



THE LOOKED AFTER CHILDREN (SCOTLAND) REGULATIONS 2008: SECOND CONSULTATION

**UNISON Scotland's response to the Scottish Government's Consultation
on The Looked After Children (Scotland) Regulations 2008: Second
Consultation**

January 2009

Executive Summary

- UNISON Scotland believes that many of the requirements in the consultation are consistent with good practice.
- There will be resource implications in respect of the additional duties contained in the regulations.
- To implement these regulations fully, there will need to be increases in social work staff to recruit and support foster placements, to assess and support increased numbers of kinship carers and to maintain quality services to children who are looked after and those preparing to move on to independence.
- Guidance and training will also be needed.
- We particularly welcome the statutory duty to have care plans for children and the emphasis throughout the regulations on the duty to consult with the child.
- There is no definition of a child or young person and we believe this is needed and, in addition the definition of parent needs further clarification, especially in relation to the father.
- We would prefer the terminology '*Assessment of child*' and not of '*child's case*' as we believe this holds the focus on the child and young person as an individual.
- Where possible, children should have one plan.
- Schedule 1 would benefit from the inclusion of a question about the child's wider family, friends and social network to enable consideration of 'kinship care' options at an early stage.
- UNISON is concerned that there is widespread public misunderstanding of the definition of kinship care and there is a risk that children may become looked after solely to enable their kinship carers to access financial support.
- There should be a regulation requiring panels to appoint a legal adviser as well as a medical adviser.

- We believe that case records for both foster carers and kinship carers should be retained for 25 years and not 10 years as proposed.
- UNISON would prefer to see a set national rate for both fostering and kinship care allowances.
- There should be provision to ensure that young people are not compelled to move on from residential care aged 16 unless they are ready and appropriate supports are in place.

Introduction

UNISON is Scotland's largest public sector trade union representing over 160,000 members. UNISON Scotland represents tens of thousands of members who work in the social care services, including many social workers, social service workers, those managing and working in children's services, day care and residential care. Many of these work with looked after children in all circumstances including those in residential care.

UNISONScotland welcomes the opportunity to comment on the Scottish Government's Second Consultation on the Looked After Children (Scotland) Regulations.

Response

General:

UNISONScotland believes that many of the requirements in the consultation are consistent with good practice. However, there will be resource implications in respect of the additional duties contained in the regulations, for example to provide for kinship care and children looked after at home etc.

We know from our members that they wish to provide a high quality service to look after children to improve their outcomes. However, they are already hard pressed to meet statutory requirements and to implement these regulations fully, there will need to be increases in social work staff, to assess and support increased numbers of kinship carers and to maintain quality services to children who are looked after and those preparing to move on to independence. Guidance and training will also be needed.

We particularly welcome the statutory duty to have care plans for children (which is already well established as good practice) and the emphasis throughout the regulations on the duty to consult with the child.

On a practical note there is a need to ensure the regulations are properly numbered, especially where other paragraphs are referenced.

Question 1

Part I - Regulation 2 - Definitions

There is no definition of a child or young person and we believe this is needed.

In addition the definition of parent needs further clarification, especially in relation to the father, in particular, is it sufficient to be the birth father or is there a requirement for that person to have legal parental rights?

Question 2

Part II

a) Regulation 4: We would prefer the terminology '*Assessment of child*' and not of '*child's case*' as we believe this holds the focus on the child and young person as an individual.

Regulation 7: uses '*person*' to define a young person in need of services under Sec 29(s) of the 1995 Act. UNISON would prefer the term to be '*young person*' as this fits better with the group of people the Regulations refer to.

b) Where possible, children should have one plan, but further consideration needs to be given as to how this would work in practice, especially where children have complex needs and where there is perhaps a child protection plan and an education plan as well as a care plan. All of these will be drawn up in different formats and clear guidance will be needed if they are to be integrated.

Also, any plan needs to be written in a clear and concise way and in child friendly language.

c) This seems to fit with good practice.

d) Yes, see below.

e) Schedule 1 would benefit from inclusion of a question about the child's wider family, friends and social network to enable consideration of 'kinship care' options at an early stage. The question on nationality, race, religion and language would benefit from the inclusion of "as defined by the child and family".

- f) We accept that the transition to independent living is a key challenge and welcome any provision which supports this through regulation. However, Local Authorities already have duties in respect of this and there is a need to look at the resources available to support them to meet their requirements to this group of young people.

Question 4

- a) There needs to be proper guidance around placement of a child and assessment of kinship carers and guidance for Local Authorities about their duties to this group.
- b) UNISON is concerned that there is widespread public misunderstanding of the definition of kinship care in terms of the 'looked after' status of children. It believes there is some evidence to support the concern that more children may become looked after solely to enable their kinship carers to access financial support, thereby compromising the 'no order' or 'minimum intervention' principle.

We believe it would be helpful to look to the benefits system to properly support families caring for relative children who do not need to be legally 'looked after'.

The new requirements also have potentially significant resource implications for Local Authorities in terms of their duties to this new group of children under Sec 17 of the 1995 Act and their responsibilities to assess and support kinship carers.

- c) We are happy with the contents of Schedule 3.

Question 5 – Fostering Panels

- a) **Terminology:** the Regulations should apply to all organisations dealing in foster care including voluntary organisations, so where appropriate "local authority" should be replaced with "fostering agency".

In some organisations there is a preference for the term "*fostering panels*" rather than "*foster panels*".

Composition of Fostering Panels

Regulation 18(1) should also require a gender balance.

In addition, there should be a regulation requiring panels to appoint a legal adviser as well as a medical adviser.

Functions

It is not possible for panels to consider the placements of all children. Regulation 21(1) should be permissive rather than compulsive.

Panels should have a duty to invite prospective foster carers or foster carers to attend as per the Regulations relating to adopters and prospective adopters.

Question 6

a) Reviews and termination

Regulation 26: a review of foster care approval after 2 months is unrealistic and unworkable. A first review after 12 months and thereafter every 3 years would be appropriate and manageable.

Regulation 30: it is not clear what the purpose of this Regulation is. Is it to clarify timescales for LAC Reviews? We would welcome clarification.

Regulation 32 - Records: we believe that case records for both foster carers and kinship carers should be retained for 25 years and not 10 years as proposed.

Question 7

Regulation 33: UNISON would prefer to see a set national rate for both fostering and kinship care allowances. Payment for skills, etc., can then be applied locally.

Question 8

b) Regulations 34 and 35: UNISON believes that there should be provision to ensure that young people are not compelled to move on from residential care aged 16 unless they are ready and appropriate supports are in place. At present this can happen because of pressures to free beds for other young people so it

must be recognised that any such Regulation, whilst good practice, will have resource implications which will need to be addressed.

Question 9 – Regulations 36-39

We are not at all clear how these Regulations will work in practice. They appear to relate only to children already looked after. For children on supervision requirements they will need to link in with the Children's Hearing Regulations. However, many emergency placements relate to children who are not looked after and the provisions do not seem to apply.

We would welcome clarification and guidance on this issue

Question 10

- a) We believe that the timescales to visit a child in a placement (Regulation 44) are too long and outmoded. We believe that there should be guideline requirements but that the frequency of visits should depend on the child's needs as assessed in the care plan.
- b) We agree that these Regulations should emphasise that any timescales are 'minimum requirements'.

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