**Unregulated and Unregistered Placements Process for Children in Care in Barnsley**

National Context

Children who are in care should live in suitably approved care arrangements, these are ‘regulated placements’ and include:

* Foster homes with a foster carer approved by an Ofsted regulated fostering service or agency
* Living in a children’s home which is registered with Ofsted
* Living with parent(s) where this arrangement is supported and approved by placement with parent regulations and approved by the designated manager within the local authority (in Barnsley that is the Service Director of Children’s Social Care)
* Placement made under section 38(6) of the Children Act where the arrangement is court ordered and therefore regulated by a direction of the court

If a home/placement within the above categories cannot be found and a child is placed in an alternative arrangement this is an ‘unregistered’ placement arrangement. The exception to this is young people who are aged 16 or 17 who in some circumstances can be placed in placement which is not regulated by Ofsted, these are known as ‘unregulated’ placements.

Many people are unsure what it meant by unregulated and unregistered placements, and often confuse the two and the terms are sometimes used interchangeably. They are different things:

Unregulated provision is allowed in law. This is when children/young people (aged 16 and 17) need ‘support’ to live independently rather than needing full-time ‘care’. Ofsted do not regulate this type of provision currently, but the placement is lawful. However, under new legislative guidance supported accommodation providers must register with Ofsted before the 28th October 2023 to be able to continue to lawfully operate. Supported accommodation is often referred to as semi-independent accommodation and should be used as a stepping-stone to independence, and only ever when it is in a young person’s best interests. Some young people do not want to live with foster parents or live in a children’s home, and so semi-independent accommodation is the right choice. This type of accommodation is only appropriate when there is an assessment of the young person’s needs which confirms that they require support to live independently as opposed to them needing care.

Unregistered provision is when a child who’s being provided with some form of ‘care’ is living somewhere that is not registered with Ofsted. This is illegal. Once a provider delivers a care element as well as accommodation, they must register as a children’s home. It’s an offence not to. However, ‘care’ is not defined in law. It is not just about the age of the child, although that is a factor, it is about a child’s vulnerability and the level of help that they need. If a child does need care, then the service they are getting is very likely to need registration as a children’s home. Certainly, if children are under constant supervision, then this is likely to be a ‘care’ arrangement.

An unregulated placement also becomes unregistered if the child placed there is under 16 years old. If, when they turn 16 years old and children have care needs it will remain unregistered, if they do not have care needs it will become a legal unregulated placement. It is therefore possible that the same provision can be providing both unregulated and unregistered placements for young people with different needs, for example:

Example 1

Paul is 16 years old; he has completed his GCSE studies and is now undertaking a mechanics apprenticeship. Paul manages his time well, going to work and college and returning home at sensible times. He can broadly budget for himself with some advice and he can make sensible decisions about what to eat and how to look after himself. Paul does always not need staff to be present. Paul does benefit from having time with staff to think through choices that he makes and needs some help to learn how to some household tasks better. Paul lives in a 16+ semi-supported provision which is not a regulated children’s home.

**FOR PAUL THIS IS AN UNREGULATED PLACEMENT WHICH IS ALLOWED WITHIN THE CARE PLANNING REGULATIONS AND THEREFORE LEGAL**

Example 2

Martin is 17 years old; he is not engaged in any education or training. Martin cannot budget and needs close supervision when he is given money. Martin is vulnerable to exploitation and as such can be enticed to spend time away from his placement and when he does not return home at night he is often in risky situations. Martin seems to struggle to understand age-appropriate independence skills and requires adults to do things for him to keep him clean and healthy. There are concerns about Martin being exploited so there are extra staff employed to be with him lots of the day and someone is always there at night-time in case Martin goes missing. Martin lives in the same 16+ semi-supported provision as Paul which is not a regulated children’s home.

**FOR MARTIN THIS IS AN UNREGISTERED PLACEMENT WHICH IS NOT ALLOWED WITHIN THE CARE PLANNING REGULATIONS AS MARTIN HAS BEEN ASSESSED TO HAVE CARE NEEDS AS WELL AS SUPPORT**

A further example of an unregistered placement arrangement is when a looked after child (under 16 years) or a 16/17-year-old where it is clear from their assessment of need that they require ‘care’ as opposed to ‘support’ and no regulated placement can be identified. In these circumstances the local authority makes emergency care arrangements which means the child is provided with a safe place to reside and suitable adults (typically agency staff from approved staffing agencies) to care for them in a property where the child/young person will have their own bedroom in addition to communal living space.

**THIS IS NOT A REGULATED PLACEMENT AND SO IS AN EMERGENCY UNREGISTERED PLACEMENT WHICH IS NOT ALLOWED WITHIN THE CARE PLANNING REGULATIONS AND THEREFORE ILLEGAL.**

It is unlawful to place a child under the age of 16 years within an unregulated provision. This ban came into force in September 2021. Any unregistered care arrangements that are in place must be reported to Ofsted. Ofsted are currently developing guidance regarding national minimum standards for the currently unregulated provision for 16-17-year olds and will begin implementation of an inspection regime in 2023.

Our services and response in Barnsley

Currently Barnsley MBC do not have any in house supported accommodation provision for 16 and 17-year-olds in care or young care leavers and therefore all 16+ supported accommodation placement are commissioned through our Placements Team with external providers, predominately using two main trusted providers Twenty Four Seven based in Barnsley, enabling our young people to remain within their local community and also FSIP in Bradford, which predominately provides support for Barnsley’s UASC in a geographical area which also meets their cultural needs.

**Process for Unregistered 16+ Placements – Care Versus Support**

**Decision making**

* Any decision to place a child / young person in an unregistered placement is made by The Executive Director who will be included in placement search discussion, cited on these children and a record of the decision entered onto the electronic record.
* The Care versus Support Ofsted check list should be completed by the allocated Social Worker, Team Manager and placement provider prior to placement in order to consider risk and needs, how this will be managed and what progress we need to see.
* The IRO should be consulted on the placement and their views sought and recorded by the IRO on the child / young person’s file.
* A robust active placement search will be ongoing to identify a regulated placement alternative with a clear audit trail.
* The Social Worker needs to record the placement under the Z1 Placement Code on the child’s electronic social care record, which covers unregistered placement arrangements.

**Oversight thereafter**

* It is expected that all children / young people in an unregistered setting will have a weekly statutory visit for the duration of the child’s / Young Person’s placement or whilst ever the placement status remains unregistered.
* The IRO will have weekly check in’s with the TM and SW to ensure that these arrangements are being complied with, that the child is safe and that the arrangements are sufficiently meeting the child’s needs. The IRO will check that a search for a more appropriate provision is progressing and will escalate any concern in relation to arrangements through the IRO dispute mechanism. The IRO will record their check in discussion on the child’s record.
* CIC reviews chaired by the IRO will be formally held on a monthly basis.
* The Team manager and the IRO will both ensure that the check that the appropriate placement episodes and legal status has been correctly amended to reflect the child’s current circumstances.
* The Care versus Support Ofsted checklist should be reviewed monthly by the Team Manager, allocated Social Worker, Young Person, IRO and the provider to determine if the young person is being supported to gain skills linked with age-appropriate independence and are making good progress in gaining these skills. If it is determined that the young person no longer has care needs, then the placement status will change to unregulated and usual statutory timescales for visits and CIC reviews will resume.

**Senior Management Oversight**

* The Head of Service for CIC tracks all unregistered placement arrangements through the Placement and Resource Panel which is held on a weekly basis.
* All children / young people who are in unregistered placements will also be discussed weekly within the Head of Service meeting chaired by the Service Director.
* The Head of Service for Children in Care ensures the tracker of all unregistered children is maintained.

**Process for Unregistered Emergency Placements**

This might for example be the placement of a child in emergency accommodation with agency carers whilst a placement search is under way.

**Decision Making**

* At the point an emergency placement being considered as the only option available to the child / young person, the Executive Director of Children’s Service and the Service Director are fully cited by the Head of Service for Children in Care on these potential placement arrangements and give permission for this emergency arrangement to be commissioned. This oversight is recorded on the child / young person’s case file by the Head of Service. Such placements should only be used as an absolute last resort
* A robust active placement search will be ongoing to identify a regulated placement alternative with a clear audit trail.
* The Social Worker needs to record the placement under the Z1 Placement Code on the child’s electronic social care record, which covers all unregistered placement arrangements.

**Oversight thereafter**

* It is expected that all children / young people in an unregistered setting will have a weekly statutory visit for the duration of the child’s / Young Person’s placement or whilst ever the placement status remains unregistered.
* The IRO will have weekly check in’s with the TM and SW to ensure that these arrangements are being complied with, that the child is safe and that the arrangements are sufficiently meeting the child’s needs. The IRO will check that a search for a more appropriate provision is progressing and will escalate any concern in relation to arrangements through the IRO dispute mechanism. The IRO will record their check in discussion on the child’s record.
* CIC reviews chaired by the IRO will be formally held on a monthly basis.
* The Team manager and the IRO will both ensure that the check that the appropriate placement episodes and legal status has been correctly amended to reflect the child’s current circumstances.

**Senior Management Oversight**

* The Head of Service for CIC tracks all unregistered emergency placement arrangements through the Placement and Resource Panel which is held on a weekly basis.
* All children / young people who are in emergency unregistered placements will also be discussed weekly within the Head of Service meeting chaired by the Service Director.
* The Head of Service for Children in Care ensures the tracker of all unregistered children is maintained.

**Process for unregulated placement arrangements**

**Decision making:**

* Any decision to place a child / young person in an ‘unregulated placement’ is made by the Head of Service for Children in Care for placements within Barnsley and neighbouring authorities and by the Executive Director for placements at a distance. A record of the decision is entered onto the child’s electronic record.

**Oversight thereafter:**

* The list of children in ‘unregulated arrangements’ are held on a tracker with the oversight of Commissioning team and the Head of Service for Children in Care.
* The Team manager and the IRO will both ensure that the check that the appropriate placement episodes and legal status has been correctly amended to reflect the child’s current circumstances.
* The suitability of the arrangement is reviewed in Team Manager supervision with the allocated Social Worker, it is recognised that for some young people their needs can fluctuate and change from support to care.
* Where there may be some ambiguity in relation to Care Versus Support, the social worker needs to complete the Ofsted Checklist alongside their Team Manager to determine needs and whether the placement remains appropriate. Where appropriate, discussions are held with Service Manager / Head of Service.

**Senior Management Oversight:**

* The Head of Service for CIC tracks all unregulated placement arrangements through the Placement and Resource Panel which is held on a weekly basis.
* The Head of Service for Children in Care ensures the tracker of all unregulated children is maintained and updated monthly.

To ensure ongoing and full understanding of the issues relating to unregistered and unregulated placements a development session will be led by the Head of Service for Children in Care which will include reviewing the practice guidance and assessment tools to support managers and workers in the early identification of the issues linked with establishing whether a placement arrangement is unregulated (and allowed within the care regulations) or is unregistered (and not allowed within the care regulations) and on any occasion where an unregistered arrangement is avoidable all appropriate mitigations are in place and all efforts are focused on identifying a regulated arrangement as soon as possible.

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Head of Service Children in Care

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