

ПРИЛОЖЕНИЕ 2

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UK Department for Education response to Russian Ministry of Education

1. What document governs the legal relations between a child, children welfare services, a care-giving family and natural parents and what these relations look like.

The legislative framework for the child protection system in England is provided largely by the Children Act 1989 and the Children Act 2004. The legislation sets out the overarching responsibility of local authorities for safeguarding and promoting the welfare of all children in their area. The statutory guidance *Working Together to Safeguard Children* (2015) clarifies the core legal requirements on individuals and organisations to keep children safe. It sets out, in one place, the legal requirements that local authorities, health services, police, schools and other organisations who work with children, should follow. *This guidance can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf.*

The *Fostering Services (England) Regulations 2011* set out in detail the process for approving foster carers and require fostering services to conduct an assessment of the suitability of the prospective carer based on a range of prescribed information. *The regulations can be found at: <http://www.legislation.gov.uk/ukxi/2011/581/contents/made>.*

The *National Minimum Standards* give further guidance on how a fostering service must carry out its duties in the assessment and approval of prospective foster carers. *These are available at: <https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>.*

Further details of the legislative framework can be found in statutory guidance issued by the UK Government to local authorities in England, *The Children Act 1989 Guidance and Regulations — Volume 2: Care Planning, Placement and Case Review*, which can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336072/The_Children_Act_1989_Care_planning_placement_case_review.pdf.

In terms of the adoption of children, the core legal requirements are set out in the Adoption and Children Act 2002 and *Statutory Guidance on Adoption* which can be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336072/The_Children_Act_1989_Care_planning_placement_case_review.pdf.

www.gov.uk/government/uploads/system/uploads/attachment_data/file/270100/adoption_statutory_guidance_2013.pdf.

2. What are the grounds for temporary placement of a child into alternative care and what is the procedure for this.

The English system is underpinned by the legal concept of parental responsibility. We believe that parents should play a full part in their child's life, unless intervention in family life is necessary. Where parental responsibility lies depends on the legal status of the child. If a child is taken into local authority care under a care order, the local authority gains parental responsibility for the child, but any person who is a parent or guardian also retains their parental responsibility. The local authority however has the power to determine the extent to which the parent or guardian may exercise their parental responsibility if necessary, to safeguard and promote the child's welfare. If a child is accommodated under a voluntary arrangement under section 20 of the Children Act 1989, the local authority does not gain parental responsibility for the child and the parents continue to exercise it. Furthermore:

— A child is looked after by a local authority if s/he is in their care by reason of a care order or is being provided with accommodation under section 20 of the Children Act 1989 for more than 24 hours with the agreement of the parents, or of the child if s/he is aged 16 or over (section 22(1) and (2) of the 1989 Act).

— Section 22 of the Act sets out the duties of local authorities in relation to children looked after by them. Duties place requirements on local authorities to place children with those who have parental responsibility for them if possible and to safeguard and promote the welfare of the child, making use of such services available for children cared for by their own parents as appears to be reasonable.

— Section 25 of the Act provides for the placement of looked after children in secure accommodation. Local authorities may not place children in such accommodation unless it appears that the child: (a) has a history of running away and is likely to run away from accommodation which is not secure, and if he runs away he is likely to suffer significant harm; or (b) if he is not in secure accommodation, he is likely to injure himself or someone else.

Where there is a risk to the life of a child or a likelihood of serious immediate harm, statutory child protection powers enable immediate action to secure the safety of the child. If it is necessary to remove a child from their home, a local authority must, wherever possible and unless a child's safety is otherwise at immediate risk, apply for an Emergency Protection Order (EPO). Police powers to remove a child in an emergency should be used only in exceptional circumstances where there is insufficient time to seek an EPO or for reasons relating to the immediate safety of the child. An EPO, made by the court, gives authority to remove a child and places them under the protection of the applicant. The maximum duration of an EPO is 8 days, although this may be extended upon application for a further period of 7 days if the court is satisfied that the child is likely to suffer significant harm if the order is not extended (although this can only be done once).

There are also other circumstances in which local authorities can make alternative arrangements for the accommodation of a child. Under Section 17 of the Children Act 1989, local authorities have a general duty to safeguard and promote the welfare of children within their area who are in need, and have a power to provide accommodation as part of a range of services in order to discharge this duty. This may include providing temporary accommodation to safeguard a child in need, usually for children needing to be accommodated with their families.

Since 2011, local authorities have also been under a duty to provide a range of short breaks services. Short breaks services provide opportunities for disabled children and young people to have enjoyable experiences which help them become more independent and form friendships outside their family, whilst also offering parents a break from caring responsibilities. Short breaks can be day, evening, overnight or weekend activities and may take place in the child's home, in the home of an approved carer, or in a residential, specialist or mainstream community setting.

3. What forms of temporary family placement exist; what are the possible cases for this and what children can be placed in such temporary care.

Local authorities in England have the legal responsibility to look after children whose parents cannot look after them. A child can only be placed in local authority care by virtue of a care order made by a court and the parents will have the opportunity to refute any allegations being made and contest the case. The court must consider all the evidence before it and then can only make a care order where it concludes that there is reasonable cause to believe that the child is suffering from, or is likely to suffer, significant harm and this is attributable to the care given to the child, or likely to be given to him if the order were not made. Where the court makes an order placing a child in the care of a local authority, the authority will continue to work with the family with a view to the child returning home. However, a stage may be reached where it is apparent that the child cannot return home. It is at this stage that the local authority must make alternative plans to provide the child with a permanent placement.

When making placement decisions for a child, local authorities are required under section 22C of the Children Act 1989 to make arrangements for the child to live with a parent; a person who is not a parent but who has parental responsibility for the child; or a person who held a child arrangements order providing that the child should live with them prior to the making of the care order, unless this is not consistent with the child's welfare or would not be reasonably practicable. This reflects the principle that state intervention in family life should be kept to the minimum necessary to protect the child from harm.

Where a placement with the child's parent or person with parental responsibility is not possible, the local authority should place the child in the most appropriate placement available. This is the placement that they consider will best promote and safeguard the child's welfare. In determining which is the most appropriate placement the local authority must give preference to a placement with a connected person i.e. a relative, friend or other person connected with the child.

As of 31 March 2016 there were 70,440 looked after children in England. The main placement types for looked after children in England are foster care and residential care. The length of time that children may be placed in these settings varies depending on the needs of the child.

— The majority of looked after children are placed in foster care as we believe that children are best brought up within a stable and loving family. As at 31 March 2016, 74% of looked after children were in foster care placements. Foster carers may be family or friends if this is possible and in the best interests of the child.

— For some children, foster care is not the appropriate placement to meet their needs. As at 31 March 2016, 11% of looked after children were placed in residential care. This may be a children's home, hostel or secure children's home (if the child comes under section 25).

— Looked after children may also be placed with parents. In 2016, 5% of looked after children were in such a placement.

Statistics on children looked after in England 2015-16 are available at: <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2015-to-2016>.

4. Who provides legal representation for a child in such cases, and whether the parental rights of natural parents are restricted or voided in such instances.

The law is clear that children should live with their birth parents wherever possible, and that families should be given extra support to help keep them together. In most cases, support from the family's local authority enables any concerns about the child or their family to be addressed and for children to remain with their families.

However, in some situations where a child is identified as suffering significant harm (or at risk of suffering significant harm) and that is attributable to the care given to the child the local authority has a statutory duty to intervene to undertake child protection enquiries and to take action to safeguard and promote the child's welfare.

If they believe that a child should be taken into the care of the state, they must apply for a care order from an independent court. The child has to be provided with a guardian (by Cafcass), a solicitor and, in the most serious cases, a barrister/advocate who will look after their best interests and ensure that their voice is heard in the court. The legal representation for children involved in care proceedings are funded from legal aid, the responsibility of the Ministry of Justice.

Birth parents involved in care proceedings also have access to free independent legal representation to ensure their views are taken into account by the independent court.

Birth parents are able to appeal against a decision by the courts to take their child into care. They are also able to contest decisions to place the child for adoption.

Depending on the outcome of a case and the placement for a child, then the parental responsibility held by birth parents can either move to being shared with others (eg the local authority) or removed altogether (in the case of adoption).

5. What is the existing practice for identifying families, which can provide temporary care for children; how are these families selected (trained) and what kind of financial award is provided to these families.

Decision-making about placements must be made in the context of the child's longer-term needs for stability and permanence. Under the Children Act 1989, in determining the most appropriate placement for a child, local authorities in England must give preference to a placement with relatives or connected people. Local authorities must also ensure, as far as reasonably practicable, that a placement allows a child to live near their home; does not disrupt their education; enables the child to live with siblings; provides accommodation which is suitable to any disabilities; and is within the local authority's area.

Local authorities are responsible for recruiting and retaining the right number of foster carers in their area. The Fostering Services (England) Regulations 2011 set out in detail the process for approving foster carers and require fostering services to conduct an assessment of the suitability of the prospective carer based on a range of prescribed information. *The regulations can be found at: <http://www.legislation.gov.uk/ukxi/2011/581/contents/made>.*

The National Minimum Standards give further guidance on how a fostering service must carry out its duties in the assessment and approval of prospective foster carers. *These are available at: <https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>.*

The statutory framework clearly sets out that all foster carers must receive the training and development they need to carry out their role effectively and that a clear framework of training must be in place. All foster carers should be supported to receive an induction; complete the Training, Support and Development Standards within 12 months of approval as a foster carer; and maintain a training and development portfolio and have a personal development plan that sets out how they will be supported to undertake ongoing training and development, depending on their needs and experience.

Foster carers care for looked after children on behalf of the local authority. They will have an agreement with their fostering service about how they will carry out their caring role, but they are not employees of the fostering service. Foster care therefore is not considered paid employment, and foster carers receive an allowance to cover the cost of caring for the child. Some foster carers also receive a fee as a reward for the job they do. Fees are set by fostering service providers.

Fostering service providers determine the payments made to the foster carers in their area or service. The government recommends a National Minimum Allowance (NMA) that fostering service providers pay each week to cover the cost of looking after a child.

More information can be found at: <https://www.gov.uk/foster-carers/help-with-the-cost-of-fostering>.

Adoption is one permanence option that is open for a local authority to consider. The law on adoption makes clear that children cannot be adopted without their parents' consent unless the court is satisfied that the welfare of the child requires the parents' consent to be dispensed with. This might be because the court is satisfied that the parents cannot be found; because they are incapable of giving their consent or because it has reason to believe the welfare of the child requires consent to be dispensed with.

Identifying prospective adopters and making a good match between them and a child is a highly skilled task, and is vital to both the child and the prospective adopter. Adoption agencies and social workers have to consider a range of issues. A range of support is available for prospective adopters, some of which is determined locally by local authorities, although they do not receive financial reward for adopting a child. The English government, however, offers support through the Adoption Support Fund (ASF). The ASF has been established because many families need some kind of therapeutic support following adoption and too many have struggled to get the help they need in the past. The Fund enables them to access the services they need more easily in future.

Further information can be found at: <http://www.first4adoption.org.uk/adoption-support/financial-support/adoption-support-fund/>

6. What rehabilitation is provided for a child, temporary removed from his/her natural family, and who provides it.

The welfare of the child is the paramount consideration in any decision to remove them from their family home. The purpose of care is to provide children with safe and nurturing relationships and home environments where it is not possible for them to live with their birth parents. This forms part of the response to help children to recover from trauma. Most children become looked after as a result of abuse and neglect. Although they have many of the same health issues as their peers, the extent of these is often greater because of their past experiences. For example, more children in care have a diagnosable mental health disorder and special educational needs than in the rest of the population. Local authorities have a duty under the Children Act 1989 to

safeguard and promote the welfare of the children they look after. This includes the promotion of the child's physical, emotional and mental health and acting on any early signs of health issues. Under the Children Act 1989, clinical commission groups and NHS England have a duty to comply with requests from a local authority to help them provide support and services to looked after children.

Child and adolescent mental health services (CAMHS) are specialist NHS services that offer assessment and treatment when children and young people have emotional, behavioural or mental health difficulties. CAMHS play a crucial role in assessing and meeting any needs that are identified when children become looked after.

More information is available in our guidance on promoting the health and wellbeing of looked after children at: <https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children--2>.

7. What are the grounds for returning children to their natural families, and what is the procedure for this.

For many children, permanence is achieved through a successful return to their birth family. Children only return to their birth family where this is in their best interests. The factors in family life which led to the child becoming looked after must be addressed before they return home.

Where the plan is for a child to return to the care of their family when they cease to be looked-after, there should be a robust planning and decision-making process to ensure that this decision is in the best interests of the child and will safeguard and promote their welfare.

In making the decision to cease to look after a child, the responsible authority must assess: whether the proposed arrangements for the child's accommodation and maintenance when they cease to be looked-after are suitable; and what services and support the child, and where the child is returning home, the parent, might need when they cease to be looked-after. The responsible authority must speak to or otherwise ascertain the child's wishes and feelings about the proposed plan for their care when they are no longer looked-after.

Where the local authority is working with the parents to support a child to return home it is important to consider what support and services might be made available to parents. The local authority has a general duty to undertake an assessment of an eligible child's needs as they transition to independence, and to prepare a plan setting out how these needs will be addressed. Statutory guidance, *Working Together to Safeguard Children* (2015), sets out the framework for local authorities providing early and ongoing support to families, including continuous assessment, support and review of services, where appropriate.