

## **Private fostering**

### **Surrey's Policy Aim**

The overarching aim of Surrey's policy, with regards to children who are privately fostered (or where there is intent to privately foster), is to:

- Make certain that children are safe and that their needs are assessed and adequately provided for in accordance with statutory responsibilities

### **Objectives**

In order to meet this stated aim and to meet the requirements of the legislation, Surrey County Council will:

- Appoint a Private Fostering Lead Professional, with responsibility for private fostering, to monitor compliance with the notification system. The name of the professional is provided in the written Statement of Purpose for Private fostering and complies with Standard 1 of the National Minimum Standards for Private Fostering
- Promote and raise awareness of the responsibilities of all parties in private fostering arrangements, including the private foster carers, the birth parents and professionals who may have contact with children and families involved in private fostering arrangements
- Respond effectively to notifications about private fostering arrangements and deal with situations where an arrangement has come to the attention of the Board
- Ensure that the arrangements are satisfactory and assess the suitability of the processes in place
- Ensure that appropriate advice and support is provided to those practitioners dealing with private fostering
- Provide a transparent and clear process for prohibiting private fostering arrangements and for imposing requirements in appropriate cases
- Provide children who are privately fostered with appropriate information and support to safeguard their welfare
- Provide training, development and supervision to ensure that practitioners assess each privately fostered child's needs in accordance with the Family Assessment Framework
- Develop support systems, including training, for the ethnic and cultural development of privately fostered children, using existing successful systems where appropriate

### **General Principles Underlying Surrey's Policy on Private Fostering**

- The welfare of the child is paramount
- The child's rights to participate in their plans and to be consulted on any plans made will be protected
- A balance will be struck between the rights of parents to exercise their parental responsibilities to their children and the duty of the State to intervene when children's welfare require it
- A proactive approach will be taken by SSCB in identifying private fostering arrangements
- That the arrangements for the care of privately fostered children require a holistic and lifelong view of the child's needs to maximise their life chances in accordance with the five outcomes of Every Child Matters

- That private fostering is approached within the framework of Surrey's policy of equal opportunity

## **Legal Framework**

Under s66 (1) of the Children Act 1989, a child is considered to be privately fostered when:

- S/he is under the age of 16, or s/he is under the age of 18 if s/he is disabled, and
- Is cared for and provided with accommodation by someone other than:
  - Her/his parent(s)
  - A person who has parental responsibility
  - Her/his close relative and
- The placement will last for 28 days or longer

*See also the Children (Private Arrangements for Fostering) Regulations 2005 and the National Minimum Standards for Private Fostering 2005.*

A relative is defined as a grandparent, brother, sister, uncle or aunt (whether by full blood or by affinity) or a step-parent.

Cousins and great aunts and uncles are therefore not deemed to be close relatives.

The child is not privately fostered when:

- S/he is being looked after by a Local Authority
- S/he is living with:
  - Her/his parent(s)
  - Someone who has parental responsibility or a relative who has assumed responsibility for her/his care
- S/he is living for the time being:
  - In a residential home
  - In accommodation provided by a voluntary organisation
  - In a school providing full time education
  - In a hospital
  - In a nursing home
  - In a psychiatric unit
- S/he is being detained or subject to a Guardianship Order under the Mental Health Act 1983
- S/he is living with someone who proposes to adopt her/him
- S/he is living with the person for 27 days or less and is not intending on staying longer

## **Parental consent**

Parental consent is not required for a placement to fall within the scope of s66. It will still be a private fostering arrangement if the criteria referred to are satisfied.

## **Written notifications to local authority required of prospective and actual private foster carers**

Written notification is required not less than 6 and not more than 13 weeks before receiving a child or, in an emergency, or if a child becomes a privately fostered child whilst already in the accommodation, within 48 hours.

Private Foster carer/s must also notify the Local Authority, preferably in advance but in any case no more than 48 hours after the event of any changes to the household or the circumstances of the people who live there.

The Private Foster carer must notify the Local Authority within 48 hours of the child's departure unless s/he intends to resume fostering her/him within 27 days.

Unless s/he has disclosed such information to the Local Authority and obtained its consent, no one is allowed to care for a privately fostered child if s/he or anyone else who lives or works on the premises has:

- Had a child removed from her/his care, e.g. by a Care Order or via Assumption of Parental Rights under s3 of the Child Care Act 1980 or via the Adoption Act 1976 or via the Foster Children Act 1980
- Been convicted of any offence involving injury or threat of injury to a child

### **Notifications from parents and others**

Any person who is, or proposes to be involved (directly or indirectly) in arranging for a child to be privately fostered or parent or person with parental responsibility must notify the Local Authority not less than 6, and not more than 13 weeks before private fostering begins or, in an emergency, within 48 hours of the arrangement beginning.

### **Power of local authority to impose requirements/prohibit private fostering**

Requirements as to the following matters may be imposed on any person using any premises for private fostering:

- Number, age and gender of privately fostered children
- Accommodation and equipment to be provided for them
- The arrangements to be made with respect to their health and safety
- Particular arrangements which must be made with respect to the provision of care for them

A requirement may be limited to a particular child or a category of children e.g. those over a certain age, and must be put in writing, explaining the reasons for its imposition and informing the private foster carer of her/his right to appeal to a Court within 14 days of receipt of notification.

If the Social Worker is of the opinion that the private foster carer is not a suitable person or that the premises are not suitable or that the placement would be prejudicial to the welfare of the child, the Local Authority may prohibit the carer from privately fostering. The private foster carer has a right of appeal within 14 days to the Court if aggrieved by a prohibition.

When an arrangement comes to light that the Local Authority has not been notified in accordance with legislation in terms of timing/ information about the private fostering arrangements, the carer may be liable to prosecution.

When a person fails to give the notice within a specified time, the authority must bring proceedings for that offence within 6 months from the date when evidence of the offence came to the notice of the Local Authority (Section 70(7)).

### **Local authority duties following notification**

The Local Authority has a duty to satisfy itself that the welfare of children who are being privately fostered within the area is being satisfactorily promoted and safeguarded, and to ensure that necessary advice is given to the carers.

The Local Authority must complete DRS and Local Authority checks in respect of the private foster carers and others over 16 years old, living or employed in the private fostering household. Health checks must also be made on the private foster carers.

The Local Authority must conduct visits as to assess the carer's suitability and the child's needs and in the first year, at intervals of not more than 6 weeks. The Local Authority will also conduct an annual review of the arrangement.

### **Usual Fostering Limit**

The Children Act 1989 imposes a 'usual limit of three' on the number of children who may be privately fostered, unless all the children privately fostered are siblings (i.e. groups of four or more siblings). However, exemptions may be granted in respect of named children and the Local Authority must give formal written notice of exemption to the carers.

A private foster carer can appeal against a refusal to make an exemption under Paragraph 4 of Schedule 7, a condition imposed in such an exemption or a variation or cancellation of such an exemption.

### **Disqualification**

As in prohibition cases, a decision to disqualify private foster carers must be checked with Surrey County Council Legal Services. Responsibility for the final decision lies with the Head of Children's Service.

### **Return Home**

Consideration must be given to the need to assess/reassess the home situation when a privately fostered child is due to return home, particularly where the child has been in a private fostering arrangement for a considerable length of time and/or where the inability of the parents to cope with the child was the main reason for the arrangement.

### **Placements Which Cause Concern**

If there are concerns that the needs of the child are not being met or the child's welfare is not being safeguarded then this must be brought to the immediate attention of the appropriate senior manager.

When the Local Authority is not satisfied that the child's welfare is being satisfactorily safeguarded or promoted, it must:

- Consider whether the child's welfare could be satisfactorily safeguarded and promoted in the placement by provision of advice and/or imposition of requirements. If requirements need to be imposed these must be discussed with Legal Services
- Consider whether an exemption to the normal private fostering limit needs to be imposed / varied / removed in conjunction with the Care Services Manager
- Consider whether it would be in the best interests of the child to secure the care and accommodation of the child by:
  - A parent of her/his
  - A person who is not a parent but has parental responsibility
  - A relative of her/his
- Consider whether the Local Authority should exercise any of their functions under the Children Act 1989 e.g. s17 and s47
- If the worker is not satisfied that the child's developmental needs are being met, whether an assessment of need of services under s17 of the Children Act 1989, in accordance with the

framework for the Assessment of Children in Need and their Families must be undertaken. Consideration should be made to whether it is appropriate to offer accommodation or other services (including financial support).

- If the worker is concerned that the child or any other child in the household is at risk of significant harm, or if the child has made an allegation against the carer, then a s47 investigation must be undertaken (in accordance with Surrey's Safeguarding Children Board Procedures) and, if appropriate, consider any emergency powers available under the Children Act 1989
- Consider also whether the private foster carer should be prohibited from private fostering. If so, Surrey County Council Legal Services should be consulted.

In the event of an allegation being made by a child who is privately fostered against a private foster carer, the allocated worker from the Fostering Team will offer information and advice to the carer in a timely manner.

Private foster carers must also be encouraged to access safe caring, and safeguarding training.

An allegation (where a child remains with the carer) may result in a review of the private foster carer's suitability to look after any child placed and the support needs of the arrangement.

### **Appeals by Private Foster Carers**

A private fostering applicant / carer has a right of appeal under Paragraph 8 of Schedule 8 of the Children Act 1989 to the Court if s/he is aggrieved by a requirement, refusal of consent to foster, against a prohibition or refusal to cancel a prohibition, refusal to make an exemption, against a condition imposed in an exemption, variation or cancellation of such exemption.

The appellant must make the appeal within 14 days from the date on which the person appealing is notified of decision.

- When the Court allows an appeal against a refusal to make an exemption, a condition imposed in an exemption or a variation or cancellation of such exemption, the Court may:
  - Make an exemption
  - Impose a condition or
  - Vary the exemption

### **Offences - Section 70 Children's Act 1989**

There are offences as detailed below under this legislation. Legal advice must be sought if contravention is thought to have taken place.

A person is guilty of an offence if s/he:

- Fails to give notice/ information within a reasonable time, or make or procure someone to make misleading statements
- Refuses access to the child
- Intentionally obstructs inspection of the premises where a privately fostered child is reasonably believed to be
- Contravenes a disqualification, unless s/he can prove s/he did not know/ had no reasonable grounds to believe that any unsuitable person was living/ employed on the premises
- Fails to comply with a requirement without reasonable cause
- Accommodates a child in contravention of a prohibition
- Knowingly publishes an advert to privately foster without the name and address of the private foster carer