whether trust or independent so that practices in fostering in whatever sector are consistent and in line with the expectations in these standards.</p>	<p>A meeting with the RQIA can be arranged by the consultee to discuss this aspect and to obtain any clarification necessary.</p> <p>Provision in the Adoption and Children Act (NI) 2022 enables the Department, by way of regulations, to place fostering panels on a statutory footing.</p> <p>However, the provision for foster panels is linked to provision, that enables the Department to also establish an independent review mechanism (IRM) on fostering decision-making. The Department has received legal advice stating that the powers in the Act to prescribe for foster panels cannot be exercised in advance of the IRM being introduced. As part of the phased implementation of the Act, the IRM will not be introduced until 2026/27. As a result, the placing of foster panels on a statutory basis will be delayed.</p> <p>The HPSS Order, whilst not subjecting HSC Trusts to registration by the RQIA for the purpose of delivery of fostering services, does provide powers at Article 35 for the RQIA to conduct inspections of services delivered by the HSC within the context of RQIA reviews.</p> <p>Article 38 of the HPSS Order also provides that the Department may prepare and publish statements of minimum standards. It is intended to publish minimum care standards for fostering services that will have some application to both the</p>	N

		independent/voluntary providers and to statutory providers. In any future review of statutory fostering services commissioned by the Department (or initiated by the RQIA), the RQIA will use the relevant minimum care standards as part of the evidence gathering process. Similarly, the RQIA will use the relevant standards for fostering agencies as the basis of the registration and inspection process for these agencies.	
149	<p>We note that there is no reference to Delegated Authority to foster carers (in accordance with DHSS&amp;PS circular COPD 01/10) and would recommend that this is referenced, possibly in Reg.20, within The Foster Placement and Fostering Agencies Regulations (Northern Ireland) 2014.</p> <p>We are of the view that the governance arrangements between the Trusts and the Fostering Agencies need to be clearer and more explicit within the Regulations.</p>	<p>References to circulars are not considered appropriate in subordinate legislation, which needs to be flexible and sufficiently non-prescriptive to be relevant for an enduring period of time.</p> <p>It is considered that the draft Regulations are explicit in terms of the respective responsibilities of the responsible authority and the registered provider.</p>	N
150	<p>Is the control and management of medication covered in these regulations?</p> <p>Is fitness of premises (i.e. the agency office) covered in these regulations? E.g. as per The Voluntary Adoption Agency Regulations -It may be useful to consider an inclusion on governance.</p>	<p>Schedule 2(5) covers the prospective foster parent's accommodation, and any health and safety considerations relevant to the placement of children. Consent for medical treatment is covered at Schedule 4(3) of the Regulations.</p> <p>It is considered that it is more appropriate to cover this in Fostering Standards.</p>	Y
151	<p>We are concerned about the language used in Schedule 7 (notifications to be made following certain events), particularly "involvement or suspected involvement of a child placed with foster parents in sexual exploitation".</p> <p>This language implies that a child or young person willingly consents to being sexually exploited. It is important to reflect and affirm that a child or young person is subjected to sexual exploitation by a perpetrator. We would like to see the language changed to:</p> <p>"Suspicion or confirmation that a child placed with foster parents is being sexually exploited".</p>	<p>The wording in Schedule 7 has been amended to read: "Concerns or confirmation that a child placed with foster parents is being sexually exploited."</p>	Y
152	<p>We question the proposals for ensuring the inspection of statutory provision which accounts for 92% of approved foster carers in NI.</p>	<p>The HPSS Order, whilst not subjecting HSC Trusts to registration by the RQIA for the purpose of delivery of fostering services, does provide powers at Article 35 for the RQIA to conduct inspections of services delivered by the HSC within the</p>	

		<p>context of RQIA reviews.</p> <p>Article 38 of the HPSS Order also provides that the Department may prepare and publish statements of minimum standards. It is intended to publish minimum care standards for fostering services that will have some application to both the independent/voluntary providers and to statutory providers. In any future review of statutory fostering services commissioned by the Department (or initiated by the RQIA), the RQIA will use the relevant minimum care standards as part of the evidence gathering process. Similarly, the RQIA will use the relevant standards for fostering agencies as the basis of the registration and inspection process for these agencies.</p>	
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