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# Joint Guidance of Staffordshire and Stoke-on-Trent Safeguarding Children Boards

## GUIDANCE - PRIVATE FOSTERING

Section Staffs 4E  
Stoke-on-Trent D11A

# **GUIDANCE - PRIVATE FOSTERING**

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## Definition

1. A privately fostered child, being under the age of 16 years (18 if disabled), is cared for and provided with accommodation by someone other than; a parent, person with parental responsibility or a close relative- defined in the Children Act 1989 as a grandparent, brother, sister, aunt or uncle (whether of full blood or half blood or by marriage) or by step parent.
2. A private fostering arrangement is one that is made privately for the care of a child. A private foster carer may be extended family, family friend or parent of a friend or someone unknown to the child's family.
3. This can include young people who stay elsewhere due to family breakdown, arrangements made during parental illness, children staying in families whilst attending a school away from their home area and children from overseas whose parents are not resident in this country.
4. The intention should be that the placement lasts for 28 days or more.
5. The period for which that child is cared for and accommodated by the private fostering carer should be continuous, but if a child receives an occasional short break this is not considered to break that continuity. Exemptions to this definition are set out in schedule 8 to the Children Act 1989. (e.g. a child lives with his/her friends parents and returns home every weekend)

## Safeguarding Children Board Responsibilities

6. All agencies have a key role in identifying privately fostered children who are a potentially vulnerable group.
7. Local authorities are required to satisfy themselves that the welfare of children who are, or who will be, privately fostered will be satisfactorily safeguarded and promoted but they do not approve or register carers.
8. Local authorities and other relevant agencies are responsible for decisions about their own arrangements for managing the legal and administrative issues assigned to them under the Children Act 1989. Local authorities should work with other agencies in meeting the needs of privately fostered children, parents and private foster carers.
9. There is a duty on local authorities to promote public awareness of the notification requirements. This should involve working with partner agencies to enable professionals to encourage carers and parents to notify the local authority.

10. Local authorities can receive notifications of private fostering arrangements from parents, carers or third parties.
11. Every local authority must promote public awareness in their area of requirements as to notification.
12. Local authorities are to ensure that the private foster carers are suitable and that the children's needs are met. Assessments should cover the suitability of carers and other household adults, whether the carer is able to meet the needs of the child, that the child is safe and whether a core assessment is required.
13. Children who are living in private fostering arrangements are defined as children in need and a child social work assessment (Staffordshire) or a private fostering assessment report and Child and Family Assessment (Stoke-on-Trent) will be carried out, due to the significant change in the child(ren)'s circumstances.
14. Local authorities do not formally approve or register private foster carers. However the local authority must satisfy itself that the welfare of children who are privately fostered in their area is being satisfactorily safeguarded and promoted and that advice is given to those caring for them.
15. In situations where someone becomes aware of, a private fostering arrangement and they are not satisfied that the local authority have been or will be notified of the arrangement a referral to First Response (Staffordshire) or the Safeguarding Referral Team (Stoke-on-Trent) must be made in order for the local authority to be able to discharge its duty to satisfy itself that the welfare of the child is satisfactorily safeguarded and promoted.
16. All agencies need to be aware that under Section 70 of The Children Act 1989 failure by a carer or parent to notify the local authority of an arrangement is an offence.

### **Responsibilities: Private Foster Carer(s) and/or Parent(s)**

17. Any person including a parent or other person with parental responsibility who is involved in making arrangements for a child to be privately fostered must notify the local authority of the arrangement.
18. The private foster carer becomes responsible for the day to day care of the child in a way which will promote and safeguard the child's welfare.
19. Overall responsibility for safeguarding and promoting the welfare of the child remains with the parent or person with parental responsibility.

20. Financial arrangements are agreed between the private foster carer and parent and ideally should be set down in writing.

## General

21. The local authority should establish that the person who is proposing to privately foster a child is aware of the significance of religion and/or culture in relation to the child's racial origin, and has an understanding of the particular culture and knowledge of the child's preferred language. The child's social worker should offer advice and support in respect of accessing local resources and facilities which could assist in meeting the racial, cultural, religious and linguistic needs of the child.

## Requirements

22. The local authority may restrict certain aspects of private fostering by imposing requirements on a foster parent as follows:-

- The number, age and sex of the children who may be privately fostered by him/her in the light of the size and layout of accommodation and existing household members.
- The standard of the accommodation and equipment to be provided in the light of the age, ability and particular needs of the child placed.
- The arrangements to be made with respect of their health and safety.
- Particular arrangements which must be made with respect to the provision of care for them.

23. A requirement may be limited to a particular child.

24. A requirement may be limited by the local authority so as to apply only when the number of children fostered by the person exceeds a specified number.

25. Any requirements must be notified in writing and must be fully discussed with the private foster carer (or potential foster carer).

26. Any requirements should follow those needs of the child identified in completing the assessment by the social worker in consultation with the private foster parent, child and child's parent etc. The respective Staffordshire and Stoke-on-Trent local authorities will normally require a private foster carer to care for no more than three privately fostered children, other than sibling groups.

27. Prior to the variation or removal of a requirement, whether this is instigated by carer(s) or the local authorities, a further assessment will be completed by the child's social worker and the carers social worker relating to the specific issues which affect or are affected by the requirement.
28. Where a carer disagrees with the decision to add or vary a requirement s/he should appeal in writing to the County Manager (Staffordshire)/ Strategic Manager (Stoke-on-Trent) within 28 days of receiving the written notification. The county manager/ strategic manager will consult with key parties involved including the carers, parents and child where practicable, and respond in writing within 28 days of receiving the appeal.

## **Confidentiality/ Information Sharing**

29. In deciding whether there is a need to share information, there is a need to consider legal obligations including: whether the information is confidential and if it is confidential, whether there is a public interest to justify sharing. Further guidance can be found in the joint Staffordshire and Stoke-on-Trent Safeguarding Children Boards Information Sharing Guidance

## **Case Responsibility**

30. The case responsibility for all private fostering cases is with the following team:

All notifications for those carers and children who reside in Stoke-on-Trent contact should be made with the Safeguarding Referral Team (SRT) on: 01782 235100.

All notifications in Staffordshire should be referred to: First Response on: 0800 13 13 126.

## **Notification Requirements**

31. By law the Local Authority must be informed about all private fostering situations. The child's parents, private foster carers and anyone else involved in the arrangements are legally required to inform the local authority. If the child is not yet living with private foster carers the notification must be made in writing six weeks before the arrangement is due to start or immediately if the arrangements are due to begin in less than six weeks time. In circumstances where children are already living with private foster carers and a notification has not been made

beforehand then a notification is required to the local authority immediately

32. The notification in all circumstances must include the information set out in **Schedule 1**<sup>1</sup>.

## Notification of a Proposal to Privately Foster

33. On receipt of notice an allocated social worker must:

- Arrange and undertake the first visit within **7** working days
- Visit the premises where it is proposed that the child will be cared for and accommodated.
- Visit and speak to the proposed private foster carers and to all members of the household.
- Visit and speak to the child, unless it is considered inappropriate (an independent interpreter should be used where the child's preferred language is not English).
- Where practicable, visit and speak to the child's parents or other person with parental responsibility.

In Staffordshire private foster carers must complete a declaration form regarding their suitability to foster children privately. Other agencies should complete a multi-agency referral form (MARF). The social worker must assess the placement and cover the issues detailed in **Schedule 2**<sup>2</sup>, as appears relevant. This will include an assessment of risk of harm to children already living there and vice versa using the Assessment Framework.

34. By checking out the private fostering arrangements in advance the department can satisfy themselves that the placement will be suitable or otherwise take steps to prevent the placement or to impose requirements.

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<sup>1</sup> The Children (Private Arrangements for Fostering) Regulations 2005:  
<http://www.legislation.gov.uk/cy/uksi/2005/1533/made>

<sup>2</sup> The Children (Private Arrangements for Fostering) Regulations 2005:  
<http://www.legislation.gov.uk/cy/uksi/2005/1533/made>

## Relevant checks, including Health and Disclosure and Barring Service Checks (DBS)

35. Carers must be asked to sign agreements to seek Disclosure and Barring Service Check (DBS) and medical clearances (AH forms) financed by the local authority. Disclosure and Barring Service (DBS) checks are carried out on anyone over 16 living in the household. The family should also be informed that checks will be made with other agencies e.g. Education, CAFCASS, and Health Services including Children's GP and Mental Health services. By completing and signing the declaration form they are consenting to checks being made.
36. The social worker must also check local authority records, current and previous, to see if the family is known to the Department.
37. The social worker must ask the carers to provide the names of two personal referees whom the social worker should arrange to visit to discuss the carers' suitability to privately foster. Referees should be asked to provide their views in writing.
38. Disclosure and Barring Service check (DBS) and Staffordshire and Stoke-on-Trent local authority's checks and requests for written personal references and medical clearance from the carer's GP(s) should be made within one week of notification of the placement.
39. In promoting the welfare of privately fostered children, the local authority has a duty to consider all relevant information. This includes any 'spent' offences. Where a prospective or actual private foster carer (or member of their household) has a criminal record which does not constitute grounds for disqualification but nonetheless may have adverse implications for their suitability as a carer, this should be discussed as a matter of urgency with the County Manager (Staffordshire) appropriate Strategic Manager (Stoke-on-Trent).

## Assessment of the Placement

40. The child's social worker will complete an assessment and the Fostering social worker will undertake the Private Fostering Assessment within **42** working days of the notification (Staffordshire). In respect of Stoke –On-Trent the child's social worker will complete an assessment of the placement within **42** working days of the notification. On completion of the assessment the relevant social worker allocated to assess the carers suitability will provide a written report detailing all the aspects outlined in **Schedule 2** or **Schedule 3**. The report should contain a recommendation about the suitability of the placement.



41. The report must be signed by the social worker and Team Manager (Staffordshire). In Stoke-on-Trent, this will be signed by the social worker and Principal Manager and then forwarded to the Strategic Manager for Safeguarding and Quality Assurance. A copy of the report must be kept on both the child's and carer's files. Following the agreement to the placement the carers, parents, and child must be notified in writing of the decision. If the assessment recommends that the carers are not suitable to be the child's private foster carers the circumstances must be immediately escalated to the relevant Safeguarding County Manager (Staffordshire) or Strategic Manager (Stoke-on-Trent) and Fostering Service Manager.

## Supervision of the Placement

42. The placement must be visited within 7 working days of its commencement, and thereafter at a minimum of every six weeks (Reg. 8) during the first year and every 12 weeks in any second or subsequent years.
43. Additional visits should be made wherever reasonably requested by the child, private foster carer, a parent of the child or any other person with parental responsibility or when considered necessary for other reasons. Some visits should be unannounced.
44. On occasions other visits should take place when all members of the household are likely to be home.
45. On each visit the child must be spoken to alone unless it is considered inappropriate.

The purpose of supervisory visits include:-

46. Ensuring that the welfare of the child and overall standard of care offered is satisfactory – ask and observe. Standard practice is to see the child's bedroom at minimum intervals of 6 months. The child, parent and private foster parent should feel free to contact the social worker at any time.
47. Providing encouragement to maintain or improve childcare standards.
48. Checking that any requirements imposed on the placement are being met and whether they need to be changed or cancelled.
49. Ensuring that the foster carer receives necessary advice and support from relevant agencies to promote the child's welfare, such as:
  - Entitlement and access to financial benefits.

- Information and advice on the services offered by other agencies e.g. health, education, housing, youth support, voluntary agencies and community such as toy library, play group.
- Information about support groups and independent advice/advocacy services
- Encouragement to maintain regular contact between the child and parents; siblings; other significant persons where this will promote the child's welfare and where necessary to support and facilitate this.
- Information regarding specific issues arising from religious, racial, cultural and linguistic background.
- Access to relevant training or support to enhance ability to care e.g. medical or disability issues.

50. If a child is the subject of a Child in Need Plan and there are concerns that the child may not be achieving a satisfactory level of health or development without the provision of services, an assessment is undertaken under section 17 of the Children Act 1989, in accordance with the Assessment Framework.

51. The private foster carer must be given contact details of the allocated social worker and that of the out of hour's service.

52. The private foster carer must be given contact details of the allocated social worker / fostering social worker and that of the out of hour's service.

53. The privately fostered child (where age / understanding is appropriate) must be provided with:

- Information explaining the meaning of their private fostering status and their right to be safeguarded.
- The contact details of the allocated social worker and who to contact at any time if they have concerns.
- Details of the advocacy service.

54. Each visit must be recorded on the child's file with an indication as to whether the child was seen and, if not, the reasons and also whether the child was seen alone. The record should also comment on the child's welfare and if the placement is satisfactory, including any comments made by the child or the carer. Any matter for concern or difficulty should be highlighted and discussed with the social worker's team manager.

55. The report should also consider whether any further action is necessary including:-

- The imposition of requirements on the private foster carer (Schedule 8, para. 6 of the Children Act 1989)<sup>3</sup>.
- The imposition of a prohibition (with or without conditions upon non-compliance) (Section 69 of the Children Act 1989).
- Whether any action is necessary in respect of the child (Section 67 (5) of the Children Act 1989).
- It is an offence for a private foster carer to refuse or obstruct a supervisory visit. If such difficulties arise, the team manager and the legal department must be consulted immediately<sup>4</sup>.

56. As part of the local authority's responsibility, parents must be provided with advice and support as follows:

- Information about services on offer from the department and other agencies.
- Encouragement to maintain contact.
- Information about how to make alternative arrangements for care of their child where a private fostering arrangement has been prohibited and no other is contemplated.
- Contact details of the allocated social worker.

## Reviews

57. Although the Regulations do not stipulate a statutory review both the Staffordshire and Stoke-on-Trent local authorities requires the social worker and their manager to review all private fostering arrangements six monthly. This review is conducted as part of a review of the child's plan under their child in need assessment procedures.

58. All persons involved in the arrangements, where appropriate, should be consulted and given the opportunity to participate in a face to face meeting chaired by the team manager. The review of the service plan should also consider whether any agreement between the parent and carer needs updating.

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<sup>3</sup> The Children Act 1989 <http://www.legislation.gov.uk/ukpga/1989/41/section/67>

<sup>4</sup> **Under Section 70 of The Children Act 1989** [www.legislation.gov.uk](http://www.legislation.gov.uk)

59. The review should consider the child's welfare and progress, the continuing suitability of the private fostering arrangements and whether the foster carer would benefit from any training due to the particular needs of the child placed. If the young person is over the age of 15, the review should consider their aftercare arrangements.

## Unsatisfactory Care

60. Where there is perceived to be risk of significant harm to the child the social worker should implement child protection procedures

61. Problems of a less serious nature should be addressed by the social worker with the child, the carer, and where possible the parent(s). The child's parent should be informed of any unsatisfactory care and involved in any significant action where the child's welfare cannot be satisfactorily safeguarded or promoted in the foster placement,

62. When considering issues of unsatisfactory care, the threshold criteria as set out in the Children Act 1989 should be used. A carer should ordinarily be expected to be able to meet the same standards that may be acceptable from parents engaged in child protection matters. Relevant matters to consider may include such issues as environmental factors with each case to be considered according to individual circumstances.

## Prohibitions

63. If a prohibition of a placement is being sought the social worker or team manager will consult with their solicitors for advice on taking further action.

64. The local authority may prohibit private fostering by a person where:

- S/he is not a suitable person because there is reason to believe s/he lacks the general ability to provide acceptable standards of physical care and accommodation and there are issues arising from previous or current child protection concerns.
- The premises are not suitable for the provision of care and the continued promotion of the child's welfare.
- Neither the person nor the accommodation is suitable.

65. Prohibition may be specific to a particular child or particular accommodation.

66. A prohibition must be in writing specifying reasons.
67. When a prohibition is being considered or is imposed the child's parents must be informed and it may be appropriate to advise them to remove the child.
68. The local authority has the power to cancel prohibitions itself or the private foster carer may appeal to the Family Proceedings Court within 14 days.

The local authority has a discretionary power to lift a disqualification, but only in "the most exceptional circumstances". The local authority will consider legal advice before a senior manager makes a decision to lift a disqualification.

The private foster carer will be informed in writing, whether the local authority has chosen to lift a disqualification or not. Reasons for the decision and details of the appeals procedure should also be given.

Where a private foster carer disagrees with a decision to refuse to lift a disqualification they can appeal to the Family Proceedings Court within 14 days of the notice of refusal.

Full details regarding disqualification can be found in Children Act 1989 'Guidance and Regulations' – Private Fostering

## **Persons Disqualified from being Private Foster Carers**

69. Certain individuals are automatically disqualified from being private foster carers due to past activities or offences.
70. The circumstances that disqualify a person from private fostering include:
  - Those that have been convicted at any time of certain offences.
  - Parents whose children have been subject of a care order or supervision order.
  - Where a carer's rights and powers over a child have been removed at any time.
  - Where a carer has been refused registration as a childminder.
  - Where a carer lives in a household with someone else who has been disqualified.

71. This list is NOT exhaustive. The list of relevant offences is long and includes a whole range of sexual offences and offences against the person including injury and threat of injury however long ago. If a potential carer or member of their household has been convicted of a sexual offence or an offence against the person of any kind or any offence involving children the social worker will consult their legal services as to whether this would disqualify them.

## **Notification of the End of a Private Fostering Placement**

72. If the child moves, the private foster carer must notify the local authority in writing within 48 hours stating the name and address of the person into whose care the child has moved and that person's relationship with the child. Parents or other persons with parental responsibility must also notify of the termination of the private fostering arrangement, giving the same information.

73. Where the arrangement ends due to the death of the child the department must ensure that the parent is informed, assist in any arrangements and consider the implications of what has happened.

## **Post 16 Support**

74. The local authority has a power to provide services should a young person *aged 16 to 21* years ask for help if s/he had stopped being privately fostered on or beyond their 16th birthday. In Staffordshire, each child is given a unique reference number and can use this to make contact with the team.

75. The social worker shall consider whether they are satisfied that the person with whom the young person was looked after does not have the necessary facilities for supporting them.

76. If the conditions are satisfied, staff may advise and befriend the young person.

77. The local authority may also provide assistance. This assistance may be in kind or, in exceptional circumstances, in cash.

### Legislation

78. Safeguarding arrangements for privately fostered children came to the forefront as a result of the 1996 Utting Report - 'Children Living Away From Home' and the Laming inquiry into the death of Victoria Climbié in 2003.
79. The current legislation and regulations relevant to private fostering are set out in Part 9 of, and schedule 8 to, the Children Act 1989, amended by section 44 of the Children Act 2004.
80. Section 44 of the Children Act 2004 places a duty on the local authority to satisfy themselves that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted to include children who are proposed to be, but not yet, privately fostered and gives such advice to those caring for privately fostered children as appears to them to be needed.
81. The Children (Private Arrangements for Fostering) regulations 2005 replaced the Children (Private Arrangements for Fostering) Regulations 1991.
82. The Replacement Children Act 1989 Guidance on Private Fostering replaces chapter One of Volume 8 (Private Fostering and Miscellaneous) of the Children Act 1989 Guidance and works alongside the National Minimum Standards.

### Guidance

83. The National Minimum Standards for Private Fostering<sup>5</sup> states that (standard 1) the local authority has a written statement, which sets out its duties and functions in relation to private fostering and the ways in which they will be carried out. The statement includes the role of other agencies in assisting the local authority to carry out its duty under section 67(1) of the Children Act 1989, in particular through notifying the authority of an arrangement where they are not satisfied that the local authority have been, or will be, notified of that arrangement.
84. Standard 2 states the local authority promotes awareness of the notification requirements and ensures that those professionals who may come into contact with privately fostered children understand their

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<sup>5</sup> National Minimum Standards for Private Fostering  
<http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a0068804/private-fostering>

role in notification by providing targeted and current information to those who may come into contact with privately fostered children.

85. Standard 3 states that the local authority determines effectively the suitability of all aspects of the private fostering arrangement in accordance with the regulations, that being the intended duration of any arrangement agreed between the parent and carer, the views wishes and feelings of the child, that the placement is able to meet all of the child's day to day care needs as set out in the *National Framework for the Assessment of Children in Need and their Families* (2000)<sup>6</sup>.

86. Standards 4-6 states the local authority provide such advice and support to private foster carers and prospective carers, parents and the privately fostered children as appears to the authority to be needed i.e.- any entitlement to benefits and any necessary advice or support which will assist them to safeguard and promote the welfare of the child.

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<sup>6</sup> *National Framework for the Assessment of Children in Need and their Families* (2000)  
[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4003256](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4003256)



### Private Fostering Situations

**The situations where children and young people are privately fostered can be complex which may include:**

#### [Local children living apart from their families](#)

These children and young people may be living apart from their families and there may be no one with parental responsibility available to look after them. Parents may have died, divorced or for other reasons a parent is no longer available to care for their child. In some instances, parents may be imprisoned or may be misusing drugs and alcohol and may have made alternative care arrangements for their children.

#### [Asylum seekers, refugees and unaccompanied children<sup>7</sup>](#)

Some of these children and young people may arrive in the U.K seeking asylum, travelling with other adults who may not be known to them, or their family in their country of origin. Other children and young people may have acquired refugee status, maybe living in isolation and unsupported with a lack of knowledge about the available services and where to go for help.

#### [Parents who may be unwell](#)

Single parents who on a planned or unplanned basis need to be in hospital for more than four weeks and who arrange for care of their child or children with friends or neighbours on a temporary basis.

#### [Children who may be staying with friends for a short time because of family difficulties](#)

This involves an agreement resulting in a child or a young person staying with the parents of a friend for a period of time. Typically this might be in response to an illness or during a period where the relationship between the child/young person and parents means that they have reached a decision that they cannot live together at this time.

#### [Children attending language schools](#)

These children and young people may come from a range of different countries. A number of children and young people may be living with alternative families including host families, for more than 28 days. This will

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<sup>7</sup> Unaccompanied children are children aged less than 18 years who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)

then become a private fostering arrangement and there would need to be safeguards in place for them

### [Children at independent boarding schools who do not return home for holidays](#)

Some charitable organisations and other individuals may arrange for children to come into the country for different reasons. These may include holidays for disadvantaged children, medical treatment and sports trainees. During their stay in the UK, they may be placed with a family for more than 28 days and therefore this becomes a private fostering arrangement.

### [Children brought into the UK for adoption](#)

Some children and young people may be brought into the U.K. to be adopted. These children and young people will be privately fostered until formal notice of intention to apply to adopt is given. Some, who are subject of a form of interim overseas order, which will be finalised in their country of origin, are also considered by the DfE to be privately fostered.

### [It is NOT private fostering when:](#)

- The person caring for the child is a close relative like an aunt, a brother, sister or grandparent.
- The arrangement is not expected to last more than 28 days

### [Notifying the local authority](#)

Private fostering is arranged and agreed by a child/young person's parent/s and the family which will be caring for the child. The law requires that both the parent/s and carer must notify the local authority about the proposed placement before it takes place; failure to give notification is an offence. Local authorities do not approve private foster carers; however they are required to assess and say whether or not they agree and accept the private fostering arrangements.