

2005 No. 221**CHILDREN****The Children (Leaving Care) Regulations
(Northern Ireland) 2005**

Made - - - - - *25th April 2005*

Coming into operation *1st September 2005*

The Department of Health, Social Services and Public Safety(a) in exercise of the powers conferred on it by Articles 34A(3), (4), (8) and (9), 34B(3), 34C(5), (6), (8)(c), and (10), 34E(2), 34F, 35B(6) and 35D(2) of the Children (Northern Ireland) Order 1995(b) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Children (Leaving Care) Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

(2) In these Regulations –

“the Order” means the Children (Northern Ireland) Order 1995;

“placement” means the provision of accommodation and maintenance by an authority for a child it is looking after by any of the means specified in Article 27(2)(a) to (d) or (f) of the Order;

“primary medical services” has the same meaning as in Article 2 of the Health and Personal Social Services (Northern Ireland) Order 1972(c);

“responsible authority” –

(a) in relation to an eligible child(d), means the authority looking after him; and

(b) in relation to a relevant child(e) or a former relevant child(f), has the meaning given to it by Article 34B(4) of the Order.

Eligible children

2.—(1) For the purposes of Article 34A(3)(b) of the Order, the prescribed period is 13 weeks and the prescribed age is 14.

(2) A child falling within paragraph (3) is not an eligible child despite falling within Article 34A of the Order.

(a) See S.I. 1999/283 (N.I. 1) – Article 3(6)

(b) S.I. 1995/755 (N.I. 2) – Article 34A is inserted by section 1 of the Children (Leaving Care) Act (Northern Ireland) 2002 (c. 11 (N.I.)) (“the 2002 Act”); Articles 34B and 34C are inserted by section 2 of the 2002 Act; Articles 34E and 34F are inserted by section 3 of the 2002 Act, Article 35B is inserted by section 4 of the 2002 Act and Article 35D is inserted by section 5 of the 2002 Act

(c) S.I. 1972/1265 (N.I. 14) – definition inserted by paragraph 2 of Schedule 1 to S.I. 2004/311 (N.I. 2)

(d) See Article 34A of the Order for the meaning of “eligible child”

(e) See Article 34B of the Order for the meaning of “relevant child”

(f) See Article 34D of the Order for the meaning of “former relevant child”

(3) A child falls within this paragraph if he has been looked after by an authority in circumstances where –

- (a) the authority has arranged to place him in a pre-planned series of short-term placements, none of which individually exceeds four weeks (even though they may amount in all to the prescribed period); and
- (b) at the end of each such placement the child returns to the care of his parent, or a person who is not a parent but who has parental responsibility for him.

Relevant children

3.—(1) For the purposes of Article 34B(3) of the Order, children falling within paragraph (2) are an additional category of relevant children.

(2) Subject to paragraph (3), a child falls within this paragraph if –

- (a) he is aged 16 or 17;
- (b) he is not subject to a care order^(a), and
- (c) at the time when he attained the age of 16 he was detained or in hospital and immediately before he was detained or admitted to hospital he had been looked after by an authority for a period or periods amounting in all to at least 13 weeks, which began after he reached the age of 14.

(3) In calculating the period of 13 weeks referred to in paragraph (2)(c), no account is to be taken of any period in which the child was looked after by an authority in any of a pre-planned series of short-term placements, none of which individually exceeded four weeks, where at the end of each such placement the child returned to the care of his parent, or a person who is not a parent but who has parental responsibility for him.

(4) For the purposes of this regulation –

- (a) “detained” means detained in a juvenile justice centre^(b) or a young offenders centre^(c); and
- (b) “hospital” means –
 - (i) any hospital within the meaning of Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972^(d);
 - (ii) any private hospital as defined in Article 90(2) of the Mental Health (Northern Ireland) Order 1986^(e).

(5) Subject to paragraph (7), any child who has lived with a person falling within Article 27(4) of the Order (in this regulation referred to as “a family placement”) for a continuous period of six months or more is not to be a relevant child despite falling within Article 34B(2) of the Order.

(6) Paragraph (5) applies whether the period of six months commences before or after a child ceases to be looked after by an authority.

(7) Where a family placement breaks down and the child ceases to live with the person concerned, the child is to be treated as a relevant child.

Assessments and pathway plans – general

4.—(1) The responsible authority must prepare a written statement describing the manner in which the needs of each eligible child and relevant child will be assessed.

(2) The written statement must include, in relation to each eligible child and relevant child whose needs are to be assessed, information about, in particular –

- (a) the person responsible for the conduct and co-ordination of the assessment;

(a) A “care order” is defined in Article 2(2) of the Order by reference to Article 49(1) of the Order

(b) See Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

(c) See section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) as amended by Article 13(5) of the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15)) and paragraph 3(a) of Schedule 5 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 19))

(d) S.I. 1972/1265 (N.I. 14)

(e) S.I. 1986/595 (N.I. 4)

- (b) the timetable for the assessment;
 - (c) who is to be consulted for the purposes of the assessment;
 - (d) arrangements for recording the outcome of the assessment;
 - (e) the procedure for making representations in the event of a disagreement.
- (3) The responsible authority must make a copy of the written statement available to the eligible child or relevant child and the persons specified in regulation 6(5).
- (4) Nothing in these Regulations shall prevent the carrying out of any assessment or review under these Regulations at the same time as any assessment, review or consideration under any other statutory provision.

Involvement of the child or young person

- 5.—(1) The responsible authority in carrying out an assessment and in preparing or reviewing a pathway plan shall, unless it is not reasonably practicable –
- (a) seek and have regard to the views of the child or young person to whom it relates; and
 - (b) take all reasonable steps to enable him to attend and participate in any meetings at which his case is to be considered.
- (2) The responsible authority shall without delay provide the child or young person with copies of –
- (a) the results of his assessment;
 - (b) his pathway plan; and
 - (c) each review and his pathway plan;
- and shall ensure that the contents of each document are explained to him in accordance with his level of understanding unless it is not reasonably practicable to do so.

Assessment of needs

- 6.—(1) The responsible authority shall assess the needs of each eligible child and each relevant child who does not already have a pathway plan, in accordance with these Regulations.
- (2) The assessment under paragraph (1) is to be completed –
- (a) in the case of an eligible child, not more than three months after the date on which he reaches the age of 16 or becomes an eligible child after that age; and
 - (b) in the case of a relevant child who does not already have a pathway plan, not more than three months after the date on which he becomes a relevant child.
- (3) Each responsible authority shall ensure that a written record is kept of –
- (a) the information obtained in the course of an assessment;
 - (b) the deliberations at any meeting held in connection with any aspect of an assessment; and
 - (c) the results of the assessment.
- (4) In carrying out an assessment the responsible authority shall take account of the following considerations –
- (a) the child's health and development^(a);
 - (b) the child's need for education, training or employment;
 - (c) the support available to the child from members of his family and other persons;
 - (d) the child's financial needs;
 - (e) the extent to which the child possesses the practical and other skills necessary for independent living; and
 - (f) the child's need for care, support, and accommodation.
- (5) The responsible authority shall, unless it is not reasonably practicable to do so, seek and take into account the views of –

(a) "health" and "development" are defined in Article 2(2) of S.I. 1995/755 (N.I. 2)

- (a) the child's parents;
- (b) any person who is not a parent but has parental responsibility for the child;
- (c) any person who on a day to day basis cares for, or provides accommodation for the child;
- (d) any school or college attended by the child, or the education and library board for the area in which he lives;
- (e) any independent visitor appointed for the child(a);
- (f) any person providing primary medical services to the child;
- (g) the personal adviser(b) appointed for the child; and
- (h) any other person whose views the responsible authority, or the child consider may be relevant.

Pathway plans

7.—(1) A pathway plan prepared under Article 34A or Article 34C of the Order, must be prepared as soon as possible after the assessment and must include, in particular, the matters referred to in the Schedule.

(2) The pathway plan must, in relation to each of the matters referred to in the Schedule, set out –

- (a) the manner in which the responsible authority proposes to meet the needs of the child; and
 - (b) the date by which, and by whom, any action required to implement any aspect of the pathway plan will be carried out.
- (3) The pathway plan must be recorded in writing.

Review of pathway plans

8.—(1) The responsible authority shall review the pathway plan of each eligible child, relevant child and former relevant child in accordance with this regulation.

(2) The responsible authority shall arrange a review under paragraph (1) –

- (a) if requested to do so by the child or young person;
- (b) if it, or the personal adviser considers a review necessary; and
- (c) in any other case, at intervals of not more than six months.

(3) In carrying out a review, the responsible authority shall, to the extent it considers it appropriate to do so, seek and take account of the views of the persons mentioned in regulation 6(5).

(4) The responsible authority conducting a review must consider –

- (a) in the case of an eligible or relevant child, whether, in relation to each of the matters set out in the Schedule, any change to the pathway plan is necessary; and
- (b) in the case of a former relevant child, whether in relation to the matters set out in paragraphs 1, 3 and 4 of the Schedule, any change to the pathway plan is necessary.

(5) The results of the review must be recorded in writing.

Retention and confidentiality of records

9.—(1) Records relating to assessments, pathway plans and their review shall be retained by the responsible authority until the seventy-fifth anniversary of the date of birth of the child or young person to whom they relate, or if the child dies before attaining the age of 18, for a period of fifteen years beginning with and including the date of his death.

(a) An independent visitor is a person appointed as a visitor for a child in accordance with Article 31 of S.I. 1995/755 (N.I. 2)

(b) Personal advisers are provided for in Articles 34A(10), 34C(2), 34D(3)(a) and 34E of S.I. 1995/755 (N.I. 2)

(2) The requirement in paragraph (1) may be complied with by retaining the original written records or copies of them, or by keeping all or part of the information contained in them in some other accessible form such as a computer record.

(3) The records mentioned in paragraph (1) must be kept securely and may not be disclosed to any person except in accordance with –

- (a) any statutory provision under which access to such records is authorised; or
- (b) any court order authorising access to such records.

Support and accommodation

10.—(1) For the purposes of Article 34C(8)(c) of the Order (support for relevant children), the responsible authority must provide assistance in order to meet the child's needs in relation to education, training or employment as provided for in his pathway plan.

(2) For the purposes of Article 34C(10) of the Order, "suitable accommodation" means accommodation –

- (a) which so far as reasonably practicable is suitable for the child in the light of his needs, including his health needs and any needs arising from any disability;
- (b) in respect of which the responsible authority has satisfied itself as to the character and suitability of the landlord or other provider; and
- (c) in respect of which the responsible authority has so far as reasonably practicable taken into account the child's -
 - (i) wishes and feelings; and
 - (ii) educational, training or employment needs.

(3) For the purposes of Article 35B(5) of the Order (provision of vacation accommodation) –

- (a) "higher education" means education provided by means of a course of any description mentioned in Schedule 1 to the Further Education (Northern Ireland) Order 1997(a);
- (b) "further education" has the same meaning as in Article 3 of the Further Education (Northern Ireland) Order 1997 save that for the purposes of this regulation it only includes further education which is provided on a full-time residential basis.

Functions of personal advisers

11. A personal adviser shall have the following functions(b) in relation to an eligible child or a relevant child or a young person who is a former relevant child –

- (a) to provide advice (including practical advice) and support;
- (b) where applicable, to participate in his assessment and the preparation of his pathway plan;
- (c) to participate in reviews of the pathway plan;
- (d) to liaise with the responsible authority in the implementation of the pathway plan;
- (e) to co-ordinate the provision of services, and to take reasonable steps to ensure that he makes use of such services;
- (f) to keep informed about his progress and wellbeing; and
- (g) to keep a written record of contacts with him.

Representations

12.—(1) The Representations Procedure (Children) Regulations (Northern Ireland) 1996(c) shall be amended as follows.

(2) In regulation 1 (Citation, commencement and interpretation) –

(a) S.I. 1997/1772 (N.I. 15)

(b) In addition the responsible authority may see fit to arrange for the personal adviser to act on its behalf in the provision of other services pursuant to Article 18(5)(b) of S.I. 1995/755 (N.I. 2)

(c) S.R. 1996 No. 451

- (a) in the definition of “complainant”, for “qualifying for advice and assistance” substitute “falling within Article 34B, 34D, 35 or 35B(3) of the Order making any representations”;
 - (b) in the definition of “representations”, for “37(1)” substitute “35D(1)”.
- (3) After regulation 2 (authority action), there shall be inserted the following new regulation –

“Local resolution

2A.—(1) Where an authority receives any representation from a person specified in Article 35D(1) of the Order it shall –

- (a) provide the person appointed under regulation 2(1) with a written summary of the representation;
- (b) endeavour by informal means to reach a settlement to the satisfaction of the complainant within 14 days; and
- (c) if at the end of 14 days no resolution has been achieved, notify the person appointed under regulation 2(1).”.

(4) In regulation 3 (preliminaries), in paragraph (1) for the words from “an authority” to “the authority” substitute –

- “(a) a person to whom it applies is dissatisfied with the outcome of the procedure set out in regulation 2A; or
 - (b) an authority receives representations from any other complainant, except from a person to whom Article 45(3)(e) of the Order may apply,
- the authority”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 25th April 2005.

(L.S.)

Noel McCann

Senior Officer of the Department of Health, Social Services and Public Safety

SCHEDULE

Regulation 7

MATTERS TO BE DEALT WITH IN THE PATHWAY PLAN AND REVIEW

1. The nature and level of contact and personal support to be provided, and by whom, to the child or young person.
2. Details of the accommodation the child or young person is to occupy.
3. A detailed plan for the education or training of the child or young person.
4. How the responsible authority will assist the child or young person in relation to employment or other purposeful activity or occupation.
5. The support to be provided to enable the child or young person to develop and sustain appropriate family and social relationships.
6. A programme to develop the practical and other skills necessary for the child or young person to live independently.
7. The financial support to be provided to the child or young person, in particular where it is to be provided to meet his accommodation and maintenance needs.
8. The health needs, including any mental health needs, of the child or young person, and how they are to be met.
9. Contingency plans for action to be taken by the responsible authority should the pathway plan for any reason cease to be effective.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision about support for children and young people aged 16 and over who are, or have been, looked after by an authority.

Regulations 2 and 3 prescribe further categories of children to whom authorities will, or as the case may be, will not, owe additional duties as provided for in Part IV of the Children (Northern Ireland) Order 1995, as amended by the Children (Leaving Care) Act (Northern Ireland) 2002.

Regulations 4 to 9 make provision about the assessment of needs, the preparation and review of pathway plans, and the keeping of records. Regulation 10 makes provision about assistance with education and training, and accommodation.

Regulation 11 prescribes the functions of a personal adviser. Regulation 12 amends the Representations Procedure (Children) Regulations (Northern Ireland) 1996.

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