ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

CHILD PROTECTION ACT
R.S.A. c. C34

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

Regulation	Citation	Page
CHILD PROTECTION REGULATIONS *Revises R.A. 61/2021, in force 3 June 2021*	R.R.A. C34-1 *(31/12/2022)*	3

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Revised Regulations of Anguilla: C34-1

CHILD PROTECTION ACT (R.S.A. c. C34)

CHILD PROTECTION REGULATIONS

Note: These Regulations are enabled under section 117 of the Child Protection Act, R.S.A. c. C34.

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PART 1

PRELIMINARY

Interpretation

1. (1) In these regulations, unless the context requires otherwise—

"Anguilla Child Protection Register" means the register kept by the Commissioner;

"approved child care service" means a child care service approved by the Minister in accordance with Part 8;

"approved secure accommodation" means a child care service approved to be used as secure accommodation by the Minister in accordance with Part 9;

"assessment record" means any record (of an assessment) made under section 8;

"Board" means the Safeguarding Children's Board established under section 21 of the Act;

"Case Management Procedures"—

(a) means the procedures from time to time issued by the Commissioner under section 3; and

(b) includes any amendment to those procedures from time to time issued by the Commissioner;

"case management record" means the case record of a child kept under section 3;

"child protection plan" means a plan of intervention detailing interventions to meet identified needs of the child following an investigation;

"enactment" includes any Act and any regulations or other subordinate legislation;

"foster care" means the care of a child placed with a foster carer;

"foster carer" means the carer with whom the Commissioner places a child under section 91(2) of the Act following an order made by a Court under Part 8 of the Act;

"investigation" means an initial or further investigation conducted under section 34 of the Act;

"mandatory report" means a report under section 31 of the Act;

"record" means record in permanent writing;

"registered dental practitioner" means a person registered under any enactment as qualified to practice dentistry in Anguilla;

"registered foster carer" means a foster carer approved and registered by the Commissioner in accordance with Part 7;

"registered medical practitioner" means a person registered under any enactment as qualified to practise medicine in Anguilla;

"registered nurse" means a person registered under any enactment as qualified to practise nursing in Anguilla;

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"registered provider" or "provider" means a person approved and registered to carry on a child care service in accordance with Part 7;

"request for assistance" means a request under section 30 of the Act;

"responsible individual" has the meaning given by section 43(2)(f);

"restoration" means restoration of a child from a child care service to the care of the child's parents or guardians;

"secure accommodation" has the meaning given by section 95(7) of the Act;

"State care plan" has the meaning given by paragraph 2 of Schedule 8;

"statement of truth" means a statement of facts and matters that—

(a) ends with the following statement by the person who is making the statement of truth - "I believe that the facts and matters contained in this statement are true"; and

(b) is dated and signed by the person making the statement of truth.

(2) Where there is a conflict between these regulations and either the Protocol or the Case Management Procedures, or between the Protocol and the Case Management Procedures, these documents shall be given effect in the following descending order of priority—

(a) these regulations;

(b) the Protocol; and

(c) the Case Management Procedures.

PART 2

REPORTING

Requests and mandatory reports to be promptly acknowledged

2. The Commissioner shall acknowledge a request for assistance or mandatory report—

(a) promptly; and

(b) in any event, within one working day.

Commissioner to keep and retain requests, reports and case management records

3. (1) The Commissioner shall keep a relevant record safely and securely for—

(a) a period of at least 6 years beginning from the time that the case pertaining to the request or report is closed; or

(b) any longer period required by regulation, in respect of a child placed with a foster carer or in an approved child care service.

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(2) The Commissioner shall take all necessary steps to keep the information in a relevant record confidential, except to the extent that disclosure of or access to that information—

(a) is necessary to protect the health or safety of a child or any other person;

(b) is necessary to enable the Commissioner or any other person to carry out a duty or other function under the Act or these regulations;

(c) is required or authorised by any enactment; or

(d) is necessary to comply with a court order.

(3) In this section, "relevant record" means—

(a) a request for assistance;

(b) a mandatory report; or

(c) a case management record.

PART 3

INVESTIGATION AND ASSESSMENT

General duties in relation to investigations

4. (1) Any check, interview or other investigation carried out on behalf of the Commissioner for the purpose of any investigation under Part 7 of the Act shall be carried out by a social worker in accordance with the Protocol.

(2) The social worker or the Commissioner shall keep a case record of each investigation that includes, but is not limited to, the following—

(a) the date and details of the request for assistance, mandatory report or other trigger event;

(b) a record of strategy meetings or discussions concerning the request for assistance, mandatory report or other trigger event;

(c) details of checks or interviews carried out, including information obtained from other departments or agencies;

(d) details of planned interviews or assessments of the child or parent;

(e) any assessment record;

(f) any other record or document required by these regulations to be placed in the case management record; and

(g) details of any other matter considered by the social worker to be relevant to the case.

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Requirements of initial investigations

5. The Commissioner shall conduct an initial investigation and assessment under section 34(1) of the Act and may assign a social worker to complete any checks, interviews or other investigations considered necessary by the Commissioner in accordance with the Protocol;

Circumstances and requirements of further investigations

6. (1) A further investigation is necessary under section 34(2) of the Act if the Commissioner's assessment following an initial investigation suggests that a child is or may be at risk of significant harm.

(2) A further investigation shall include the following—

(a) co-operation with other government departments and agencies in accordance with the Protocol, and as otherwise required under the Act;

(b) seeing and speaking to the child alone, subject to the abilities, age, maturity and developmental capacity of the child; and

(c) a visit to the home address of the child or the address where the child has been residing (if different), and an inspection of the child's sleeping arrangements.

Full assessment required following further investigation

7. (1) Following a further investigation under section 34 of the Act, the Commissioner shall make a full assessment of the circumstances concerning the child for the purposes of exercising any of the Commissioner's other functions under the Act.

(2) The full assessment shall be made with particular regard to section 4(1) of the Act, taking into account—

(a) the reason for the assessment;

(b) details of the child's family, and other family and environmental factors;

(c) the child's development needs;

(d) the capacity of the child's parents to meet the child's needs, including their access to services that may support their ability to care for the child;

(e) the child's wishes and feelings, subject to the abilities, age, maturity and developmental capacity of the child;

(f) the views of the child's parents, to the extent considered appropriate by the Commissioner;

(g) an analysis of the risk and protective factors relevant to the child;

(h) the provision of any assistance considered necessary for the parents and the child under section 30 of the Act;

(i) the record (of the initial investigation) approved by the Commissioner under section 5, and any other outcome of the initial or further investigation under section 34 of the Act;

(j) any assessment conducted by the Commissioner under section 34(1) of the Act;

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(k) any child protection plan, care plan or State care plan proposed to be presented or given to the child's family, a multi-agency meeting held under the Protocol or the Court, for the purposes of the Act; and

(l) any other relevant matters known to the Commissioner concerning the child.

Duties in relation to assessment records

8. (1) The Commissioner shall record an assessment made under section 7, or section 34(1) of the Act, including any recommendations or determinations made by the Commissioner for the purposes of the Act or these regulations.

(2) The Commissioner shall give a copy of the assessment records or relevant parts of the assessment report to—

(a) any service provider, where necessary to enable a child or the child's parents to obtain access to the needs identified in the assessment; and

(b) a child protection conference convened under section 10(1).

(3) An assessment record shall not be given under subsection (2) if the Commissioner has reasonable grounds to believe that provision of the record—

(a) will endanger the safety of the child or any other person;

(b) will be detrimental to the welfare of the child; or

(c) may prejudice any criminal investigation related to the matter that has been initiated or is likely to occur.

Reporting required if child in immediate jeopardy

9. (1) This section applies if, at any time in the course of an investigation or assessment made under section 34(1) of the Act or section 7, a social worker or other staff member of the Department (other than the Commissioner), or any other person delegated with the functions of the Commissioner under Part 2 of the Act, has reasonable grounds to suspect that—

(a) a child is in need of protection; and

(b) the health or safety of the child is in immediate jeopardy.

(2) The person concerned shall immediately report the matter to the Commissioner.

(3) Nothing in this section limits the duties of persons specified in section 14(1) or (2) of the Act to report the matters specified in those provisions where required.

Additional options following investigation or request for assistance

10. (1) Following any investigation or assessment made under section 34(1) of the Act or section 7, or receipt of any request for assistance, the Commissioner may take all or any of the following actions—

(a) request services from a government department or agency under section 14(1) of the Act;

(b) convene an initial child protection conference within 15 working days, in which the child, the child's family and persons providing services to them may participate;

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(c) convene any further child protection conference considered necessary;

(d) put together a child protection plan to divert the matter from the courts;

(e) request that the parent or guardian hand over all belongings or records relating to the child;

(f) file a child protection plan in the Court under section 74 of the Act.

(2) A child protection conference shall be regarded as an alternative dispute resolution procedure referred to in section 39 of the Act, and the participation of the child or the child's family in such a conference is voluntary.

(3) Nothing in this section limits any other action that may be taken by the Commissioner under the Act.

Child at risk of significant harm to be placed in register

11. If it is determined in a child protection conference that the child is at risk of significant harm, the Commissioner shall enter the child in the Anguilla Child Protection Register.

PART 4

EMERGENCY PROTECTION

Procedure and dispensations following removal of child

12. (1) If the Commissioner exercises the powers to enter premises and take a child into custody under section 42 of the Act, the Commissioner shall as soon as practicable—

(a) record the Commissioner's reasons for exercising those powers; and

(b) conduct an initial investigation and assessment of the circumstances concerning the child under section 34(1) of the Act.

(2) The Commissioner may make an application for an order of any kind specified in section 53 of the Act on the available evidence without completing, where it is impracticable to do so, any of the following—

(a) a social work enquiry report;

(b) the application form normally required for such an order under these regulations; or

(c) a care plan.

(3) Where the Commissioner dispenses with any of the requirements in subsection (2)(a), (b) or (c), the Commissioner shall complete and submit any of the outstanding documents as soon as practicable but in any event in not less than one month.

Notice following removal of child

13. Where the Commissioner assumes care responsibility for a child following removal of the child from any place or premises under section 42 of the Act, the Commissioner shall—

(a) give the person in charge of the place or premises (whether or not the person is a parent of the child) written notice of the removal; and

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(b) place the notice in the case management record.

Procedure for delegating care responsibility

14. A delegation of the care responsibility for a child from the Commissioner or a child care service to another person under section 46 of the Act shall be made by letter—

(a) in a form approved by the Commissioner; and

(b) dated and signed by—

(i) the Commissioner, or

(ii) as the case may require, a person authorised by the registered provider carrying on the child care service.

Procedure for discharging care responsibility

15. (1) Before discharging a child from the Commissioner's care responsibility under section 48 of the Act, the Commissioner shall—

(a) convene a care planning meeting;

(b) invite the child, the child's family and persons providing services to the meeting to discuss the matters specified in section 48 of the Act; and

(c) record proceedings and minutes of the meeting and place these in the case management record of the child.

(2) Nothing in this section limits the duty of the Commissioner to determine whether or not to discharge the child from the Commissioner's care responsibility in accordance with section 48 of the Act.

PART 5

ASSESSMENT ORDERS

Procedure for assessment orders

16. (1) This section applies where the Court orders an examination or other assessment of a child to be carried out under section 49(1) of the Act.

(2) Where the Court orders the assessment to be carried out by any person of a kind described in section 14(2) of the Act, the person's report under section 32(2) of the Act shall include—

(a) details of the person's official or professional qualifications;

(b) a cover letter detailing the involvement of the person in the examination, and any previous involvement of the person in relation to the child, for example in providing a report to the Commissioner for the purposes of an investigation;

(c) a summary of the conclusions reached by the person; and

(d) a statement of truth.

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(3) Where the Court orders the assessment to be carried out by an expert witness, the person's report under section 52 of the Act shall—

(a) include details of the expert's qualifications;

(b) include details of any literature or other materials relied on in making the report;

(c) contain a statement setting out the substance of the facts and any instructions which are material to the opinion expressed in the report or upon which the opinion is based;

(d) make clear which of the facts stated in the report are within the expert's own knowledge;

(e) state the name of any other person who carried out the examination, measurement, test or experiment which the expert has used for the report, the qualifications of that person and whether or not the examination, measurement, test or experiment has been carried out under the expert's supervision;

(f) where there is a range of opinion on matters specified in the report, summarise the range of opinions and give reasons for the expert's own opinion;

(g) contain a summary of the conclusions reached; and

(h) include a statement of truth.

(4) A person making any report under section 52 shall address the report to the Court and not to any party instructing the person.

PART 6

ORDERS FOR THE CARE AND PROTECTION OF A CHILD

Requirements for applications

17. (1) An application for a care order under section 53 of the Act or a supervision order under section 60 of the Act shall be made in Form CP 1 in Schedule 1.

(2) The application shall include evidence provided by a social worker, including a social inquiry report detailing—

(a) the grounds for making an order in relation to the child;

(b) the duration for which the order is being requested;

(c) the purpose of the order;

(d) the wishes and feelings of the child, subject to the child's abilities, age, maturity and developmental capacity;

(e) the participation of the child in the proceedings;

(f) alternative actions attempted to divert the matter from the courts;

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(g) plans to support and assist the child and family including towards restoration where appropriate;

(h) any other matters relevant to the welfare of the child; and

(i) recommendations of the social worker completing the report.

(3) The application shall also be accompanied by—

(a) a court care plan in respect of the child completed in Form CP 2 in Schedule 2; and

(b) if required by section 84 of the Act, a permanency plan in respect of the child completed in Form CP 3 in Schedule 3.

(4) If it appears that adoption is a realistic option, the Commissioner shall ensure that a child's placement report in Form CP 4 in Schedule 4 is completed, and—

(a) submitted to the Adoption Committee; and

(b) filed with the Court if directed or required by the Court.

(5) Nothing in subsection (2) limits the duties imposed on the Commissioner by section 67 of the Act.

Considerations and contents of placing arrangements

18. (1) When placing a child with a foster carer or in an approved child care service, the Commissioner shall make immediate and long-term arrangements—

(a) for the placement; and

(b) for promoting the welfare of the child who is to be placed.

(2) In making the arrangements required by subsection (1), the Commissioner shall, so far as practicable, have regard to—

(a) in the case of a child who is in the care responsibility of the Commissioner or any other person, whether an application should be made to discharge the care order;

(b) arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's parents, relatives, friends and other persons connected with the child, so far as this is not detrimental to the child's welfare;

(c) whether plans need to be made to find a permanent substitute family for the child;

(d) the child's state of health including the child's physical, oral, emotional and mental health;

(e) any need the child has for mental health services; and

(f) whether the child's health needs will be met in the proposed placement taking into account the information under paragraphs (d) and (e).

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Notification of arrangements

19. (1) So far as practicable and consistent with the child's welfare, the Commissioner shall notify the following persons in writing of the arrangements to place a child with a foster carer or in an approved child care service, before the placement is made—

(a) any person caring for the child immediately before the arrangements are put into effect;

(b) any person in whose favour a contact order is in force with respect to the child; and

(c) any parent of the child.

(2) Where it is not practicable to make the notification before the placement, the Commissioner shall make it as soon as practicable thereafter, and in any event no later than 10 working days from the date the placement is made.

Review of placement

20. (1) After placing a child with a foster carer or in an approved child care service, the Commissioner shall convene a review of the placement within 10 working days and subsequently—

(a) as frequently as necessary; and

(b) at least once every 6 months.

(2) The foster carer or, as the case may be, the registered provider carrying on the child care service, and representatives of the Commissioner shall attend the meeting.

(3) In advance of the meeting, the Commissioner shall ascertain—

(a) the progress of the child's emotional development, health and education while in placement, which shall include liaising with the child's school and registered medical practitioner; and

(b) any other appropriate matters in the circumstances of the case.

Commissioner to keep and retain placement records

21. (1) The Commissioner shall keep a placement record in respect of each child placed with a foster carer or in an approved child care service that includes—

(a) the name, sex and date of birth of the child;

(b) the name and address of the child's parents;

(c) a copy of the arrangements required by section 18, including details of arrangements for contact;

(d) a copy of any written reasons provided in accordance with section 19;

(e) details of any contact orders or other court orders relating to the child;

(f) a copy of any written report in the Commissioner's possession concerning the welfare of the child;

(g) a copy of any document considered or record established in the course of or as a result of a review of the child's case;

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(h) whether the child is in care of an approved child care service;

(i) the name and address of the foster carers, or the home provided by the approved child care service, with whom the child is placed;

(j) where a child is placed in a home provided by an approved child care service, the name of the staff member of the home with particular responsibility for protecting and promoting the health and educational welfare of the child and for liaison with education and health care providers on that child's behalf;

(k) whether the child is at risk of being abused;

(l) whether the child is a disabled child;

(m) the date on which each placement of the child began and terminated and the reason for each termination;

(n) detailed records of any incident of absconding by the child and of the subsequent interview of the child following such an incident;

(o) details of any recovery order made in respect of the child; and

(p) any other particulars that the Commissioner considers appropriate.

(2) The Commissioner shall take all necessary steps to keep the information in a placement record confidential, except to the extent that disclosure of or providing access to that information—

(a) is necessary to protect the health or safety of a child or any other person;

(b) is necessary to enable the Commissioner or any other person to carry out a duty or other function under the Act or these regulations;

(c) is required or authorised by any enactment; or

(d) is necessary to comply with a court order.

PART 7

FOSTER CARERS: APPROVAL, PLACEMENT AND CONDUCT

Foster carers required to be approved

22. (1) Subject to section 32, the Commissioner shall not place a child in the care of a person under section 74 of the Act unless the person is approved and registered as a foster carer in accordance with this Part.

(2) The Commissioner may approve a person as a foster carer only if the person—

(a) is over the age of 21 years;

(b) has been assessed by a social worker in accordance with section 23;

(c) following the assessment and a report made by the social worker, is regarded by the Commissioner as suitable to be a foster carer; and

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(d) has successfully completed any training required by the Commissioner.

(3) A person who is a foster carer on the date of coming into force of these regulations shall be approved and registered as a foster carer.

Application and assessment of foster carers

23. (1) Any person may apply to the Commissioner for approval as a foster carer in Form CP 5 in Schedule 5.

(2) Subject to subsection (4), the Commissioner shall ensure that each applicant is assessed by a social worker within 3 months from the date of the application.

(3) The assessment shall include, but is not limited to, the following—

(a) a full Anguilla police check of the applicant and all members of the applicant's household and, if any of those persons have lived abroad, police check from the relevant country;

(b) a full medical assessment undertaken by a Medical Officer;

(c) a personal discussion and check with a minimum of two personal referees who have known the applicant for at least 5 years, one of whom shall not be related to the applicant by blood or affinity in the second degree;

(d) an assessment of the applicant's accommodation, the home environment and safety within the home and, in particular, the proposed sleeping arrangements for any child;

(e) an assessment of the applicant's understanding of child protection;

(f) an assessment of the applicant's ability to care for someone else's child, including child development in the context of abuse or neglect;

(g) an assessment of the applicant's understanding of the role of a foster carer; and

(h) an assessment of the matters specified in Document CP 5 in Schedule 6.

(4) If the applicant lives outside Anguilla and the applicant cannot be assessed directly, the Commissioner may—

(a) decline to assess that person;

(b) make arrangements for the assessment to be carried out by the relevant government authority responsible for social services in the applicant's location; or

(c) engage a suitably qualified person to undertake the assessment.

(5) Within 14 days of completion of an assessment, the Commissioner shall—

(a) provide the applicant with a copy of the assessment report under subsection (3); and

(b) discuss the report with the applicant.

(6) The applicant may provide a written response to the report within 14 days of its receipt and, if requested by the applicant, the Commissioner shall provide the applicant with assistance in preparing the response.

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Criminal offences

24. (1) An applicant is unsuitable to be a foster carer if the applicant or any member of the applicant's household has been convicted of any of the following offences in Anguilla or elsewhere—

(a) any offence against a child;

(b) any sexual offence;

(c) any offence which involves any form of violence or bodily harm, or threat of violence or bodily harm; or

(d) conspiring or attempting to commit any of the foregoing offences.

(2) Any other criminal conviction, or any caution, warning, police investigation or court proceedings related to an applicant or member of the applicant's household will be considered as part of the assessment of the applicant's suitability to be a foster carer.

(3) A registered foster carer shall notify the Commissioner immediately of any criminal conviction, caution, warning, police investigation or court proceedings in relation to the carer or any member of the carer's household while the carer remains registered.

(4) Following a notification under subsection (3), the Commissioner—

(a) shall review the approval and registration of the foster carer under section 28;

(b) in any case where the foster carer is convicted of an offence specified in subsection (1), shall revoke the approval and deregister the foster carer; and

(c) in any other case, may revoke the approval and deregister the foster carer.

Approval of foster carers

25. (1) The Commissioner shall not approve an applicant as a foster carer unless—

(a) an assessment of the applicant's suitability to be a foster carer has been carried out in accordance with section 23;

(b) the Commissioner has considered the assessment report under section 23(3) and any response received from the applicant under section 23(6); and

(c) subject to sections 23(2) and 24, the Commissioner regards the applicant as suitable to be a foster carer.

(2) The Commissioner's approval of a foster carer is subject to any conditions of approval specified by the Commissioner, that are to be taken into account when deciding whether to place a child with the foster carer.

Register of foster carers

26. (1) The Commissioner shall maintain a register of all foster carers approved by the Commissioner.

(2) The Commissioner shall register the following information in respect of each approved foster carer—

(a) the details of each child placed with the carer;

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(b) any conditions of the approval to be taken into account when deciding whether to place a child with the carer;

(c) details of the police conviction checks relating to the carer;

(d) the persons present in the home of the carer, including the ages, relationship to the carer and the details of their police conviction checks;

(e) the type of placements (set out in section 30) that the carer is willing to provide;

(f) any complaints or allegations made in relation to the carer or persons present in the home;

(g) any investigations undertaken by the Commissioner or Department in relation to the carer; and

(h) any other matters considered appropriate by the Commissioner.

(3) A registered foster carer shall inform the Commissioner immediately if there is any change in the information registered in respect of the carer, as notified to the carer by the Commissioner.

Supervising social worker

27. The Commissioner shall appoint a supervising social worker for each registered foster carer who shall provide advice and support to, and identify further suitable training if necessary, for the carer.

Review of approval and registration

28. (1) The Commissioner shall review the approval and registration of each registered foster carer, including the conditions for approval mentioned in section 26(2)(b) and other details of the registration—

(a) where required to do so under subsection (2) or section 24(4);

(b) where the Commissioner considers a review necessary; and

(c) at least annually.

(2) The Commissioner shall review the approval and registration of any foster carer who has been investigated following a complaint or allegation against the carer or a member of the carer's household.

(3) Where the Commissioner's final decision is to revoke, or vary the conditions of, the approval, the Commissioner shall deregister the carer or, as the case may require, vary the registration of the carer.

Types of placements

29. (1) On approval of a person as a foster carer—

(a) the Commissioner shall discuss with the person the type of placement which the person is willing to undertake; and

(b) the person shall select which type of placement the person wishes to undertake, subject to the Commissioner ruling out types that are not suitable for that person.

(2) The types of placement are—

(a) Emergency: foster carers who provide time limited placements at short notice;

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(b) Respite: foster carers who care for children for short periods, usually on a regular basis to provide a break from their usual home or placement;

(c) Short term: foster carers who look after children full time in their home, with the length of stay varying depending on the child's family circumstances;

(d) Longer term: foster carers who provide longer term care for children to offer permanency; and

(e) Detain: foster carers who provide care for children detained by a court with a foster care placement while awaiting court proceedings.

Pre-placement agreement and meeting

30. (1) When placing a child with a registered foster carer, the Commissioner shall meet with the carer—

(a) to discuss the child's needs;

(b) for the Commissioner and the carer to agree on and sign a foster care agreement detailing their respective expectations of the care of the child;

(c) to discuss what, if any, contact will take place between the child and the child's parents, relatives, friends and other persons connected with the child and how the carer will be involved in this; and

(d) if necessary, to consider further the agreement under paragraph (b) and whether any amendments are required to ensure the child's needs are met.

(2) The meeting required by subsection (1) shall be held before the earlier of—

(a) the placement; or

(b) in case of an emergency, before the expiry of—

(i) the next working day after the placement, or

(ii) the third day following the placement.

Circumstances where child may be placed with unapproved or unassessed foster carer

31. (1) Where the condition in subsection (2) is satisfied, the Commissioner may place a child with a foster carer—

(a) before approving or registering the foster carer; and

(b) before an assessment under section 23 has been completed in respect of the foster carer.

(2) The condition referred to in subsection (1) is that the Commissioner considers the placement with the foster carer to be necessary and consistent with the child's welfare, including the principles in section 4(1) of the Act.

(3) Where the Commissioner places a child with a foster carer under subsection (1), the Commissioner shall as soon as practicable—

(a) arrange for the carer to be interviewed in order to obtain as much information about the carer and the other members of their household as possible;

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(b) ensure that an assessment under section 23 is completed in order to consider the approval of the carer;

(c) make a decision whether or not to approve the carer in accordance with sections 23 to 26 and record the reasons for the decision;

(d) if the decision is to approve the carer, confirm the placement; and

(e) if the decision is not to approve the carer, terminate the placement.

Emergency placement with registered foster carer

32. (1) In an emergency, the Commissioner may place the child with a registered foster carer for a period not exceeding 6 working days, even if the conditions of the carer's approval are not consistent with the placement.

(2) On the expiry of the period specified in subsection (1), the Commissioner shall terminate the placement unless the conditions of the foster carer's approval have been amended to be consistent with the placement.

Frequency and conduct of visits to child in foster care

33. (1) The Commissioner shall ensure that a social worker visits every child placed with a foster carer—

(a) within one week of the start of every placement; and

(b) at further intervals of not more than 3 months.

(2) On each visit, the social worker shall speak to the child in private, unless—

(a) the child, being of sufficient abilities, age, maturity and developmental capacity, refuses;

(b) the social worker considers it inappropriate to do so, having regard to the child's abilities, age, maturity and developmental capacity; or

(c) the social worker is unable to do so for another reason, in which case the social worker shall arrange a further visit within 7 days to speak to the child.

Contact between child in foster care and family, etc.

34. (1) While the child is placed with a foster carer, the Commissioner shall promote and facilitate contact between the child and the child's parents, relatives, friends and other persons connected with the child, unless this is impracticable or detrimental to the child's welfare.

(2) Foster carers shall—

(a) promote contact between the child and the persons mentioned in subsection (1), in accordance with arrangements made with the Commissioner and as advised by the Commissioner; and

(b) if required under those arrangements or by the Commissioner, supervise any direct contact or escort a child to and from such direct contact.

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Financial and other support for foster carer

35. (1) While a child is placed with a foster carer, the social worker appointed to supervise the foster carer under section 27 shall meet with the carer at home within 7 days of the placement and thereafter as frequently as required.

(2) The Commissioner shall—

(a) provide services and any other support to the foster carer as necessary to safeguard and promote the child's welfare, subject to the availability of funds for this purpose;

(b) record details of such support in the child's State care plan; and

(c) provide the standard rate of financial support approved by the Minister or as provided in any contribution order to the foster carer while the child is placed with the foster carer, subject to any increase determined by the Commissioner.

Obligations of foster carers

36. (1) A foster carer shall keep detailed records of—

(a) the foster care agreement under section 30(1)(b);

(b) any significant occurrences while a child is in the placement;

(c) the child's educational and health progress;

(d) any matters specifically requested by the Commissioner; and

(e) any other matters that the carer considers relevant.

(2) The foster carer shall keep those records safely and securely and upon cessation of being a foster parent for a child, deliver the records for that child to the Commissioner.

(3) On request by the Commissioner, the registered provider shall—

(a) make those records available for inspection by the Commissioner; and

(b) give a copy of those records to the Commissioner.

(4) The foster carer shall take all necessary steps to keep the information in those records confidential, except to the extent that disclosure of or providing access to that information—

(a) is necessary to protect the health or safety of a child or any other person;

(b) is necessary to enable the foster carer or any other person to carry out a duty or other function under the Act or these regulations;

(c) is required or authorised by any enactment; or

(d) is necessary to comply with a court order.

(5) A foster carer shall notify and seek the permission of the Commissioner whenever the carer proposes to take the child overseas.

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Conclusion of placement

37. So far as practicable, a child's placement with a foster carer shall not be terminated unless a termination plan is discussed at a placement review meeting held before the termination between—

(a) the Commissioner or the supervising social worker for the foster care; and

(b) the foster carer.

Complaints against foster carers

38. (1) If an allegation or complaint is made against a foster carer or a member of the carer's household, the Commissioner shall—

(a) consider whether the concerns justify removing any child for the time being placed with the foster carer;

(b) start investigating the allegation or complaint immediately; and

(c) at the conclusion of the investigation, give the foster carer a written record of the outcome of the investigation, subject to subsection (3).

(2) The Commissioner shall provide the foster carer with a reasonable opportunity to present the carer's views in person or in writing as the Commissioner considers appropriate in relation to the allegation or complaint.

(3) A record of the outcome of the investigation shall not be given to the foster carer under subsection (1)(c) if the Commissioner has reasonable grounds to believe that provision of the record—

(a) will endanger the safety of a child or any other person; or

(b) may prejudice any criminal investigation related to the matter that has been initiated or is likely to occur.

PART 8

PRIVATE CHILD CARE SERVICES: APPROVAL, PLACEMENT AND CONDUCT

Interpretation

39. In this Part and Schedule 8—

"children's guide", in relation to a child care service, means the children's guide produced and written in relation to the service in accordance with section 41(2) and (3);

"home", in relation to a child care service, means the home provided by the child care service for the accommodation of children;

"registered manager" means an individual in full time charge of the day to day management of the home, and duly noted as the registered manager of the home in the register maintained under section 43;

"staff member" means any employee of the service working at the home; and

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"statement of purpose", in relation to a child care service, means the statement of purpose compiled in relation to the service in accordance with section 41(1).

Application for approval of private child care service

40. (1) A person may apply to the Commissioner for approval of a child care service carried on by the person for the purposes of section 92 of the Act.

(2) An application shall—

(a) be made in Form CP 6 in Schedule 7; and

(b) include—

(i) the statement of purpose, and

(ii) a children's guide produced and written in accordance with section 41(2) and (3).

(3) The Minister shall not approve an application unless—

(a) the applicant is fit to carry on a child care service in accordance with section 42; and

(b) any individual appointed to be a responsible individual or the registered manager in respect of the home provided by the child care service satisfies the requirements of section 47(2).

(4) An approval of a child care service is subject to—

(a) the conditions in Schedule 8; and

(b) any other conditions of approval specified by the Minister, that are to be taken into account when deciding whether to place a child in the child care service.

Statement of purpose and children's guide required

41. (1) An applicant for approval of a child care service shall compile in relation to the service a written statement of purpose that includes the following information—

(a) a statement of—

(i) the overall aims of the service, and the objectives to be attained with regard to the children, and

(ii) the facilities and services to be provided for the children;

(b) the name, address, relevant qualifications and experience of the registered manager of the service, if applicable;

(c) the number, relevant qualifications and experience of the other staff members, and if the staff members are all of one sex, a description of the means whereby the service will promote appropriate role models of both sexes;

(d) the arrangements for the supervision, training and development of the staff members;

(e) the organisational structure of the service;

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(f) the following particulars—

(i) the age-range, sex and number of children for whom it is intended that accommodation should be provided,

(ii) whether it is intended to accommodate children who are disabled, have special needs or any other special characteristics, and

(iii) the range of needs (other than those mentioned in subparagraph (ii)) that the service is intended to meet;

(g) any criteria used for admission to the home, including the service's policy and procedures for emergency admissions, if the service provides for emergency admissions;

(h) if the home provides or is intended to provide accommodation for more than six children, a description of the positive outcomes intended for children in a home of such a size, and of the service's strategy for counteracting any adverse effects arising from the size of the home on the children accommodated there;

(i) a description of the service's underlying ethos and philosophy, and where this is based on any theoretical or therapeutic model, a description of that model;

(j) the arrangements made to protect and promote the health of the children;

(k) the arrangements for the promotion of the education of the children, including the facilities for private study;

(l) the arrangements to promote the children's participation in recreational, sporting and cultural activities;

(m) the arrangements made for consultation with the children about the operation of the home;

(n) the arrangements made for the control, restraint and discipline of the children;

(o) the arrangements made for child protection and to counter bullying;

(p) the procedure for dealing with any unauthorised absence of a child from the home;

(q) a description of any electronic or mechanical means of surveillance of children which may be used in the home;

(r) the fire precautions and associated emergency procedures in the home;

(s) the arrangements for the children's religious instruction and observance;

(t) the arrangements for contact between the children and the child's parents, relatives, friends and other persons connected with the child;

(u) the arrangements for dealing with complaints;

(v) the arrangements for dealing with reviews of placement plans;

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(w) the type of accommodation, including the sleeping accommodation, provided, and, where applicable, how the children are to be grouped, and in what circumstances they are to share bedrooms;

(x) details of any specific therapeutic techniques used in the home, and arrangements for their supervision; and

(y) a description of the service's policy in relation to anti-discriminatory practice as respects children and children's rights.

(2) An applicant shall produce a children's guide which includes—

(a) a summary of the home's statement of purpose; and

(b) a summary of the procedures established for the purposes of dealing with complaints, or the purposes of the arrangements mentioned in subsection (1)(u).

(3) The children's guide shall be written in a clear and easily understandable form appropriate to the age, understanding and communication needs of the children.

Fitness of registered provider or responsible individual

42. (1) A person is not fit to carry on a child care service unless the person—

(a) is an individual who carries on the service—

(i) otherwise than in partnership with others, and the individual satisfies the requirements of subsection (2),

(ii) in partnership with other individuals, and the individual and each of the other individuals satisfies the requirements of subsection (2);

(b) is a partnership, and each of the partners satisfies the requirements of subsection (2); or

(c) is a body corporate and has given notice to the Minister of the name, address and position in the body of an individual who—

(i) is a manager, secretary or other officer of the body corporate,

(ii) is responsible for supervising the management of the home, and

(iii) satisfies the requirements of subsection (2).

(2) The requirements of this subsection are that the Commissioner is satisfied with respect to the following—

(a) the individual concerned is of integrity and good character;

(b) having regard to the size of the home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there, the individual concerned—

(i) has the qualifications, skills and experience necessary for managing the home, and

(ii) is physically and mentally fit to carry on the service; and

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(c) full and satisfactory evidence and information is available in relation to the individual, including the following—

(i) proof of identity including a recent photograph,

(ii) a criminal record certificate from every country in which such person had resided for more than 6 months,

(iii) two written references, including a reference from the person's most recent employer, if any,

(iv) where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as practicable verification of the reason why the employment or position ended,

(v) documentary evidence of any relevant qualifications, and

(vi) a full employment history, together with a satisfactory written explanation of any gaps in employment.

Register of approved child care services

43. (1) The Commissioner shall maintain a register of each approved child care service and the provider approved and registered to carry on the service.

(2) The Commissioner shall register the following information in respect of each approved child care service—

(a) any conditions of the approval (to be taken into account when deciding whether to place a child in the child care service);

(b) details of the police conviction checks relating to the child care service;

(c) the type of placements the child care service is willing to provide;

(d) any complaints or allegations made to the Commissioner in relation to the child care service;

(e) any investigations undertaken by the Commissioner or Department in relation to the child care service;

(f) the responsible individual or registered manager, if any, in respect of the home; and

(g) any other matters considered appropriate by the Commissioner.

(3) A registered provider shall inform the Commissioner immediately if there is any change in the information registered in respect of the provider.

(4) A registered provider shall give written notice to the Commissioner as soon as practicable if any of the following events takes place or is proposed to take place—

(a) a person other than the provider carries on or manages the home;

(b) a person ceases to carry on or manage the home;

(c) where the provider is an individual and changes the provider's name;

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(d) where the provider is a partnership, there is any change in the membership of the partnership;

(e) where the provider is a body corporate—

(i) the name or address of the body corporate is changed,

(ii) there is any change of the responsible individual or registered manager in respect of the home, or

(iii) there is any change of Commissioner, manager, secretary or other similar officer of the body corporate;

(f) where the provider is an individual, and a trustee in bankruptcy is appointed in respect of the provider, or the provider makes a composition or arrangement with the provider's creditors;

(g) where the provider is a company, a receiver, manager, liquidator or provisional liquidator is appointed; or

(h) the premises of the home are significantly altered or extended, or additional premises are acquired.

Commissioner to keep and retain records of approved child care services

44. (1) The Commissioner shall keep any records concerning an approved child care service safely and securely.

(2) The Commissioner shall take all necessary steps to keep the information in those records confidential, except to the extent that disclosure of or providing access to that information—

(a) is necessary to protect the health or safety of a child or any other person;

(b) is necessary to enable the Commissioner or any other person to carry out a duty or other function under the Act or these regulations;

(c) is required or authorised by a provision of any enactment;

(d) is necessary to comply with a court order; or

(e) is agreed between the Commissioner and the registered provider concerned.

Review of approval and registration

45. (1) The Commissioner shall review the approval and registration of a registered provider if the Commissioner considers it necessary.

(2) Where the Commissioner's final decision is to revoke, or vary the conditions of, the approval, the Commissioner shall—

(a) deregister the provider concerned; or

(b) as the case may require, vary the provider's registration.

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Duties of registered provider in relation to statement of purpose and children's guide

46. (1) A registered provider shall give a copy of the statement of purpose to the Commissioner, and on request to any of the following persons—

(a) any of the staff members;

(b) any child accommodated in the home or in respect of whom accommodation in the home is being considered; and

(c) the parent of any child referred to in paragraph (b).

(2) A registered provider shall give a copy of the children's guide to the Commissioner and, on admission, to each child accommodated in the home.

(3) A registered provider shall ensure that the home provided by the child care service is at all times managed in a manner which is consistent with the statement of purpose.

(4) A registered provider shall—

(a) keep under review and, where appropriate, revise the statement of purpose and the children's guide;

(b) notify the Commissioner of any such revision within 28 days; and

(c) if the children's guide is revised, supply a revised copy to each child accommodated in the home.

Registered provider to appoint registered manager in certain circumstances

47. (1) A registered provider shall from time to time appoint an individual to be in full time charge of the day to day management of the home if the registered provider—

(a) is a body corporate or a partnership; or

(b) is not, or does not intend to be, in full time charge of the day to day management of the home.

(2) Where the registered provider appoints an individual under subsection (1), the provider shall give notice to the Commissioner of—

(a) the name of the individual so appointed; and

(b) the date on which the appointment is to take effect.

(3) An individual shall not be appointed under subsection (1) unless the individual satisfies the requirements of section 42(2).

Duties of registered providers and registered managers in relation to care, competence and training, etc.

48. (1) A registered provider or registered manager shall carry on the child care service and manage the home with sufficient care, competence and skill, having regard to the statement of purpose, the size of the home and the number and needs (including any needs arising from any disability) of the children.

(2) If the registered provider is an individual, the provider shall undertake from time to time any training required to ensure that the provider has the experience and skills necessary for carrying on the service.

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(3) The registered manager shall undertake from time to time any training required to ensure that the manager has the experience and skills necessary for managing the home.

Duty of registered provider to comply with conditions of approval and notify of criminal offences

49. (1) A registered provider shall carry on the service, and ensure that the home is conducted, in such a manner as to comply with the conditions of approval in Schedule 8.

(2) Where a registered provider or responsible individual is convicted of any criminal offence, whether in Anguilla or elsewhere, the provider shall give notice in writing to the Commissioner of—

(a) the date and place of the conviction;

(b) the offence of which the provider or responsible individual (as the case may be) was convicted; and

(c) the penalty imposed on the provider or responsible individual (as the case may be) in respect of the offence.

Registered provider to keep and retain children's records

50. (1) The registered provider shall maintain in respect of each child a record in permanent form which—

(a) includes the information, documents and records specified in subsection (2) relating to that child;

(b) is kept up to date; and

(c) is signed and dated by the author of each written entry.

(2) Subsection (1)(a) refers to the following information, documents and records—

(a) the child's name and any name by which the child has previously been known, other than a name used by the child prior to adoption;

(b) the child's date of birth and sex;

(c) the child's religious persuasion, if any;

(d) a description of the child's cultural and linguistic background;

(e) the child's address immediately prior to being admitted to the home;

(f) the name, address, telephone number and the religious persuasion, if any, of the child's parents;

(g) the date and circumstances of all absences of the child from the home, including whether the absence was authorised and any information relating to the child's whereabouts during the period of absence;

(h) the date of, and reason for, any visit to the child while in the home;

(i) details of any special educational needs of the child;

(j) the date and circumstances of any measures of control, restraint or discipline used on the child;

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(k) any special dietary or health needs of the child;

(l) details of the school attended by the child, and of any employer of the child;

(m) every school report received in respect of the child while accommodated in the home;

(n) arrangements for, including any restrictions on, contact between the child and the child's parents, relatives, friends and other persons connected with the child;

(o) a copy of any plan for the care of the child prepared by the Commissioner and of the State care plan, and the date and result of any review thereof;

(p) details of any accident or serious illness involving the child while accommodated in the home;

(q) details of any immunisation, allergy or medical examination of the child and of any medical or dental need or treatment of the child;

(r) details of any health examination or developmental test conducted with respect to the child at or in connection with the child's school;

(s) details of any medicines kept for the child in the home, including any medicines which the child is permitted to self-administer, and details of the administration by any other person of any medicine to the child;

(t) the dates on which any money or valuables are deposited by or on behalf of the child for safekeeping, and the dates on which any money is withdrawn, and any valuables are returned; and

(u) the address and type of establishment or accommodation to which the child goes when the child ceases to be accommodated in the home.

(3) The registered provider shall—

(a) keep the records referred to in subsection (1) safely and securely in the home, for so long as the child to whom it relates is accommodated there;

(b) after the child ceases to be accommodated in the home, deliver up a copy of those records to the Department;

(c) on request by the Minister or the Commissioner—

(i) make those records available for inspection by the Minister, or as the case may be, the Commissioner, and

(ii) give a copy of those records to the Minister, or as the case may be, the Commissioner.

(4) The registered provider shall take all necessary steps to keep the information in those records confidential except to the extent that disclosure of or providing access to that information—

(a) is necessary to protect the health or safety of a child or any other person;

(b) is necessary to enable the registered provider or any other person to carry out a duty or other function under the Act or these regulations;

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(c) is required or authorised by a provision of any enactment; or

(d) is necessary to comply with a court order.

Registered provider to keep administrative records

51. (1) The registered provider shall maintain in the home the following records and ensure that they are kept up to date—

(a) a record in the form of a register showing, in respect of each child—

(i) the date of the child's admission to the home,

(ii) the date on which the child ceased to be accommodated there,

(iii) the child's address prior to being accommodated in the home, and

(iv) the child's address on leaving the home;

(b) a record showing, in respect of each person working at the home—

(i) the person's full name, date of birth, sex and home address,

(ii) the person's qualifications relevant to, and experience of, work involving children,

(iii) whether the person works at the home full-time or part-time (whether paid or not), and

(iv) whether the person resides at the home;

(c) a record of all accidents occurring in the home or to any of the children;

(d) a record of the receipt, disposal and administration of any medicine to any child;

(e) a record of all money deposited by a child for safekeeping, together with the date on which that money was withdrawn, or the date of its return;

(f) a record of all valuables deposited by a child and the date of their return;

(g) all accounts kept in respect of the home;

(h) a record of all visitors to the home and to the children, including the names of visitors and the reasons for the visit.

(2) On request by the Minister or the Commissioner, the registered provider shall—

(a) make the records referred to in subsection (1) available for inspection by the Minister or, as the case may be, the Commissioner; or

(b) give a copy of those records to the Minister, or as the case may be, the Commissioner.

Death of registered provider

52. (1) If an individual and any other person are registered providers in respect of an approved child care service and the individual dies, the other registered provider shall without delay notify the Commissioner of the death in person, via telephone or in writing.

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(2) If a single individual is the sole registered provider in respect of an approved child care service, and the individual dies, the individual's personal representatives—

(a) shall notify the Commissioner in person, via telephone or in writing—

(i) without delay, of the death, and

(ii) within 28 days of their intentions regarding the future running of the home; and

(b) may carry on the child care service without being registered in respect of it for a period not exceeding 28 days.

(3) The Commissioner—

(a) may extend the period specified in subsection (2)(a)(ii) by any further period not exceeding one year that the Commissioner considers appropriate; and

(b) shall give written notice of any such extension to those personal representatives.

(4) The personal representatives mentioned in subsection (2) shall appoint a person to be in full-time charge of the day-to-day management of the home during any period in which those representatives carry on the child care service under that subsection without being registered in respect of it.

PART 9

SECURE ACCOMMODATION

Restrictions on use of child care service as secure accommodation

53. (1) A registered provider shall not cause or permit an approved child care service to be used as secure accommodation unless—

(a) the Governor has approved its use as secure accommodation; and

(b) the home is conducted as secure accommodation in accordance with any terms and conditions specified by the Governor for the approval.

(2) For the avoidance of doubt, a registered provider of an approved secure accommodation is subject to duties and obligations under these regulations in respect of both—

(a) an approved child care service; and

(b) an approved secure accommodation.

Maximum period of secure accommodation without court order

54. (1) Subject to subsection (3), for the purposes of section 95 of the Act, the maximum period during which a child may be kept in secure accommodation without an order made by the Court is an aggregate of 72 hours (whether or not consecutive) in any period of 28 days.

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(2) Subsection (3) applies where—

(a) a child is placed in secure accommodation at any time between 12 noon on the day before and 12 noon on the day after a public holiday or a Sunday;

(b) during that period the maximum period specified in subsection (1) expires; and

(c) the child had, in the 27 days before the day on which the child was so placed in secure accommodation, been placed and kept in such accommodation for an aggregate of more than 48 hours.

(3) Where this subsection applies, the maximum period does not expire until 12 noon on the next following day, after the public holiday or Sunday, which is not itself a public holiday or a Sunday.

Maximum period of court-ordered secure accommodation

55. For the purposes of section 95 of the Act, the maximum period for which the Court may order a child to be kept in secure accommodation without a further order of the Court is—

(a) on the first occasion an order for secure accommodation is made in respect of a child, 3 calendar months; and

(b) on any further occasion an order for secure accommodation is made in respect of a child, a further period not exceeding a total of 6 calendar months in respect of each order of the Court.

Previous period of secure accommodation to be disregarded

56. (1) This section applies where a court order made to keep a child in secure accommodation for a period of time is followed by a further court order to keep the child in secure accommodation for any subsequent period of time.

(2) Any time during which the child is kept in secure accommodation by virtue of the earlier court order shall be disregarded for the purpose of calculating the maximum period for which the child may be kept in the secure accommodation by virtue of the subsequent court order.

Commissioner to notify parents, etc.

57. Where a child is kept in secure accommodation and the Commissioner intends to apply to the Court for a secure accommodation order, the Commissioner shall, so far as practicable, notify the following persons of the Commissioner's intention to do so—

(a) the child's parent; and

(b) any other person who the Commissioner considers should be informed.

Registered provider to keep and retain records of child in secure accommodation

58. (1) Whenever a child is placed in secure accommodation, the registered provider of the child care service shall record—

(a) the name, date of birth and sex of that child;

(b) the care order or other statutory provision by virtue of which the child is in the home and the details of the social worker allocated to the child;

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(c) the date and time of the child's placement in secure accommodation and the reason for the placement;

(d) court orders made in respect of the child;

(e) reviews undertaken under section 20;

(f) the date and time of any occasions on which the child is locked on the child's own in any room in the secure accommodation, other than in the child's bedroom during usual bedtime hours, the names of the persons who authorised this action and the reasons for this action; and

(g) the date and time of the child's discharge and the child's address following discharge from secure accommodation.

(2) The registered provider shall—

(a) keep the records referred to in subsection (1) safely and securely in the home, for so long as the child to whom it relates is accommodated there; and

(b) after the child ceases to be accommodated in the home, deliver a copy of the records to the Department.

(3) On request by the Minister or the Commissioner, the registered provider shall—

(a) make those records available for inspection by the Minister, or as the case may be, the Commissioner; and

(b) give a copy of those records to the Minister, or as the case may be, the Commissioner.

(4) The registered provider shall take all necessary steps to keep the information in those records confidential except to the extent that disclosure of or providing access to that information—

(a) is necessary to protect the health or safety of a child or any other person;

(b) is necessary to enable the registered provider or any other person to carry out a duty or other function under the Act or these regulations;

(c) is required or authorised by any enactment; or

(d) is necessary to comply with a court order.

Compliance with regulations in the case of joint registered providers

59. Where there is more than one registered provider in respect of a child care service, anything which is required under these Regulations to be done by the registered provider shall, if done by one of the registered providers, not be required to be done by any of the other registered providers.

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PART 10

DATA PROTECTION AND HEALTH CARE PROVIDER

Minor's protected health information

60. (1) A medical professional may deny a parent or guardian who is a personal representative access to a minor's protected health information if, in the professional's judgment, access would likely cause substantial harm to the minor or someone else.

(2) A parent or guardian of a child over the age of 13 does not automatically have the right of access to a minor's protected health information as specified in section 20 of the Act, unless the minor requests that the parent or guardian act as the personal representative and have access.

(3) A child over the age of 13 may request that health care providers and health plans—

(a) communicate with them in a confidential manner via e-mail or by phone, or at a place other than their home; and

(b) place limitations on disclosure of information for treatment, payment or health care operations that could ordinarily occur without their authorisation.

(4) A health care facility, health care provider or health plan shall not treat a parent or guardian as a minor's personal representative, where they have a reasonable belief that the parent or guardian has subjected or may subject the minor to domestic violence, abuse or neglect, or that treating the parent as the personal representative could endanger the minor.

Data Protection Protocols

61. All agencies involved in the protection of children under the Act or any other enactment shall follow the Data Protection Protocols in Schedule 9.

Registers

62. The Commissioner shall cause to be kept the Anguilla Child Protection Register and the Anguilla Foster Carers Register.

Citation

63. These Regulations may be cited as the Child Protection Regulations, Revised Regulations of Anguilla, C34-1.

_____

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SCHEDULE 1

FORM CP 1

(Section 17(1))

APPLICATION FOR CARE ORDER OR SUPERVISION ORDER

Under the Child Protection Act and the Child Protection Regulations

Application for a care, supervision or other order by the Commissioner of Social Development under the Child Protection Act

Date Issued

Complaint Number (if available)

Children's Name

Summary of application

Name of applicant

Name of respondent (s)

*[1]Child 1 – Name of child	Date of birth	Order(s) applied for (including interim orders)
Name of mother	Name of Father	Parental Responsibility (Yes or No)

1. The Applicant

Name of applicant

(Commissioner or designated officer)

Name of contact

Telephone number

Email

- Insert columns for any additional children

* Insert columns for additional children

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2. The child

*[2]Child 1

Child's full name	
Date of birth and gender (day month year)	
Name of social worker and telephone number and email	
Is the child's name on the child protection register (yes / no)	
Are there any health or disability issues relating to the children (If yes give details	
Who does the child live with?	
Address of child	
Please give full names of any other adults living at the same address and their relationship to the children	
Are there contact details in relation to the child? yes / no **If yes give details of person, frequency and if this is supervised or not.**	

3. The respondents

Respondent 1* Insert additional respondents as necessary

Respondent's full name				
Date and place of birth				
Gender				
Current address				
Telephone number				
Relation to the child	Name of child		Relationship	Parental Responsibility (yes / no)
	Child 1			
	Child 2			

*Insert columns for additional children

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Are you aware of any current or previous family court proceedings involving a child of one or both of the respondents?	
If yes give details (include name of child(ren), date of application(s), orders made.	

4. Grounds for the application (tick as appropriate and insert any comments below)

Child is suffering or likely to suffer significant harm and is in need of care and protection under Part 5, section 29 of the Act	
Application for a care order under section 36 of the Act due to the child being in need of care and protection for the following reason(s)	
(a) There is no parent available to care for the child as a result of death or incapacity or for any other reason	
(b) The parents acknowledge that they have serious difficulties parenting the child	
(c) The child has been, or is likely to be abused	
(d) The basic physical, psychological, emotional or educational needs of the child are not being met, or are not likely to be met by his parents	
(e) The child is suffering or is likely to suffer serious psychological harm as a consequence of the domestic environment in which the child is living	
(f) The child has exhibited sexually abusive behaviour and an order of the Court is necessary to ensure his access to attendance or at an appropriate treatment service	
(g) The child is subject to a care or protection order of another country that is not being enforced	
Application for a Supervision Order under section 61 of the Act where; (a) The child concerned is suffering or is likely to suffer abuse or harm and (b) That abuse or harm, or probability of harm is attributable to— *i. The care given to the child or likely to be given to the child if the order were not made;* *ii. The fact that the child is beyond parental control or* *iii. The neglect of the child* (specify which)	
Application for and grounds for other order (specify)	

Please give a brief summary of why you are making this application. You should include

- The background circumstances
- The precipitating circumstances

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1. Factors affecting ability to participate in proceedings

Do you have any reason to believe that any respondent or other person to be given notice of the application may lack capacity to conduct proceedings?	
Are you aware of any other factors which may affect the ability of the person concerned to take part in the proceedings?	

2. Plans for the child/children

Please give a brief summary of the plans for the child/children

- For supervision orders any requirements which you will invite the court to make
- For assessment orders, what assessment and by whom.

3. Timetable for the child/children

The timetable for the child will be set by the court to take account of dates of the significant steps in the child's life that are likely to take place during the proceedings. Those steps include not only legal steps but also social, care, health, education and developmental steps.

Please give any relevant dates for the child(ren)

4. Others who should be given notice

Person 1

Person's full name				
Current address				
Telephone number				
Relation to the child	Name of child		Relationship	Parental Responsibility (yes / no)
	Child 1			
	Child 2			

5. Signature

Print full name

Your role / position

Signed

Date (day/month/year)

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6. Attending the court

If an interpreter is needed, you must tell the court now so that one can be arranged.

If attending the court, do any of the parties involved have a disability for which special assistance is required?

Please state whether the court needs to make any special arrangements for the parties attending court (such as separate waiting area or security).

Annex to CP 1 : Documents

This annex must be completed by the applicant with any application for a care or supervision order. It is desirable for any other application for an order under the Act.

1. Social Work Chronology

attached ☐ to follow ☐

2. The current assessment or social inquiry report for the child to which the social work statement refer and on which the Commissioner relies

attached ☐ to follow ☐

3. Court Care Plan

attached ☐ to follow ☐

What to do once this form is completed

Ensure that you have:

- Attached copies of any annexed documents
- Signed the form at section 5
- Give details of any additional children.

Now take the application to the court.
Once the application has been filed with the court the parents and any other persons required to be notified must be served with a full copy of the documents once the court has accepted the application.

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SCHEDULE 2

FORM CP 2

(Section 17(3)(a))

COURT CARE PLAN FOR A CHILD

Under the Child Protection Act and the Child Protection Regulations,

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ANGUILLA CIRCUIT

(FAMILY DIVISION)

In the matter of the Child Protection Act

And in the matter of [name of children]

Initial Care Plan / Final Care Plan / Permanency Plan

The child/children

Name	**Sex**	**Date of Birth**	**Child's current placement status**	**Child's current legal status**

Social Development details

Dated

SECTION 1: OVERALL AIM

1.1 Aim of the Plan and Summary of Timetable

SECTION 2: PARENTAL RESPONSIBILITY

2.1 The allocation of parental responsibility for the duration of the period of this order and any limitations or special circumstances

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SECTION 3: CHILD'S NEEDS, INCLUDING CONTACT

3.1 The child's identified needs, including needs arising from race, culture, religion, or language, special education, help or disability

3.2 The extent to which the wishes and views of the child have been obtained and acted upon

3.3 Summary of how those needs might be met including consideration, comparison and evaluations of realistic placement options

3.4 Arrangements for, and purpose of meeting the child's needs (specifying contact relationship, e.g. parent, step-parent, other family member, former care, friend, siblings, including those looked after who may have a separate placement); any proposals to restrict or terminate contact

SECTION 4: VIEWS OF OTHERS

4.1 The extent to which the wishes and views of the child's parents and anyone else with a sufficient interest in the child (including representatives of other agencies, current and former carers) have been obtained and acted upon

4.2 The reasons for supporting them or explanations of why wishes/views have not been given absolute precedence

SECTION 5: PLACEMENT DETAILS AND TIMETABLE

5.1 Proposed placement - type and details (or details of alternative placements)

5.2 Likely duration of placement (or other placement)

5.3 Arrangement for healthcare (including consent to examination and treatment)

5.4 Arrangements for education (including any pre-school day care or such activity)

5.5 Consideration for re-unification also known as restoration

5.6 Should restoration be considered as a realistic possibility the minimum outcomes that must be achieved for a child to return to the care of his parent and timescales for achieving this

5.7 Other services to be provided to the child

5.8 Other services to be provided to parents and other family members by the government or other agency to assist in the care plan

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5.9 Specific details of the parents' role in day to day arrangements

SECTION 6: MANAGEMENT AND SUPPORT BY GOVERNMENT

6.1 Who is to be responsible in implementing the overall plan

6.2 Who is to be responsible for implementing specific tasks within the plan

6.3 Dates of visits and reviews

6.4 Contingency plan, if placement breaks down, or if preferred placement is not available

6.5 Arrangements for input by parents, the child, and others, into the ongoing decision making process

6.6 Arrangements for notifying the responsible authority of disagreements about the implementation of care plan or making representations of complaints

Preparation of Care Plan:

Name:

Professional Position:

Address:

Tel. No.:

Signed .....

Dated: ……..……

Care Plan endorsed by:

Name:

Professional Position:

Address:

Telephone Number:

Signed .....

Dated: ……..……

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SCHEDULE 3

FORM CP 3

(Section 17(3)(b))

PERMANENCY PLAN FOR A CHILD

Under the Child Protection Act and Child Protection Regulations

(If permanency plan required, add the following form below section 6 of the Court care plan)

SECTION 7: PERMANENCY PLAN (ADOPTION/FOSTER CARER/CHILD CARE SERVICE)

1. The child's ascertainable wishes and feelings regarding the permanency plan and/or adoption (in light of the child's age and understanding;
2. The child's particular needs;
3. The likely effect on the child (throughout his life) of having ceased to be a member of the original family;
4. The child's age, sex, background and any characteristics which the court considers relevant;
5. Any harm (within the meaning of the Child Protection Act) which the child has suffered or is at risk of suffering.
6. The relationship which the child has with relatives and with any other person with whom the child has a significant relationship. This should include:
    (a) The likelihood of the relationship continuing and the value of the child of it doing so;
    (b) The ability and willingness of such a person to provide the child with a secure environment and meet his needs; and
    (c) The wishes and feelings of such a person regarding the child.

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SCHEDULE 4

FORM CP 4

(Section 17(4))

PLACEMENT REPORT FOR A CHILD

Under the Child Protection Act and Child Protection Regulations

Name of child	
Date of birth	
Photograph of child	
Date photograph taken	

Genogram (can insert as an additional page)

2. Details of Social Development

Name of Commissioner	
Tel. no. and email	

Date report completed	
Date report updated (if applicable)	
Date of Commissioner's decision that child should be placed for adoption	
Date of care order or any other orders made	

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3. Essential information about the child

Surname	
First names	
Date and Place of birth	
Nationality	
Gender/Sex	
Current address *(can be withheld if confidential)*	

4. Details of current carer

Name of person(s) at this address who is the main carer of the child	
Relationship/status of this person(s) to the child	
Tel. no. and email	

5. Family composition

This section should include birth parents, other family members, significant adults and other children and should specify the relationship to the child. For siblings [(h)] note whether full or half-sibling, maternal or paternal and if living with the child.

Name	Relationship	Parental responsibility	DOB	Nationality	Ethnicity	Address

6. Legal status of child

If there is a court order in force, give name of court, location, date on which order was made and type of order
Have any orders been applied for but not yet granted? If so, which orders and at which court and date of application?

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Give date of final hearing if known	
If the child is subject to proceedings, who are the parties to the proceedings?	

7. Chronology of the child's care since birth

Age of child (yrs and mths)	From	To	Placement details – name of parent/carer and observations on the care provided	Reason for move

8. Descriptive and evaluative report on child

In compiling this report, where evidence has been drawn from the reports of other professionals, give details below

Name of report	Author of report	Professional position	Date of report

Description of the child

8.1. Physical description
8.2 Child's personality
8.3 Interests, likes and dislikes
8.4 Self-care skills
8.5 Emotional, behavioural and social development
8.6 Identity
8.7 Religion – Has a religion been identified for the child? Does the child actively participate in a religious faith? Has the child been formally admitted to a religion through a recognised ceremony (state which)
8.8 The child's health

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9. Summary report from a medical adviser (Insert or attach)

10. The child's education

This section should include all school placements, including playgroup and nursery provision

From	To	Name of provider and address	Type of educational provision

Does the child have any special needs?	(Yes/No)
If yes, include a summary of the main features and requirements. Attach any relevant copies of any assessments or identified support reports completed that are relevant.	

10.1 Summary of child's educational progress and needs

11. Summary of relevant family history and the child's history

11.1 Summary account of relevant family history
11.2 Summary account of child's history from birth to present time

12. Social worker's analysis of the child's needs and the implications for future placement

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13. Child's wishes and feelings about adoption and contact

Give date when views were last ascertained
13.1 Social worker's analysis of the wishes and feelings of the child(ren)

14. The child's birth mother

Full name	
Date and place of birth	
Nationality and immigration status	
Racial origin, cultural and linguistic background	
Current address (Give date when last confirmed)	
A recent good quality photograph should be attached or inserted here or reasons given where not available.	
Date of photograph:	

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14.1 Give a brief description of the birth mother
14.2 Briefly describe the personality and interests of the birth mother
14.3 Brief details of the birth mother's education history
14.4 Current occupation or profession
14.5 Brief details of her employment history
14.6 Brief description of the home and neighbourhood where she lives
14.7 Brief summary of any relevant health factors

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15. Details of birth mother's current partner (if not the child's birth father)

Name	
Occupation or profession	
Status and length of relationship with birth mother (married, civil partnership, cohabiting), including relevant dates	

16. Summary and brief social history of the birth mother

Date where known	Detail any significant events from birth – details of parents or carers, place of residence, education, bereavements or loss, major illness, significant relationships, including any previous marriages or civil partnerships, to give a brief social history of the birth mother relevant to this CPR

17. The child's birth father

Name	
Nationality and immigration status	
Racial origin, cultural and linguistic background	
Current address (Give date when last confirmed)	
A recent good quality photograph should be attached or inserted here or reasons given where not available.	
Date of photograph:	

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17.1 Give a brief description of the birth father
17.2 Briefly describe the personality and interests of the birth father
17.3 Brief description of the birth father's education history
17.4 Current occupation or profession
17.5 Brief details of his employment history
17.6 Brief summary of any relevant health factors
17.7 Brief description of the home and neighbourhood in which he lives

18. Relationship between the birth mother and birth father

What was the status of the birth father's relationship with the child's birth mother at the time of the birth of the child (married, cohabiting) and what is the current status of the relationship (separated, divorced, living apart) – include dates
Give a brief description of the past and current relationship of the birth parents with each other and their views of this

19. Details of the birth father's current partner (if not the child's birth mother)

Name	
Occupation or profession	
Status and length of relationship with birth father (married, civil partnership, cohabiting), including relevant dates	

20. Summary and brief social history of the birth father

Date where known	Detail any significant events from birth – details of parents or carers, place of residence, education, bereavements or loss, major illness, significant relationships including any previous marriages or civil partnerships to give a brief social history of the birth father relevant to this CPR

21. Other significant relatives or relevant people (Insert additional tables as needed)

Name	
Relationship and significance to the child (including if they hold PR)	
View of the plan and date obtained	

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22. Current contact arrangements for the child

	What are the current arrangements? (Include frequency, location and supervision arrangements)	Child's experience of contact (Give brief details of the quality of this contact. Is it meeting the child's needs?)
Birth mother		
Birth father		
Birth mother's current partner (as applicable)		
Maternal grandparents		
Paternal grandparents		
Sibling 1 (name)		
Other significant people (name and relationship)		

23. Proposed contact arrangements for the child

What transitional arrangements are planned once the care order/placement order is made?

24. Planned contact arrangements and details after placement and after adoption

What are the proposed contact arrangements post-placement and post-adoption order as set out in the Care Plan? Set out the reasons for the plan and how it is considered to meet the needs of the child.

25. Support to the birth mother

What support or services has the birth mother been offered or taken up? Has she been referred for/received counselling from an independent person in relation to the plan for adoption? (Give details)	
Has the birth mother been given an opportunity to state her views on the adoption plan for the child? Give date when views were last ascertained and briefly describe the outcome and her views. If no views were received, set out attempts made and reasons for non-completion.	
Has the birth mother been shown the relevant sections of this CPR?	YES/NO

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If yes, note date shown and briefly describe the outcome of this. If no, give reasons.
If the birth mother has written her own account, is this included within or appended to this report?

26. Ability and willingness of each parent and other family members or relevant persons to permanently care for the child

For each parent or guardian and/or where relevant the child's relatives or any other person where an assessment has taken place, set out a summary of the assessment findings and your analysis of their ability and willingness to provide the child with a secure environment that encourages their full development and meets their needs. Include the care/legal options that have been explored in relation to this carer and the reasons why the options have been discounted

Name:	
Relationship to the child:	
Summary of assessment and social worker's analysis of their parenting capability – their willingness and ability to provide a secure environment in which the child can develop and how they could meet the child's needs within the child's timescale	
Assessment and analysis of whether there should be an ongoing relationship with contact being continued and the value to the child of this happening	
Their wishes and feelings regarding the plan for the child and date ascertained (if not covered elsewhere)	

27. Brief details of assessments of the child's needs, giving date undertaken and expert's opinion

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SCHEDULE 5

FORM CP 5

(Section 23(1))

APPLICATION FOR APPROVAL AS FOSTER CARER

Under the Child Protection Act and Child Protection Regulations

Note to the applicant- in submitting this form you agree to a full and detailed background check that may be carried out on any information or individual so named in this document. This includes personal or criminal details that may be held on Anguilla or elsewhere.

Details of Proposed Foster Carers

Intended Primary Carer

<table>
<tr><td rowspan="2">Please state Full Name</td><td colspan="7"></td></tr>
<tr><td>Age:</td><td></td><td>Date of Birth</td><td>/ /</td><td>Sex</td><td>Male ☐</td><td>Female ☐</td></tr>
<tr><td>Place of Birth</td><td colspan="3"></td><td colspan="4">Employer and occupation if any;</td></tr>
<tr><td>Home Address</td><td colspan="6"></td></tr>
<tr><td>Home telephone No.</td><td colspan="2"></td><td colspan="2">Work telephone No.</td><td colspan="2"></td></tr>
<tr><td>Relationship to the child</td><td colspan="6">i.e. Family member / relation</td></tr>
<tr><td>Please detail any records of offences or disqualifications you may have.</td><td colspan="6"></td></tr>
</table>

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Intended Secondary Carer

Please state Full Name							
	Age:		Date of Birth	/ /	Sex	Male ☐	Female ☐
Place of Birth		Employer and occupation if any;					
Home Address							
Home telephone No.		Work telephone No.					
Relationship to the child	i.e. Family member / relation						
Please detail any records of offences or disqualifications you may have.							

Section 4 – Details of all children in foster home (Note not just minors)

Please state child's full name						
Age:		Date of Birth	/ /	Sex	Male ☐	Female ☐
Place of Birth	_____	Child's employer if any;				
Please state the child's school (if attending)						
Please state any child day care, or toddlers group that the child may be attending.						
Please state any arrangements that have been made for the care of this (if required)						

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Section 5 – Details of other adults living or working in the foster home (Copy and insert additional tables as needed)							
Please state Full Name	_____						
	Age:		Date of Birth	/ /	Sex	Male ☐	Female ☐
Place of Birth	_____		Employer if any;				

Name of person making application …….

I declare the foregoing information given by me in this form is true and correct to the best of my knowledge.

Signed ……. Dated ……..

_____

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SCHEDULE 6

DOCUMENT CP 5

(Section 23(3)(h))

MATTERS TO BE ASSESSED FOR APPROVAL OF FOSTER CARER

1. The applicant's capacity to care for children and in particular—

   (a) the applicant's capacity to provide for the child's physical needs and appropriate medical and dental care for the child;

   (b) the applicant's capacity to protect the child adequately from harm or danger, including from any person who presents a risk of harm to the child;

   (c) the applicant's capacity to ensure that the home environment is safe for the child;

   (d) the applicant's capacity to ensure that the child's emotional needs are met and the child is provided with a positive sense of self, including any particular needs arising from the child's religious persuasion, racial origin and cultural and linguistic background, and any disability the child may have;

   (e) the applicant's capacity to promote the child's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities;

   (f) the applicant's capacity to enable the child to regulate the child's emotions and behaviour, including by modelling appropriate behaviour and interactions with others;

   (g) the applicant's capacity to provide a stable family environment to enable the child to develop and maintain secure attachments to the applicant and other persons who provide care for the child.

2. The applicant's state of health including physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems.

3. The applicant's family relationships and the composition of the household, including—

   (a) the identity of all other members of the household, including their age and the nature of their relationship with the applicant and with each other, including any sexual relationship;

   (b) any relationship with any person who is a parent of the child;

   (c) other adults not being members of the household who are likely to have regular contact with the child; and

   (d) any current or previous domestic violence between members of the household, including the applicant.

4. The applicant's family history, including—

   (a) particulars of the applicant's childhood and upbringing including the strengths and difficulties of the applicant's parents or other persons who cared for the applicant as a child;

   (b) the applicant's relationships with parents and siblings, and their relationship with each other;

   (c) applicant's educational achievement and any specific learning difficulty or disability;

   (d) a chronology of significant life events; and

   (e) particulars of other relatives and their relationships with the applicant.

5. The applicant's convictions or cautions.

6. The applicant's past and present employment and other sources of income.

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7. The resources available in the community to support any child placed with the applicant and also the applicant.

8. The applicant's ability to drive and any driving offence.

———————

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SCHEDULE 7

FORM CP6

(Section 40(2)(a))

APPLICATION FOR APPROVAL OF CHILD CARE SERVICE

Under the Child Protection) Act and the Child Protection Regulations

Note to the applicant- in submitting this form it is either expressed or implied that you are aware and agree to a full and detailed background check that may be carried out on any information or individual so named in this document. This includes personal or criminal details that may be held on Anguilla or elsewhere.

Signed…….. Dated…….

<table>
<tr><td>Address and proposed name of children's home premises:</td><td colspan="5"></td></tr>
<tr><td>Name of body corporate of owner(s) of the Children's home:</td><td colspan="5"></td></tr>
<tr><td rowspan="4">Details of individual responsible for registering children's home (the responsible individual):</td><td>Full Name:</td><td colspan="4"></td></tr>
<tr><td>Home Address:</td><td colspan="4"></td></tr>
<tr><td>Date of Birth:</td><td>/ /</td><td>Place of Birth:</td><td colspan="2"></td></tr>
<tr><td>Former names: (if applicable)</td><td colspan="4"></td></tr>
<tr><td>Description of premises:</td><td colspan="5"></td></tr>
<tr><td>Size of premises:
(Sq Floor Area/No. of floors)
Number and ages of children if known at date of application:</td><td colspan="5"></td></tr>
<tr><td>Total number of rooms:</td><td></td><td>Number of rooms used for purposes of the home:</td><td></td><td colspan="2">Number of toilets for purposes of the home:</td></tr>
<tr><td colspan="2">Approximate number of children to be cared for at any one time:</td><td colspan="4"></td></tr>
</table>

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Date of inspection by the Fire Service:				
Details of proposed manager(s) of Children's home:	Full Name:			
	Home Address:			
	Date of Birth:	/ /	Place of Birth:	
	Former names: (if applicable)			
Please detail any relevant experience of applicant and any manager: (including previous work with children whether paid or not)				
Please detail any relevant qualifications:				
Please give details of any criminal conviction you may have, for any offence, whether spent or otherwise. Also, when and where (including off Island). If none, please state "NONE";* **				
I the undersigned understand that in signing and submitting this form I am aware and agree to a full and detailed background check that may be carried out on any information regarding my personal or criminal details held on Anguilla or elsewhere. Signed …….. Dated …….				

_____

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SCHEDULE 8

(Section 40(4)(a))

CONDITIONS OF APPROVAL OF (PRIVATE) CHILD CARE SERVICE

Promotion of welfare

1. (1) The registered provider shall ensure that the home is conducted so as to—

(a) promote and make proper provision for the welfare of the children; and

(b) make proper provision for the care, education, supervision and, where appropriate, treatment, of the children.

(2) The registered provider shall make suitable arrangements to ensure that the home is conducted—

(a) in a manner which respects the privacy and dignity of the children; and

(b) with due regard to the sex, religious persuasion, racial origin, and cultural and linguistic background and any disability of the children.

Child's State care plan

2. (1) The registered provider shall prepare in consultation with the Commissioner a written plan ("State care plan") for each child setting out, in particular—

(a) how, on a day to day basis, the child will be cared for, and the child's welfare safeguarded and promoted by the home, including exercising parental responsibility;

(b) the arrangements made for the child's health care and education; and

(c) any arrangements made for contact with the child's parents, relatives, friends and other persons connected with the child.

(2) The State care plan required under subparagraph (1) shall be prepared—

(a) before admitting the child to the home, if practicable; and

(b) if not, as soon as practicable afterwards.

(3) The registered provider shall keep under review and revise the State care plan as necessary.

(4) In preparing or reviewing the State care plan the registered provider shall request and take account of the child's views, subject to the abilities, age, maturity and developmental capacity of the child.

(5) The registered provider shall—

(a) ensure that the State care plan is consistent with any plan for the care of the child prepared by the Commissioner; and

(b) comply with any request made by the Commissioner to—

(i) provide the Commissioner with information relating to the child, and

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(ii) provide a suitable representative to attend any meetings the Commissioner may convene concerning the child.

Food provided for children

3. (1) The registered provider shall provide the children with—

(a) food which—

(i) is served in adequate quantities and at appropriate intervals,

(ii) is properly prepared, wholesome and nutritious,

(iii) is suitable for their needs and meets their reasonable preferences, and

(iv) is sufficiently varied; and

(b) access to fresh drinking water at all times.

(2) The registered provider shall meet any special dietary need due to a child's health, religious persuasion, racial origin or cultural background.

Provision of clothing, pocket money and personal necessities

4. (1) The registered provider shall meet the needs and reasonable preferences of each child for clothing, including footwear, and personal necessities.

(2) The registered provider shall provide each child with a sum of money in respect of their occasional personal expenses that is appropriate to the child's abilities, age, maturity and developmental capacity.

Contact and access to communications

5. (1) The registered provider shall—

(a) promote contact between a child and the child's parents, relatives, friends and other persons connected with the child in accordance with the arrangements set out in any placement plan or State care plan; and

(b) ensure that suitable facilities are provided within the home for a child to meet privately at any reasonable time with the child's parents, relatives, friends and other persons connected with the child, and the persons listed in subparagraph (2).

(2) The persons are—

(a) any advocate instructed to represent the child;

(b) any officer or social worker for the time being assigned to the child by the Commissioner; and

(c) any other person authorised by the Commissioner to conduct an inspection of the home and the children.

(3) The registered provider shall provide the children at all reasonable times with access to the following facilities for use without reference to persons working in the home—

(a) a telephone on which to make and receive telephone calls in private; and

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(b) facilities to send and receive post and, if the necessary facilities are provided for the use of the children, electronic mail, in private.

(4) The registered provider shall provide any disabled child with access to such aids and equipment which the child may require as a result of the child's disability, in order to facilitate the child's communication with others.

(5) Subject to subparagraph (6), the registered provider may impose any restriction, prohibition, condition or other measure upon a child's contact with any person under subparagraph (1) or access to facilities under subparagraph (3) that the provider considers necessary for the purpose of safeguarding or promoting the welfare of the child in question.

(6) No measure may be imposed under subparagraph (5) unless—

(a) the Commissioner consents to the imposition of the measure; or

(b) the measure is imposed in an emergency, and full details are given to the Commissioner within 24 hours of its imposition.

(7) This paragraph is subject to the provisions of any relevant order of the Court relating to contact between the child and any person.

Arrangements for the protection of children

6. (1) The registered provider shall prepare and implement a written policy which—

(a) is intended to safeguard the children from abuse or neglect; and

(b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

(2) The procedure under subparagraph (1)(b) shall in particular provide for—

(a) liaison and co-operation with the Commissioner in the case of any child protection enquiries in relation to any child;

(b) the prompt referral to the Commissioner of any allegation of abuse or neglect affecting any child;

(c) details of the notification procedure and of the instigation and outcome of any child protection investigation involving any child, to be given the Commissioner;

(d) written records to be kept of any allegation of abuse or neglect, and of the action taken in response;

(e) consideration to be given to the measures which may be necessary to protect children following an allegation of abuse or neglect;

(f) persons working at the home to be required to report any concerns about the welfare or safety of a child to one of the following—

(i) the registered provider,

(ii) a police officer, or

(iii) the Commissioner; and

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(g) arrangements to be made for persons working at the home and the children to have access at all times and in an appropriate form, to information which would enable them to contact the Commissioner concerning the welfare or safety of any child.

Arrangements in relation to bullying and absences

7. The registered provider shall prepare and implement—

(a) a written policy for the prevention of bullying in the home, which shall in particular set out the procedure for dealing with an allegation of bullying; and

(b) a procedure to be followed when any child is absent without permission.

Behaviour management, discipline and restraint

8. (1) No measure of control, restraint or discipline which is excessive, unreasonable or contrary to subparagraph (5) may be used at any time on a child.

(2) The registered provider shall prepare and implement a written policy (**"the behaviour management policy"**) which sets out—

(a) the measures of control, restraint and discipline which may be used in the home; and

(b) the other means whereby appropriate behaviour is to be promoted in the home.

(3) The registered provider shall—

(a) keep under review and where appropriate revise the behaviour management policy; and

(b) notify the Commissioner of any revision to the policy within 28 days.

(4) Where any measure of control, restraint or discipline not previously agreed with the Commissioner or specified by order of the Court is used on a child, the registered provider shall ensure that a written record is made within 24 hours that includes—

(a) the name of the child concerned;

(b) details of the child's behaviour leading to the use of the measure;

(c) a description of the measure used;

(d) the date, time and location of, the use of the measure, and in the case of any form of restraint, the duration of the restraint;

(e) the name of—

(i) the person using the measure, and

(ii) any other person present;

(f) the effectiveness and any consequences of the use of the measure; and

(g) the signature of a person authorised by the registered provider to make the record.

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(5) Subject to subparagraph (6), none of the following measures may be used on a child—

(a) any form of corporal punishment;

(b) any punishment relating to the consumption or deprivation of food or drink;

(c) any restriction (other than one imposed by a court on placement of a child in secure accommodation by the Commissioner) on—

(i) a child's contact with the child's parents, relatives or friends or other persons connected with the child,

(ii) visits to the child by the child's parents, relatives or friends or other persons connected with the child,

(iii) the child's access to any telephone helpline providing counselling for children;

(d) any requirement that a child wear distinctive or inappropriate clothes;

(e) the use or withholding of medication or medical or dental treatment;

(f) the intentional deprivation of sleep;

(g) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;

(h) any intimate physical examination of the child;

(i) the withholding of any aids or equipment needed by a disabled child; or

(j) any measure which involves—

(i) any child in the imposition of any measure against any other child, or

(ii) the punishment of a group of children for the behaviour of an individual child.

(6) Nothing in this paragraph prohibits—

(a) the taking of any action by, or in accordance with the instructions of, a registered medical practitioner or a registered dental practitioner which is necessary to protect the health of a child;

(b) the taking of any immediate action necessary to prevent injury to any person or serious damage to property; or

(c) the imposition of a requirement that a child wear distinctive clothing for sporting purposes, or for purposes connected with the child's education or with any organisation whose members customarily wear uniform in connection with its activities.

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Education, employment and leisure activity

9. (1) The registered provider shall promote the educational attainment of the children, in particular by ensuring that—

(a) the children make use of educational facilities appropriate to their age, aptitude, needs, interests and potential;

(b) the routine of the home is organised so as to further children's participation in education, including private study; and

(c) effective links are maintained with any schools attended by the children.

(2) The registered provider shall ensure that the children are—

(a) encouraged to develop and pursue appropriate leisure interests; and

(b) provided with appropriate leisure facilities and activities.

(3) Where any child reaches the age where the child is no longer required to receive compulsory full-time education, the registered provider shall—

(a) assist with making arrangements for the child's further education, or training and employment; and

(b) give effect to those arrangements.

Religious observance

10. The registered provider shall ensure that each child is enabled, so far as practicable to attend the services of and receive instruction in the religious persuasion to which the child belongs.

Health needs of children

11. (1) The registered provider shall promote and protect the health of the children.

(2) In particular the registered provider shall ensure that—

(a) each child has access to any medical, dental, nursing, psychological or psychiatric advice, treatment and other services, that the child requires;

(b) each child is provided with any individual support, aids or equipment that the child requires as a result of any particular health needs or disability;

(c) each child is provided with guidance, support and advice on health and personal care issues that is appropriate to the child's needs and wishes;

(d) at all times, at least one person on duty at the home has a suitable first aid qualification or experience; and

(e) any person appointed to the position of nurse at the home is a registered nurse.

Medicines

12. (1) The registered provider shall make suitable arrangements for the recording, handling, safekeeping, safe administration and disposal of any medicines received into the home.

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Use of surveillance

13. (1) Subject to any requirements for electronic monitoring imposed by a court under any enactment, the registered provider shall ensure that electronic or mechanical monitoring devices for the surveillance of children are not used in the home, except—

(a) for the purpose of safeguarding and promoting the welfare of a particular child or any of the children; and

(b) in accordance with the conditions in subparagraph (2).

(2) The conditions are—

(a) the Commissioner has given prior consent to the use of the measure in question;

(b) the use of those devices is provided for in the State care plan for the child concerned;

(c) so far as practicable, having regard to the abilities, age, maturity and developmental capacity of the child concerned, that child is informed in advance of the intention to use those devices; and

(d) the use of those devices is no more restrictive or intrusive than necessary, having regard to the need for privacy of the child concerned.

Hazards and safety

14. The registered provider shall ensure that—

(a) all parts of the home to which the children have access are so far as practicable free from hazards to their safety;

(b) any activities in which the children participate are so far as practicable free from avoidable risks;

(c) unnecessary risks to the health or safety of the children are identified and so far as possible eliminated; and

(d) suitable arrangements are made to train persons working at the home in first aid.

Complaints and representations

15. (1) The registered provider shall establish a written procedure for considering complaints made by or on behalf of any child.

(2) The procedure shall, in particular, provide—

(a) for an opportunity for informal resolution of the complaint at an early stage;

(b) that no person who is the subject of a complaint takes any part in its consideration other than at the informal resolution stage (and only if the registered provider considers it appropriate);

(c) for how complaints about the registered provider should be dealt with;

(d) for complaints to be made by a person acting on behalf of a child; and

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(e) for arrangements for the procedure to be made known to—

(i) the children,

(ii) their parents,

(iii) the Commissioner, and

(iv) persons working in the home.

(3) The registered provider shall keep a written record of any complaint, the outcome of any investigation into the complaint, and any actions taken in response to the outcome.

(4) The registered provider shall ensure that—

(a) the children are provided with sufficient facilities and if necessary, assistance, to make a complaint; and

(b) no child is subject to any reprisal for making a complaint.

(5) On request by the Commissioner, the registered provider shall give the Commissioner a statement containing a summary of any complaints made during the preceding 12 months, the outcomes of investigations, and actions taken in response to the outcomes.

Staffing of homes

16. (1) The registered provider shall ensure that there is at all times a sufficient number of suitably qualified, competent and experienced persons working at the home, having regard to—

(a) the size of the home, the statement of purpose, and the number and needs (including any needs arising from any disability) of the children; and

(b) the need to safeguard and promote the health and welfare of the children.

(2) The registered provider shall ensure that the employment of any person on a temporary basis at the home will not prevent children from receiving a continuity of care that is reasonable to meet their needs.

Fitness of workers

17. (1) The registered provider shall not—

(a) employ an individual to work at the home unless the individual is fit to work at a home; or

(b) allow an individual to whom subparagraph (2) applies to work at the home unless the individual is fit to work at a home.

(2) The registered provider shall take reasonable steps to ensure that any individual working at the home, who is not employed by the provider and to whom subparagraph (2) does not apply, is appropriately supervised while carrying out the individual's duties.

Employment of staff

18. (1) The registered provider shall—

(a) ensure that all permanent appointments of staff members are subject to the satisfactory completion of a period of probation; and

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(b) provide all staff members with a job description outlining their responsibilities.

(2) The registered provider shall operate a disciplinary procedure which, in particular—

(a) provides for the suspension of a staff member where necessary in the interests of the safety or welfare of the children; and

(b) provides that the failure on the part of a staff member to report an incident of abuse, or suspected abuse, of a child to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(3) In subparagraph (2)(b), "an appropriate person" means the registered provider, a police officer or an officer authorised by the Commissioner to receive reports of the kind mentioned in that subparagraph.

(4) The registered provider shall ensure that all persons employed by the provider—

(a) receive appropriate training, supervision and appraisal; and

(b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

Notifiable events

19. (1) The registered provider shall without delay notify the Commissioner if any of the following events takes place—

(a) the death of a child;

(b) a serious illness or serious accident sustained by a child;

(c) an outbreak of any infectious disease which in the opinion of a registered medical practitioner attending children at the home is sufficiently serious to be so notified;

(d) an allegation that a child has committed a serious offence;

(e) the involvement or suspected involvement of a child in child sexual exploitation;

(f) a serious incident necessitating calling the police to the home;

(g) absconding by a child;

(h) any serious complaint about the home or persons working there;

(i) the instigation or outcome of any child protection enquiry.

(2) The registered provider shall without delay notify the parent of any child of any significant incident affecting the child's welfare unless to do so is impracticable or would be detrimental to the child's welfare.

(3) Where any notification made in accordance with this paragraph is given orally, the registered provider shall confirm the notification in writing as soon as practicable.

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Fitness of premises

20. (1) The registered provider shall not use premises for the home unless they are in a location, and of a physical design and layout, which are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered provider shall ensure that the home is kept free from offensive odours and make suitable arrangements for the disposal of general and clinical waste.

(3) The registered provider shall ensure that there is provided within the home—

(a) adequate communal space for sitting, recreation and dining; and

(b) such facilities for private study as are appropriate to the age and educational needs of the children.

(4) The registered provider shall ensure that each child is provided with sleeping accommodation which is—

(a) suitable to the child's needs including the child's need for privacy; and

(b) equipped with furniture, storage facilities, lighting, bedding and other furnishings including window and floor coverings suitable to the child's needs.

(5) The registered provider shall ensure that no child shares a bedroom with—

(a) a person over the age of 18 years; or

(b) except in the case of siblings, a child who is of the opposite sex or of a significantly different age to the child.

(6) The registered provider shall provide for persons working at the home—

(a) suitable facilities and accommodation, other than sleeping accommodation, including—

(i) facilities for the purpose of changing, and

(ii) storage facilities; and

(b) sleeping accommodation where the provision of such accommodation is needed in connection with their work at the home.

Fire precautions

21. The registered provider shall, after consulting the fire and rescue service or other professional body in relation to obtaining advice on fire safety, in relation to the home—

(a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment;

(b) provide adequate means of escape;

(c) make adequate arrangements—

(i) for detecting, containing and extinguishing fires,

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(ii) for giving warnings of fires,

(iii) for evacuation in the event of fire,

(iv) for the maintenance of all fire equipment, and

(v) for reviewing fire precautions, and testing fire equipment, at suitable intervals;

(d) make arrangements for persons working at the home to receive suitable training in fire prevention; and

(e) ensure, by means of fire drills and practices at suitable intervals, that the persons working at the home and, so far as practicable, the children are aware of the procedure to be followed in case of fire.

Visits by registered provider

22. (1) Where the registered provider is an individual, but is not in full time charge of the day to day management of the home, the provider shall visit the home in accordance with this regulation.

(2) Where the registered provider is a partnership or body corporate, the provider shall ensure that the home is visited in accordance with this regulation by—

(a) in the case of a partnership, one of the partners;

(b) in the case of a body corporate, the responsible individual or one of the Commissioners of the body;

(c) a person responsible for the management of the partnership or body corporate; or

(d) an employee of the partnership or body corporate who is not directly concerned with the conduct of the home.

(3) Visits shall take place at least once a month and may be unannounced.

(4) The person carrying out the visit shall—

(a) interview, with their consent and in private, such of the children, their parents or relatives and persons working at the home as appears necessary in order to form an opinion of the standard of care provided in the home;

(b) inspect the premises of the home, its daily log of events and records of any complaints; and

(c) prepare a written report on the conduct of the home.

Review of quality of care

23. (1) The registered provider shall establish and maintain a system for—

(a) monitoring the matters set out in subparagraph (2) at appropriate intervals; and

(b) improving the quality of care provided in the home.

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(2) Subparagraph (1)(a) refers to the following matters—

(a) in respect of each child, compliance with the State care plan or any other plan for the care of the child (where applicable);

(b) the deposit and issue of money and other valuables handed in for safekeeping;

(c) daily menus of the food served at the home;

(d) all accidents and injuries sustained in the home or by the children;

(e) any illness suffered by the children;

(f) complaints in relation to the children and the outcome of these complaints;

(g) any allegations or suspicions of abuse in respect of the children and the outcome of any investigation;

(h) staff recruitment records and the conduct of checks required for workers at the home;

(i) visitors to the home and visitors for the children;

(j) the notification of events required by paragraph 19;

(k) any unauthorised absence of a child from the home;

(l) the use of measures of control, restraint and discipline in respect of the children;

(m) risk assessments for health and safety purposes and action taken as a result of those assessments;

(n) medicines, medical treatment and first aid administered to any child;

(o) duty rosters of persons working at the home, and the rosters actually worked;

(p) the home's daily log of events;

(q) fire drills and tests of alarms and of fire equipment;

(r) records of appraisals of staff members; and

(s) minutes of staff meetings.

(3) The registered provider shall—

(a) give the Commissioner a copy of each report in respect of any review conducted by the provider for the purposes of subparagraph (1); and

(b) make a copy of the report available on request by the children, their parents or the Court.

(4) The system referred to in subparagraph (1) shall provide for consultation with the children, their parents and where applicable, the Commissioner or the Court.

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Regulations and children's guide

24. The registered provider shall ensure that a copy of these regulations, any amendments to them and the children's guide are kept in the home and made available on request for inspection by—

(a) any person working at the home;

(b) any child; and

(c) the parent of any child.

Financial position

25. (1) The registered provider shall manage the home in a manner likely to ensure its financial viability while achieving the aims and objectives set out in its statement of purpose.

(2) The registered provider shall—

(a) ensure that adequate accounts are maintained and kept up to date in respect of a home; and

(b) supply a copy of the accounts to the Commissioner on request.

(3) The registered provider shall provide the Commissioner with any information the Commissioner may require for the purpose of assessing the financial viability of the home, including information as to the financing and financial resources of the home.

Notice of absence

26. (1) Where the person in charge proposes to be absent from the home for a continuous period of 28 days or more, the registered provider shall give written notice to the Commissioner of the proposed absence.

(2) The notice shall specify with respect to the absence or proposed absence—

(a) its length or expected length;

(b) the reason for it;

(c) the arrangements which have been made for running the home;

(d) the name, address and qualifications of the individual who is or will be in full time charge of the day to day management of the home during the absence; and

(e) in the case of the absence of the registered manager, the arrangements that have been or are proposed to be made for appointing another individual to be in full time charge of the day to day management of the home during the absence, including, in the case of a proposed absence, the proposed date by which the appointment is to be made.

(3) The notice shall be given—

(a) no later than one month before the proposed absence commences, or within such shorter period as may be agreed with the Commissioner; or

(b) in the case of an absence arising from an emergency, within one week of the beginning of the absence.

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(4) Without limiting the effect of subparagraphs (1) to (3), where the person in charge has been absent from the home for a continuous period of 28 days or more, and the Commissioner has not been given notice of the absence in accordance with subparagraphs (1) to (3), the registered provider shall without delay give written notice to the Commissioner specifying the information in subparagraph (2).

(5) The registered provider shall notify the Commissioner of the return to duty of the person in charge no later than 7 days after the date of the return of that person.

(6) In this paragraph, "person in charge" means—

(a) if the registered provider is an individual in full time charge of the day to day management of the home, the registered provider; and

(b) in any other case, the registered manager of the home.

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SCHEDULE 9

(Section 61)

DATA PROTECTION PROTOCOLS

DATA PROTECTION PROTOCOLS

These best practices are for protecting data and are to be used as guidance when developing data protection protocols in your agency.

It is important to remember that information on children belongs to the children. Those who keep the information do so, on their behalf and should use it only in their best interest and except in exceptional circumstances or as required by law, with their informed consent. The following data protection protocols are based on the concept of confidentiality, which is a central component of the principles of best interest and participation for children.

Confidentiality means ensuring that information disclosed to you by a child is not used without his or her consent or against his or her wishes and is not shared with others without his or her permission, except in exceptional circumstances (i.e. where serious safety concerns are identified (see point 8) or where service providers are required by law to report abuse (see point 9)). Information can be stored or transmitted verbally, on paper or by electronic data.

Confidentiality is in the best interest of a child because it prevents the misuse of information about them for purposes beyond their control, including for purposes leading to their exploitation, stigmatization and abuse – either intentionally or unintentionally. It also helps to ensure that their views and opinions are heard and respected at all times.

KEY DEFINITIONS:

Confidentiality: the principle that requires service providers to protect information gathered about clients and ensures that it is accessible only with a client's explicit permission.

Data controller: means the person who, alone or jointly with others determines the purposes, conditions and manner in which any personal data are, or are to be, processed.

Informed consent: the voluntary agreement of an individual who has the capacity to understand what information he/she is required to consent to the sharing of, who exercises free choice to receive services (for children and adults aged 15), who requires caseworkers to share information on services and who has the capacity to understand the potential risks of such information sharing.

Informed assent: the expressed willingness to participate in services, for children below the age of 15 years, requires the same sharing of information (in a child-friendly format) on services and potential risks.

Mandatory reporting: the term used to describe legal instruments or statutory systems that require service providers to report certain categories of crimes or abuse (e.g. sexual violence, child abuse, etc.). The best interests of the child should be primarily regarded when agencies are considering whether or not to comply with such policies.

Need-to-know: the limiting of information that is considered sensitive and sharing it only with those individuals for whom the information will enable to protect the child.

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DATA PROTECTION PRINCIPLES

First principle

1. Personal data shall be processed fairly. In addition, sensitive personal data may be processed only if at least one of the conditions for processing of sensitive personal data is also met.

Second principle

2. Personal data shall be obtained only for one or more specified lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

Third principle

3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are collected or processed.

Fourth principle

4. Personal data shall be accurate and, where necessary, kept up to date.

Fifth principle

5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose.

Sixth principle

6. Personal data shall be processed in accordance with the rights of data subjects under law.

Seventh principle

7. Appropriate technical and organizational measures shall be taken against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

Eighth principle

8. Personal data shall not be transferred to a country or territory unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

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CONDITIONS FOR PROCESSING OF SENSITIVE PERSONAL DATA

Consent

1. The data subject has given consent to the processing of the personal data.

Employment

2. The processing is necessary for the purposes of exercising or performing a right, or obligation, conferred or imposed by law on the data controller in connection with the data subject's employment.

Vital interests

3. The processing is necessary—

(a) in order to protect the vital interests of the data subject or another person, in a case where consent cannot be given by or on behalf of the data subject, or the data controller cannot reasonably be expected to obtain the consent of the data subject; or

(b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.

Non-profit associations

4. The processing—

(a) is carried out in the course of its legitimate activities by a body, or association, that is not established or conducted for profit, and exists for political, philosophical, religious or trade union purposes;

(b) is carried out with appropriate safeguards for the rights and freedoms of data subjects;

(c) relates only to data subjects who are members of the body or association or have regular contact with it in connection with its purposes; and

(d) does not involve disclosure of the personal data to a third party without the consent of the data subject.

Information made public by data subject

5. The information contained in the personal data has been made public as a result of steps taken by the data subject.

Legal proceedings, etc.

6. The processing—

(a) is necessary for the purpose of, or in connection with, any legal proceedings;

(b) is necessary for the purpose of obtaining legal advice; or

(c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

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Public functions

7. The processing is necessary for—

(a) the administration of justice;

(b) the exercise of any functions conferred on any person by or under an enactment; or

(c) the exercise of any functions of the Crown or any public authority.

Medical purposes

8. (1) The processing is necessary for medical purposes and is undertaken by—

(a) a health professional; or

(b) a person who, in the circumstances, owes a duty of confidentiality equivalent to that which would arise if that person were a health professional.

(2) In this paragraph, "medical purposes" includes the purposes of preventative medicine, medical diagnosis, the provision of care and treatment and the management of healthcare services.

GENERAL DATA PROTECTION

1. It is important to have a clear understanding of the context that you are working in. This process should also take into consideration the level of sensitivity of the data that will be collected and related to security risks specific to the context. In cases where data will need to be shared or transferred across agencies and across borders, agencies should consider potential constraints to protecting data.

2. All staff involved in the work should be aware of the data protection protocols and the security implications of sensitive data.

3. All agencies holding information on children should have a written data protection policy, based on the principle of confidentiality, which should ideally be framed within the agencies' broader child protection policy. An obligation to uphold this policy should be written into staff contracts.

4. Access to information on children should be limited only to those who need to know it and to whomever the children agree to know it.

5. Persons gathering information must obtain informed consent from the child (and/ or their parent/ guardian), preferably in written form. When children are too young (usually under 15 years) to consent, their informed assent should be sought (i.e. expressed willingness to participate in services) while a parent or guardian gives consent. The informed assent/ consent process must include explaining to the child (and their parent/ guardian, where appropriate) exactly why they are gathering information, how it will be used and by whom. Information should be shared in language and formats appropriate to the child's age and capacity to understand and the child (and parent/ guardian) should be given opportunities to ask questions.

6. In situations where mandatory reporting laws exist and are functioning, service providers must explain these limits on confidentiality when obtaining consent.

7. Children should be given the opportunity to highlight any information that they do not want disclosed to any particular person. For example, they may not want their family to be told personal details about them that they would rather communicate face-to-face or not at all.

9. In exceptional circumstances, information disclosed by children can be shared against their wishes if it is considered – after careful evaluation - in their best interest to do so, but the reasons for doing so must be clearly explained to them. Information should be shared when the child or another person is at risk of being

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harmed if it is not shared. Because this is subjective, each case should be considered individually and decisions to disclose information should be taken at the highest level of the agency or agencies involved, for the protection of the child and the workers.

10. In some settings, mandatory reporting laws exist that require service providers to report cases of actual or suspected abuse to a specific agency, limiting confidentiality between agencies and their clients. Where these laws exists and are functioning, they should be explained to the child (and parent/or guardian) during the informed assent/ consent processes. Decisions regarding compliance with mandatory reporting laws should be taken at the highest level of the agency involved, for the protection of the child and the workers.

11. After gathering information, it should be passed only to a person designated to receive it, for clearly defined purposes, such as a line manager or partner agency. Information sharing lines must be clearly mapped out and understood by all staff. Passing information between different agencies requires that all agencies concerned must comply with the standard data protection protocols.

12. Children have the right to access and review information held about them. Agencies holding information should therefore make provisions for them to be able to access their information as and when they need to do so.

13. Staff working directly with children must receive regular debriefs for their own well-being. During debriefs, information disclosed by staff about children should be discussed anonymously. If there is a need to break such anonymity, this should be done with the person designated to receive the information and in conformity with the best interest of those concerned.

14. It is important for managers to make sure that the data protection protocols are being followed through regular monitoring and mentoring of staff and that they are updated when needed (e.g. if changes in the context occur).

Electronic data security

15. All electronic information on children should be password protected and the password changed on a regular basis.

Emergency evacuation/relocation plan

16. A clear evacuation/relocation plan should be developed that outlines a 'scheme of delegation' dictating who has responsibility for making decisions regarding removing or destroying data (for both paper and electronic data). This plan should be incorporated into the standard evacuation/relocation plan for the whole agency by security managers/senior staff.

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