

## APPENDIX 1

### Summary of Relevant Legislation

---

#### 1. The Children Act 1989

(CA 1989) and case law, [decisions of the higher courts] identify contact as a right of the child - birth parents, relatives and others do not have a 'right' to contact, although local authorities have legal duties to provide and promote contact, as set out below, unless it is not in the best interests of the child

#### 2. Standard 9 (National Minimum Fostering Standards (2011))

Children have, where appropriate, constructive Contact with their parents, grandparents, siblings, half siblings, families, friends and other people who play a significant role in their lives

#### 3. Fostering Services Regulations (2011) Regulation 14

The Fostering Service Provider must, subject to the provisions of the care plan and any court order relating to Contact, promote contact between a child placed with a foster parent and the child's parents, relatives and friends unless such contact not reasonably practicable or consistent with the child's welfare.

#### 4. The Children Act 1989 Guidance & Regulations. Volume 2: Care Planning, Placement & Case Review.

#### Arrangements for Contact:

**2.78** The interests of the majority of looked after children are best served by sustaining or creating links with their birth families including wider family members. Consideration of contact is an essential element in the planning process. Managing contact can place emotional and practical strains on all parties involved, which is why there should be a clear understanding from the outset about the arrangements for contact and what is expected of the parents, the responsible authority and the child's carers in connection with those arrangements.

**2.79** The responsible authority has a duty to endeavour to promote contact between the child and their parents, any person who is not a parent but who has parental responsibility for the child, and any relative, friend or other person connected with the child, unless it is not reasonably practicable or consistent with the child's welfare **[Schedule 2, paragraph 15]**. Where the child is subject to a care order, section 34 and regulation 8 also applies. The responsible authority is required to take reasonable steps to inform the child's parents and any other person who has parental responsibility for the child of where the child is living **[Schedule 2, paragraph 15 (2)]**. However, if it would prejudice the child's welfare, information need not be given **[Schedule 2 paragraph 15 (4)]**. Equally, a parent or other person with parental responsibility for the child must inform the local authority of his/her address **[Schedule 2 paragraph 15 (2)(b)]**.

**2.80** So far as is reasonably practicable, the wishes and feelings of the child (if s/he is old enough), the parents and the child's carers must be ascertained before a decision about contact arrangements is made [**section 22(4)**].

### ***Who should be included***

**2.81** The assessment of the child will identify those people in the child's network with whom it is important to maintain contact. In some cases it may be appropriate to identify relatives (who may include a parent with whom contact has been lost) and to follow up the prospects of re-establishing contact. Care will clearly be needed where there is family or marital conflict, but responsible authorities should be ready to explore the possibility of preserving, establishing or promoting contact which could be beneficial to the child. In doing so they should not overlook problems which may arise when a child is placed with a person who may be reluctant to allow contact with, for example, wider relatives or friends of the child. The child and his/her carers may need support to manage these situations.

**2.82** In this context, the first weeks during which the child is looked after by the responsible authority are likely to be crucial to the success of the relationship between the parent, the social worker and the child's carers, and to the level of successful future contact between the parents and the child. It is at this time that patterns become set which may be difficult to change. Parents should be involved in planning for contact prior to placement wherever possible and should be provided with information about possible sources of support for contact.

**2.83** Placements made in an emergency require special care if parents are to be reassured from the outset that they have a continuing role in their child's life and to minimise distress for the child. Early visits are essential though parents may need help to cope with both their own and their child's distress.

**2.84** Arrangements for contact with grandparents and other people with a connection to the child should be recorded in the care plan [**Schedule 1, paragraph 3 (4)(b)**]. Grandparents and other relatives can provide a sense of family history and continuity where the child cannot live with his/her birth parents yet contact may easily be lost if the child becomes looked after.

### ***Sibling Contact***

**2.85** There is a specific requirement for the care plan to set out arrangements for the child to maintain contact with brothers and sisters who are also looked after by the responsible authority but with whom it is not possible for the child to be placed, so far as this is consistent with the child's welfare [**Schedule 1, paragraph 3(1)**]. Maintaining contact with siblings is reported by children to be one of their highest priorities but it requires the active involvement of social workers and children's carers to facilitate this contact in a way which supports the development of healthy sibling relationships between children who are not able to live together.

### ***Different types of Contact***

**2.86** Contact in the sense of personal meetings and visits will generally be the most common and, for both families and children, the most satisfactory way of maintaining their relationship. But other means can help to keep family bonds alive and should be borne in mind, for example letters, telephone calls and exchange of

photographs. Modern technology offers greater opportunities than ever before for separated people to maintain links and responsible authorities and the child's carers should work together to explore how electronic media can support positive relationships for children. However the child's carers and social workers should remain live to the possibility of these media being used to pursue contact which may place the child at risk of harm. Contacts, however occasional, may continue to have a value for the child even when there is no question of return to his/her family. These contacts can keep alive for a child a sense of his/her origins and may keep open the options for family relationships to be re-established when the child is older.

### ***Contact arrangements for a child looked after under a care order***

**2.87** Where a child is in care, specific requirements are placed on the local authority in relation to the refusal of contact, departure from the terms of an order made under section 34 and notification, variation or supervision of contact arrangements made under a section 34 order **[section 34] [regulation 8]**.

**2.88** The responsible authority must allow reasonable contact with a child's parents, any guardian and any other person with whom s/he was living under a court order immediately before the care order was made **[section 34(1)]**. The court order may be a residence order or an order made under the inherent jurisdiction of the High Court. The powers of the court in relation to orders concerning contact are set out in sections 34(2), (3), (4), (5), (7) and (9) to (11).

**2.89** The responsible authority is required to notify those affected about proposals to refuse contact under section 34(6) that would otherwise be required under section 34(1) or an order under section 34 **[regulation 8(2)]**. If those arrangements are set out in a court order, there is provision for the terms of the order to be departed from with the agreement of the person named in the order, and in specified circumstances with the agreement of the child, subject to the child being of sufficient age and understanding **[regulation 8(4)]**.

**2.90** In these cases, notification should also be given to the child's parents (if not the person with whom the agreement has been made), his/her guardian, the person in whose favour a residence order was in force immediately before the care order was made, and any other person whose wishes and feelings the responsible authority consider to be relevant. The IRO must also be informed.

### ***Contact arrangements for an accommodated child***

**2.91** Arrangements for contact with an accommodated child are a matter for negotiation and agreement between the responsible authority, the child, parents and others seeking contact. The responsible authority should ensure that parents and others wishing to have contact with the child know where to seek advice about contact matters.

**2.92** In the event of a dispute about contact with an accommodated child where the matter cannot be resolved and the complaints procedure has not provided a solution, a section 8 order may be made on the application of the child, a parent or other person.

### **Contact and adoption**

**2.93** On a local authority being authorised to place a child for adoption (or placing a child

for adoption who is under six weeks old), any provision for contact under the 1989 Act (a section 8 or a section 34 order) ceases to have effect and the local authority must consider their responsibilities under section 26 of the 2002 Act.

## **5. Care Planning, Placement & Case Review Regulations (England) 2010 Regulation 8**

### **Contact with a child in care**

**8.**—(1) This regulation applies if C is in the care of the responsible authority and they have

decided under section 34(6) (*refusal of contact as a matter of urgency*) to refuse to allow contact

that would otherwise be required by virtue of section 34(1)(a) or an order under section 34

(*parental contact etc. with children in care*).

(2) The responsible authority must immediately give written notification to the following

persons of the information specified in paragraph (3) (“the specified information”)—

(a) C, unless it would not be appropriate to do so having regard to C’s age and understanding,

(b) P,

(c) where, immediately before the care order was made, a person had care of C by virtue of

an order made in exercise of the High Court’s inherent jurisdiction with respect to children, that person,

(d) any other person whose wishes and feelings the responsible authority consider to be

relevant, and

(e) the IRO.

(3) The specified information is—

(a) the responsible authority’s decision,

(b) the date of the decision,

(c) the reasons for the decision,

(d) the duration of the decision (if applicable), and

(e) remedies available in case of dissatisfaction.

(4) The responsible authority may depart from the terms of any order made under section 34 by agreement with the person in relation to whom the order is made, provided that—

(a) C, being of sufficient age and understanding, also agrees, and

(b) written notification of the specified information is given within five working days to the

persons listed in paragraph (2).

(5) Where the responsible authority has decided to vary or suspend any arrangements made

(otherwise than under an order under section 34) with a view to affording any person contact with

C, the responsible authority must immediately give written notification containing the specified

information to the persons listed in paragraph (2).

(6) The responsible authority must record any decision made under this regulation in C's care plan.