



CHILDREN ORDER

**CHILDREN (NI) ORDER 1995**

**Guidance and Regulations**

**Volume 2**

**Family Support, Child Minding  
And Day Care**



## CHILDREN ORDER

*The Children Order series of regulations and guidance consists of the following:*

*Volume 1: Court Orders and other Legal Issues*

*Volume 2: Family Support, Child Minding and Day Care*

*Volume 3: Family Placements and Private Fostering*

*Volume 4: Residential Care*

*Volume 5: Children with a Disability*

*Volume 6: Co-operating to Protect Children*



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## PREFACE

*This series of volumes of regulations and guidance builds upon “An Introduction to the Children (NI) Order 1995” published by the Department of Health and Social Services and the Office of Law Reform. The regulations and guidance in this series are primarily addressed to Health and Social Services Boards and Trusts. However, as they will have an impact upon the work of a wide range of agencies and individuals who work with children and young people in both the statutory and voluntary sector, they are of major importance to all involved with the welfare of children in any capacity including education and library boards, schools, those responsible for the management of children’s homes and those providing child minding and day care services.*

## THE STATUS OF REGULATIONS AND GUIDANCE

*The regulations and guidance in this series build upon the legislative framework of the Children (Northern Ireland) Order 1995. The Children Order is law and must be complied with. The **regulations** made under the Children Order include permissions and restrictions as to what may or may not be done and also requirements on what must be done. As with the Order itself the regulations carry the full weight of law. The **guidance** issued under the Children Order is not law in the way that regulations are. Where the guidance explains the requirements of the Children Order or regulations it is reaffirming the law. Where it goes beyond regulations it conveys the message that “It is highly desirable to ...” or “Unless there is good reason not to, you should ...” rather than “You must”. This is intended to give some degree of flexibility in the application of what the Department considers to be good practice. However, it should be noted that, whilst they are not in themselves law in the way that regulations are law, it is possible that guidance documents may be referred to in court proceedings and that courts may expect justification for not following guidance.*

## NOTE ON TERMINOLOGY

*Although nothing in the Children Order turns on the sex of the person referred to, references in this volume to the child follow the legislative convention of the Children Order itself in referring to “he”, “his” or “him”.*



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*The Children Order includes statements as to the powers and duties of Health and Social Services Boards and Trusts. The Order itself uses the term “authority” to refer to a Board or Trust. The powers and duties will be exercised by a Board, except where a function is exercisable by a Trust by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994. In this series of guidance references are to a Trust except in the case of the registration and inspection functions in relation to children’s homes described in Volume 4.*

### **FURTHER READING**

*Whilst these volumes are designed to provide a comprehensive guide to the Children Order they do not purport to be a comprehensive survey of good practice.*

*It is suggested that reference might be made to:*

*The Social Services Librarian  
Queen’s University Medical Library  
Institute of Clinical Science  
Grosvenor Road  
Belfast  
BT12 6BT*

### **GENERAL PRINCIPLES ON WHICH THE CHILDREN ORDER IS BASED**

*In considering the detailed provisions of the Children Order in this volume attention is drawn to the major principles on which the Order is based.*

- *The welfare of the child is the paramount consideration.*
- *Wherever possible, children should be brought up and cared for within their own families.*
- *Children should be safe and be protected by effective intervention if they are in danger, but such intervention should be open to challenge.*
- *When dealing with children, courts should ensure that delay is avoided, and may only make an order if to do so is better than making no order at all.*



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- *Children should be kept informed about what happens to them, and should participate when decisions are made about their future.*
- *Parents continue to have parental responsibility even when their children are no longer living with them. They should be kept informed about their children and participate when decisions are made about their children's future.*
- *Parents with children in need should be helped to bring up their children themselves and such help should be provided in partnership with parents.*
- *Services provided to children and their families should draw on effective partnership between Health and Social Services Boards and Trusts and other agencies.*



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**VOLUME 2 – FAMILY SUPPORT, CHILD MINDING AND DAY CARE**

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*The emphasis in Part IV of the Children Order on family support services for children in need. Trusts' duty to identify need. Review duty on Trusts in liaison with education and library boards and district councils to review and report on the provision of day care. Importance of inter-agency collaboration. Trusts' duty to publicise services provided by themselves and others particularly voluntary organisations. Need to integrate services for children with a disability with those for other children.*

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***General duty on Trusts to provide services for children in need and to promote the upbringing of such children by their families where this is consistent with the child's welfare. Statutory definition of need. Assessment of need. Positive emphasis in Order on providing for children's needs rather than parental shortcomings. Requirements on Trusts to facilitate the provision of services by others. Specific duties to provide services for children with a disability. Powers for Trusts to charge for certain services.***

**CHAPTER 3: RANGE OF SERVICES .....PAGE 23**

*Family support services to include advice, guidance and counselling, day care services, day nurseries, playgroups, out-of-school clubs and holiday schemes, supervised activities, befriending services, parent/toddler groups, toy libraries, drop-in centres, playbuses. Duty on Trusts to provide family centres. Provision of accommodation including specific meaning of accommodation under the Children Order. Powers for Trusts to request assistance from education and library boards, Northern Ireland Housing Executive, district councils and other bodies in the provision of services. Trusts' powers to provide training, advice etc to people working in day care.*



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- Annex D      Day Care (Exempt Supervised Activities) Regulations (Northern Ireland) 1996





## CHAPTER 1: INTRODUCTION

- 1.1 This volume identifies the statutory framework and underlying principles in relation to family support services for families with children in need and day care services for children under twelve. It discusses the implications for policies, procedures and practice.
- 1.2 **Part IV of, and Schedule 2 to, the Children Order set out the main responsibilities of Trusts for children in their areas who are in need and their families and for children in need whom they look after. These provisions reflect the Order’s philosophy that usually the best place for the child to be brought up is in his own family and that the child in need can be helped most effectively if the Trust, working in partnership with the parents, provides a range and level of services appropriate to the child’s needs.** To this end the parents and the child (where he is of sufficient understanding) need to be given the opportunity to make their wishes and feelings known and to participate in decision-making.
- 1.3 **Part IV gives Trusts a range of duties, including the identification of children who are in need, support of children’s links with their families, provision of day care and setting up of procedures to consider representations and complaints about the provision of services.** As children with a disability are included in the definition of children in need they benefit from safeguards which were unavailable to them under previous legislation unless they were in the care of a HSS Board or Trust. Trusts’ general welfare duty under Article 26(1) and their duty to review plans for children provide additional safeguards.
- 1.4 In considering the implications of the Children Order for policies and practice it is important to bear in mind the concept of “parental responsibility” set out in Part II of the Children Order. The latter defines the term and contains provisions about acquisition of parental responsibility, when it may be exercised and the effect of various court orders. Information on parental responsibility is contained in **Volume 1: Court Orders and other Legal Issues.**



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- 1.5 In this volume the provision of foster placements and residential accommodation is discussed in the context of the general principles of service provision. Regulations and guidance on planning, review, representations, foster placements and residential placements are contained in other volumes. Child protection issues are mentioned, but readers will need to refer to **Volume 1 and Volume 6: Co-operating to Protect Children.**
- 1.6 **Part IV of the Children Order sets out a review duty under which Trusts, working with education and library boards and district councils, are required to review and report on the day care services in their area used by children aged under twelve. This duty, the general duty to provide day care for children in need (Article 18) and the registration system in Part XI of the Order to regulate independent day care services and child minding used by children aged under twelve give Trusts a clear function to oversee and co-ordinate these services. This is expected to result in more efficient use of existing services – including those provided by the private and voluntary sectors. It should also help promote the coherent development of new services.**
- 1.7 The Children Order requires a corporate Trust policy on implementation that will cover all the issues including those which require collaboration and corporate planning. Implementation of the Order cannot succeed without effective inter-agency collaboration at all levels. Trusts should have a clear policy on family support services for children and their families. Steps should be taken to ensure that the policy is developed and agreed with the involvement of all relevant agencies and organisations in the process. The policy should also include arrangements for monitoring and implementation.

### **Policy Issues**

- 1.8 Trusts will need to review all their existing child care policies and their priorities will need to be re-examined and reconsidered in the light of the Children Order. Priorities in resource allocation must be identified and related to budgeting strategies.



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There will be a need to re-evaluate service delivery in liaison with the voluntary and private sector and to work out an information strategy. Paragraph 1(1) of Schedule 2 to the Children Order requires that Trusts take reasonable steps to identify the extent to which there are children in need in their area. **Trusts are required, in paragraph 2 of Schedule 2, to publish details of their services for children in need and also, where appropriate, details of the services provided by others, particularly voluntary organisations.**

Children with a disability should be given the opportunity to lead lives which are as normal as possible and be provided with services which will enable them to reach their full potential. Services for children with a disability should be integrated with those provided for other children in need. The intention is that Trusts should integrate service provision for all children who are in need, for whatever reason. In order to plan service provision, Trusts will have to adapt existing information-gathering systems so as to identify the need for services in their area and gaps in provision.

### **Welfare responsibilities**

1.9 **Trusts must act to protect children from the harm which arises from family breakdown or abuse within the family, but avoid unwarranted intervention in families' lives or unnecessary weakening of family ties.** Their responsibilities to promote and safeguard the welfare of children apply to children in care under a court order and those being provided with accommodation or other services under voluntary arrangements. In carrying out these responsibilities Trusts must give due consideration to:

- the wishes and feelings of the child, parents, and any other person with parental responsibility for the child;
- the wishes and feelings of persons whose views the Trust considers relevant; and
- the child's religious persuasion, racial origin and cultural and linguistic background.



### **Co-ordination, collaboration and co-operation**

- 1.10 The Children Order places a responsibility on Trusts to provide accommodation, advice and assistance for children and young people in certain circumstances where such measures are needed to safeguard and promote their welfare. Articles 18, 46 and 47 set out duties and powers in relation to co-operation and consultation with different authorities. For further details see paragraph 3.30 below.
- 1.11 In relation to a child who has special educational needs the Trust is under a duty (Article 46(5)) to help an education and library board in the provision of services, and to consult the education and library board maintaining a child's statement of special educational needs (made under the Education and Libraries (Northern Ireland) Order 1986) when placing a child in an establishment providing education (Article 47(1)).
- 1.12 **Trusts carry the principal responsibility for co-ordinating and providing services for children in need.** In some cases their services will be supportive of other key agencies. In other circumstances Trusts will need to draw attention to the services provided by other bodies in the independent sector and in particular by voluntary agencies. Trusts and other relevant agencies remain responsible for decisions about their own service provision or legal and administrative issues assigned to them. They should, however, seek out and have available the best relevant help from other agencies. Similarly, they must be available and prepared to contribute to the work of other key agencies in meeting the legitimate needs of children and their families.
- 1.13 In the case of day care and education services for young children the importance of co-ordination between Trusts and education and library boards is recognised. A co-ordinated approach is a means of ensuring that all children have access to a good quality curriculum or programme with continuity of experience and smooth transition to other forms of day care or education. It also helps to create an environment where people with different qualifications and experience can share skills, expertise and ideas.



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There are three levels at which co-ordination is needed; policy making, day-to-day operation of services and between staff working in different settings. It is important for all parties to find ways of encouraging staff to work with this in mind, so that all the appropriate skills are available in all settings.

- 1.14 In each area there will be a wide range of providers involved in developing and running day care services – Trusts, other statutory bodies, voluntary organisations, self-help or community groups, volunteers, private companies, private individuals running a business or working as a child minder or nanny, and employers in the public and private sectors. The pattern, level and delivery of services should be worked out locally. The process should involve all interested parties including those mentioned above, together with community interests, ethnic minority groups, parents and churches.

### **Role of the private sector**

- 1.15 In recent years the private day care sector has expanded considerably and increased choice for parents. This sector has much to contribute to the range and pattern of services in each area and Trusts should ensure that private day care providers are fully involved in, and consulted about, any changes and developments in policy and practice. Attention should be paid to the scope for partnership. Trusts should inform themselves about the private day care sector in their area so that they can play a full part in discussions and proper account may be taken of the services this sector provides.

### **Role of voluntary organisations**

- 1.16 Over the years many voluntary organisations have developed considerable knowledge and expertise about services for children and their families and how these support parents. They involve the community in variety of ways in their activities and services and their presence in an area can help to improve the quality of provision.



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Voluntary organisations may also be able to respond to requests or demands for new and additional services, particularly in an emergency, and they are a source of innovatory or unusual ideas for delivery of services and ways of enhancing children's development.

**It is important that Trusts have a detailed knowledge of local voluntary organisations in their area and their strengths so that they work with them in partnership both in the field of day care and more generally.**

#### **Role of the volunteer**

- 1.17 Trusts should recognise the importance of the volunteer in the field of day care. The playgroup movement and befriending services for families under stress (such as Home-Start schemes) are examples of using volunteers to provide services for families with young children. It should be recognised that volunteers may need help, support and training in order to be effective. Trusts should have regard to the recruitment of volunteers appropriate to the particular area of their operation, and ensure that there are well-publicised means of providing the appropriate support. This could involve grant aid to local organisations or offering places on training courses, a telephone advice or help line.

#### **Links between day care providers and child minding**

- 1.18 There should be close links between the different forms of day care in an area – for example between day nurseries, playgroups, out-of-school clubs and child minding. A group of child minders might be attached formally or informally to a day nursery and visit regularly with the children it cares for. A day care provider might wish to operate with a network of child minders linked to the day nursery in order to offer a very flexible service to parents and children. This type of flexible service further increases choice for parents and can be a valuable resource for the whole community.



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### CHAPTER 2: SERVICE PROVISION

- 2.1 Article 18 in Part IV of the Children Order gives Trusts a general duty to safeguard and promote the welfare of children **in need** and to promote the upbringing of such children by their families, so far as this is consistent with the child's welfare, by providing an appropriate range and level of services. Schedule 2 to the Order contains further provisions designed to help children in need continue to live with their families and generally to prevent the breakdown of family relationships. Partnership with parents and consultation with children on the basis of careful joint planning and agreement is the guiding principle for the provision of services within the family home and where children are provided with accommodation under voluntary arrangements. Such arrangements are intended to assist the parent and enhance, not undermine, the parent's role and responsibility. This approach should also be developed when a child has been committed to care provided that it does not jeopardise his welfare.
- 2.2 Part IV covers the general duty of Trusts towards children being "looked after". The term "looked after" refers to children accommodated by a Trust whether by voluntary arrangement or because of a court order. The emphasis is on the need to make plans for children in partnership with those who are important in the child's life and with the child, subject to his understanding. It is important, also to involve those people in reviewing such plans and in decision-making generally.

#### **In need**

- 2.3 The definition of children in need is contained in Article 17 of the Children Order.

#### **A child is deemed to be "in need" if:**

- (a) **he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services (by a Trust);**



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(b) **his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or**

(c) **he is disabled.**

A child is defined as disabled (Article 2) if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed. This is the legal definition within which Trusts must work. However, Trusts should be alert to the fact that parents, children and others may find some of these words to be stigmatising. Wherever practicable Trusts should encourage the use of language which is sensitive to these feelings.

2.4 **A Trust may not substitute a definition of “in need” for the purposes of Part IV of the Order other than that established by Article 17.** The concept of “need” in the Children Order is deliberately wide to reinforce the emphasis on preventive support and service to families. It has three components – a reasonable standard of health or development; significant impairment of health or development; and disablement. It would not be acceptable for a Trust to exclude any of these three – for example, by confining services to children at risk of significant harm which attracts the duty to investigate under Article 66. The child’s needs will include physical, emotional and educational needs according to his age, sex, race, religion, culture and language and the capacity of the current carer to meet those needs. **This guidance does not lay down firm criteria or set general priorities because the Children Order requires each Trust to decide its own level and scale of services appropriate to the children in need in its area.**

2.5 In assessing individual need, Trusts must assess the existing strengths and skills of the families concerned and help them overcome identified difficulties and enhance strengths. Sometimes the needs will be found to be intrinsic to the child.





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At other times it may be that parenting skills and resources are depleted or under-developed and thus threaten the child's well-being. For example, a chronically sick parent may need continuing practical and emotional support of varying degrees of intensity according to the incidence of acute phases of his illness and the developing needs of the child. Children should not necessarily be identified as in need because one or both parents are disabled, although this could of course be a factor. In other cases social problems, relationship problems, unemployment or bereavement, for example, may temporarily reduce the quality of care of children in the family. A package of support and prompt use of respite care may sustain the child's longer-term well-being within the family.

- 2.6 The Children Order envisages family support services being offered to members of a family of a child in need where the service is provided with a view to safeguarding and promoting the child's welfare (Article 18(3)). Any person who has parental responsibility for the child and any other person with whom the child is living is included. Hence a Trust may put together a package of services for a family which could include home help, day care provision for a family member other than the child in need (eg another child in the household) or a short-term, temporary placement for the child to relieve the carer. The outcome of any service provision should be evaluated to see whether it has met the primary objective, namely to safeguard or promote the child's welfare. It is not suggested that every expressed wish (or referral) for a service can be met. Neither is any system of rationing by category of need appropriate. Referrals and requests merit the provision of services in respect of the assessed gravity or urgency of need in individual cases.

### **Assessment**

- 2.7 The assessment of need should be undertaken in an open way and should involve those caring for the child, the child himself and other significant persons. Families with a child in need, regardless as to whether the need results from family difficulties or the child's circumstances, have the right to received sympathetic support and



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sensitive intervention in their family's life. The assessment might, for example, take account of the needs of a child caring for a disabled parent. Paragraph 4 of Schedule 2 to the Children Order provides that a Trust may assess a child's needs for the purpose of the Children Order at the same time as any assessment under:

- (a) the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;
- (b) the Education and Libraries (Northern Ireland) Order 1986;
- (c) the Disabled Persons (Northern Ireland) Act 1989; or
- (d) any other statutory provision.

2.8 In making an assessment, the Trust should take account of the particular needs of the child – that is in relation to health, development, disability, education, religious persuasion, racial origin, cultural and linguistic background and the degree (if any) to which these needs are being met by existing services to the family or child. The Trust should also consider which agencies' services are best suited to the child's needs. In the case of a child with a disability or a child with a parent with communication difficulties provision of a sign language interpreter, large print, tape and Braille may need to be made if communication is to be effective. The need for an interpreter should be considered where the family or child have difficulty communicating or comprehending English.

2.9 Assessment must be sensitive to the needs of minority ethnic groups. Trusts when called on to provide a service for a child or family from a minority ethnic group will need to identify sources of advice and help so that the necessary experience, expertise and resources are available when needed. Care is needed to ensure that the terms "black" and "black family" are not used in isolation or in such a way as to obscure characteristics and needs.



### Planning a service for the individual child

- 2.10 **Once a need has been identified a plan for the best service provision will be required. This may simply amount to matching the need with an existing service in the community. Where the Trust has to allocate resources to arrange a service, the plan must identify how long the service may be required, what the objective of the service should be and what others are expected to do. To be effective this plan should form the basis of an agreement with the parent or other carer and be reviewed at appropriate intervals. A child who is not the subject of a care order and who is provided with a service while living at home is not “looked after”. However, good practice would suggest that the requirements in respect of “looked after” children, ie arrangements for placement and review, should also apply to these children. The frequency of review will depend on the circumstances in each case, but it is suggested that a review should take place at least once a year.**

### Meeting needs

- 2.11 Article 18 of, and Schedule 2 to, the Children Order set out in considerable detail the specific duties and powers of Trusts in relation to support services for children with families. Under Article 18 Trusts have a general duty to provide a range and level of services appropriate to meeting the needs of children in their area who are in “need” and, so far as is consistent with that aim, promote their upbringing by their families. **Trusts are expected to identify the extent of need and then make decisions on the priorities for service provision in their area in the context of that information and their statutory duties. They are not expected to meet every individual need.** Trusts will have to ensure that a range of services is available to meet the extent and nature of need identified within their administrative areas. In addition to day care provision for pre-school and school-age children, it is likely that a range of services designed to support and improve the strengths and skills of parents in their own homes and neighbourhoods will be required.



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It is also likely that a vigorous foster care service will be required, offering a range of placements which reflects the racial, cultural, linguistic and religious needs of children requiring accommodation, and is responsive to the amount of short-term, longer-term, or permanent placements which the children may need. It remains likely that some children will need special forms of residential care. In many areas these services exist already, provided by statutory and voluntary sources. It is important to recognise the benefits of developing packages of services appropriate to the assessed needs of individual children and their families, rather than directing them to existing services which may not be appropriate. Chapter 3 describes the range of services which are likely to be needed but this is not an exhaustive list. Others may need to be provided according to the Trust's assessment of need in its own area.

- 2.12 Trusts are also expected to act as facilitators for provision of the services covered by Articles 18 and 19 (day care), 21 and 27 (accommodation), 35 and 36 (advice and assistance to certain young persons aged under 21) by others as well as being the principal providers themselves (Article 18(5)). They must publicise the availability of such services and they should monitor and evaluate the availability of all those services which can be viewed as family support. In undertaking these tasks the Trust will have to ensure that it is properly informed about the different racial groups to which children within its area who are in need belong (paragraph 12 of Schedule 2 to the Children Order refers). In budgeting for their family support services, Trusts will need to ensure that there is scope for imaginative one-off services to meet the unique needs of individual children and their families. More detailed guidance on issues of race and culture and placement of children is contained in **Volume 3: Family Placements and Private Fostering.**

### **Change of emphasis**

- 2.13 The effect of the provision of services to support families may often be to avoid the need to take the child into long-term care. Section 164 of the Children and Young Persons Act (Northern Ireland)



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1968 was formulated in a way that implied that the aim of supportive work is to prevent admission to care. This has contributed to a negative interpretation of Trust interaction with families. The direct link between preventive work and reducing the need for admission to care found in section 164 of the Children and Young Persons Act (Northern Ireland) 1968 is reproduced in the Children Order in paragraph 8 of Schedule 2 but only as one of a range of Trust duties and powers. The provision of accommodation for a child through voluntary arrangements with his parents should not be viewed as a failure of preventive work; rather, it should be seen as a measure of support for the family of a child in need.

- 2.14 **The Children Order gives a positive emphasis to identifying and providing for the child's need rather than focusing on parental shortcomings in a negative manner.** The responsibility on Trusts to provide accommodation for children in need who require it replaces "reception into care". Where, for example, parents who usually provide good care for their child need a break, the provision of additional help in the home or suitable accommodation for the child for a short time should be seen as a service to the child and family without pressure or prejudice.
215. In putting together packages of services, Trusts should take account of services provided by the voluntary sector and other agencies. Some examples of supportive services provided under Article 18 are advice on such matters as local facilities, social security benefits, housing or education, domiciliary support in the form of family aides, befriending schemes, play facilities and specialist services such as counselling, parent-craft training, family centres, respite care and provision of accommodation for longer periods. In appropriate circumstances assistance given may be in kind or, exceptionally, in cash (Article 18(6)).



### **Services for children with a disability**

- 2.16 The information in this volume on working with children with a disability is intended to place this subject in the overall context of the Children Order. More detailed information is given in **Volume 5: Children with a Disability**.
- 2.17 The Children Order places a clear, positive and separate duty on Trusts to provide services for children with a disability within their area so as to minimise the effect of their disabilities and give such children the opportunity to lead lives which are as fulfilling as possible (Schedule 2, paragraph 7). These services should help in the diagnosis of children who are handicapped as a result of physical/sensory disablement or have learning difficulties or who suffer from a mental disorder. Services should help those children in their adjustment to handicap, and in overcoming limitations of mobility and communication in appropriate ways. This may include the funding and provision of equipment such as communication aids and interpreters. Trusts will need to consider in co-operation with the relevant agencies the child's overall development needs – physical, social, intellectual, emotional and behavioural – when considering what sort of services are required.
- 2.18 The Children Order contains a requirement for Trusts to keep registers of children with a disability in their area (Schedule 2 paragraph 3). If these registers are to be of maximum benefit they must be complete and avoid duplication with other registers. Trusts should try to establish a system, particularly with education and library boards, for identifying the number and needs of children in their areas who are disabled through physical, sensory or mental disablement, mental disorders and chronic illness so that they may jointly plan their services for the short and long-term. Registration is voluntary on the part of parents and children and not a precondition of service provision, but Trusts, in collaboration with education and library boards and voluntary agencies in their area, need to publicise widely and positively the existence and purpose of registers to



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relevant professionals, parents and young people. The publicity should stress the usefulness of the register as an aid to planning the right level and mix of local services to help parents with children with disabilities. In the longer term, the register will also assist in planning services for when the children become adults.

- 2.19 The Children Order emphasises the integration of services for children with a disability with those provided for other children in need. Requirements such as having to review the case of a child who has been living away from home, having to give paramount consideration to his welfare and to consult him and his parents before decisions are taken, apply to children with a disability as well as other children in need.

### **Children living with their families**

- 2.20 Paragraph 9 of Schedule 2 to the Children Order requires Trusts to make such provision as they consider appropriate so that the following services are available for children in need in their area:

- advice, guidance and counselling;
- occupational, social, cultural and recreational activities;
- home help (including laundry facilities);
- facilities or assistance with travelling to and from any services provided under the Order or any similar service;
- assistance to enable the child and the family to have a holiday.

It is important to have regard to this general duty when planning a service for an individual child.



**Provision of accommodation**

2.21 The Children Order intends accommodation to be provided as a service under voluntary arrangements which parents with a child in need may seek to take up so long as it is in the best interests of the child. Article 21(1) of the Order states that every Trust:

“shall provide accommodation for any child in need within its area who appears ... to require accommodation as a result of:-

- (a) there being no person who has parental responsibility for him;
- (b) his being lost or having been abandoned; or
- (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.”.

**It should be noted that references to the provision of accommodation in the Children Order are to accommodation in a care setting (Article 2(8)).**

2.22 The Children Order assumes a high degree of co-operation between parents and Trusts in negotiating and agreeing what form of accommodation can be offered and the use to be made of it. The accommodated child is not in care (unless subject to a care order) and there is no provision which allows a Trust to take over parental rights administratively. Therefore parents are able to remove a child from accommodation when they wish to do so. When Trusts have evidence which leads them to believe it would clearly be against the interests of a child for parents to remove him, action under Part VI of the Order should be considered urgently.

2.23 The Children Order makes no distinction between requirements applying to the provision of a series of pre-planned short-term





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placements and longer-term provision of accommodation. This is because in practice differences in the provision of a service are not easily sustained. In every voluntary arrangement the service should be based on a voluntary decision by the parents to take up an appropriate service on offer and continuing parental participation in, and agreement to, the arrangements for the child. If there is no one with parental responsibility and no suitable carer the Trust will need to consider how best to provide the child with someone to exercise parental responsibility. This may mean that the Trust should assist another appropriate person to obtain a residence order for the child because in providing accommodation for a child the Trust has certain duties but does not take over parental responsibility. Thus, under Article 6(5) of the Children Order, Trusts (or others) caring for a child, but without parental responsibility may do what is reasonable in each individual case to safeguard or promote the child's welfare. This may happen as a result of the child's request or on the Trust's initiative.

### **Nature of arrangement**

- 2.24 In the provision of services the emphasis will be on partnership with the child's family so as to provide for the child's needs by voluntary arrangement, building upon the family's strengths and minimising any weaknesses. This is reflected in the provisions in the Children Order relating to service provision and voluntarily agreed arrangements. Review of the service provision will be necessary to check that the objective is being met. Every effort should be made to enhance the parents' capabilities and confidence so that they may provide effectively for the child's welfare. However, the nature of the voluntary arrangement should not prevent a continuing assessment of any risk to the child. Where the circumstances require it, the child protection procedures should be brought into play immediately (see **Volume 1: Court Orders and other Legal Issues and Volume 6: Co-operating to Protect Children**).
- 2.25 Partnership requires informed participation. The Children Order requires that parents and child must be consulted during the decision-making process and notified of the outcome. There is a requirement placed on Trusts to establish a procedure for

considering representations (including complaints) about the discharge of their functions under Part IV of the Order. The Children Order emphasises that, where possible, children should participate in decision-making about their future well-being.

Subject only to the child's understanding, such participation requires that a child is provided with relevant information and is consulted at every stage in the process of decision-making.

### **Partnership or compulsion**

- 2.26 The provision of services as a means of avoiding compulsory intervention by the courts is provided for in paragraphs 5(1), 6 and 8 of Schedule 2 to the Children Order. **The Children Order affirms the key principles that a court order should not be made unless the court considers this the most effective way of safeguarding or promoting the child's welfare.** When an emergency arises, the Children Order empowers Trusts to provide accommodation away from the family home for an adult, who is deemed to be a risk to the child, and who is willing to leave so as to save the child the trauma of removal. This will be one of the child protection issues on which staff will need guidance and the policy on priority of resources in this context needs to be clear. **Staff will also need training and guidance on the complex issue of weighing the viability and value of a voluntary arrangement against potential risk and the best interests of the child.**



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- 2.27 In a case where a child is suffering or is likely to suffer significant harm (as defined in Article 50 of the Children Order) the Trust has to decide whether provision of accommodation by agreement with the parents is sufficient to safeguard the welfare of the child or whether application for a care or supervision order is appropriate. In the majority of cases the Trust will be able to agree on an arrangement that will best provide for the needs of the child and safeguard and promote his welfare. Work with parents to achieve an initial agreement to the accommodation of the child by the Trust will usually ensure that the ongoing plan for the child can be operated in partnership with his parents. Where a parent is unwilling to co-



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operate at the outset, or becomes unco-operative or inconsistent in attitude or commitment to the child, the nature of the arrangement should be reassessed and the need for care proceedings or emergency protection action should be considered. If the court refuses an application for a care order, the Trust will have to decide whether seeking to reach a voluntary arrangement would be an appropriate alternative. If, in any family proceedings where the court has directed the Trust to investigate the child's circumstances, the Trust decides not to apply for a care or supervision order, it will have to explain this decision to the court (Article 56). The reaching of an agreement on a voluntary arrangement to meet the child's needs might be a factor in reaching such a decision.

### **In need, away from home but not looked after**

- 2.28 Where a child in need in the Trust's area is living apart from his family the Trust must consider whether or not it should exercise its duty under paragraph 11 of Schedule 2 to the Children Order. This requires the Trust to take such steps as are reasonably practicable, if it considers it necessary to do so in order to safeguard or promote a child's welfare, where any child within its area who is in need and whom it is not looking after is living apart from his family. The steps mentioned in the Children Order are to enable him to live with his family or to promote contact between him and his family.

### **Aftercare**

- 2.29 The continuum of care provided by a good parent does not cease at any arbitrary point, but it changes to meet the different needs of a child over time and continues to be available to a young adult, away from the family home but in need of support and advice from time to time. In acknowledgement of this, the Children Order extends Trusts' responsibilities for young people leaving care and includes those previously accommodated by education and library boards, voluntary organisations and in privately run children's homes. This applies where no suitable arrangements are made by those agencies and also to privately fostered children. This provision of support, advice and assistance which has tended to be known as "leaving care", is to

be called “aftercare”, which reflects better the intention of the Children Order. Aftercare includes advice, general help and moral support, financial assistance in exceptional circumstances and specific financial assistance in connection with employment, education or training. Planning aftercare services for individual children will help the child to adjust during the transition from child to adult and will allow the Trust and other responsible agencies to arrange in good time any new service that may be required.

### **Contact and reunification**

- 2.30 The Children Order requires Trusts to promote contact between a child who is being looked after and all those who are connected



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with the child unless it is not reasonably practicable or consistent with the child's welfare. The Order also firmly addresses the reunification of a child with his family. These are linked issues. If contact is not maintained reunification becomes less likely and recognition of this has to underpin all considerations in planning for a child.

### **Children looked after in other establishments**

- 2.31 Trusts have a welfare duty in respect of a child accommodated (for a consecutive period of more than three months) by an education and library board, in a residential care home, nursing home, hospital administered by a Board or Trust, or a private hospital (Articles 174, 175 and 177).

### **Publicising services**

- 2.32 Trusts have a duty under paragraph 2(1) of Schedule 2 to the Children Order to publicise the services, either provided by themselves or others, available to families with children in need under Part IV of the Order. They should also take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information.
- 2.33 Any publicity materials produced should take account of ethnic minorities' cultural and linguistic needs and the needs of those with sensory disabilities in the audience to whom the materials are addressed. As far as possible, the relevant publicity should encourage parents to seek help if it is needed.

### **Charging for services**

- 2.34 Trusts should ensure that their policy on charging for services and requiring contributions towards the cost of accommodating a child is clearly stated and understood by staff, and that information about the policy is made available to the public.

Services and assistance provided under Article 18(7) may be unconditional or subject to conditions as to the repayment



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of the assistance or its value. In planning service provision and resource allocation the Trust must have regard to Article 18(8) and (9) which states:

- (8) Before giving any assistance or imposing any conditions, [a Trust] shall have regard to the means of the child concerned and of each of his parents.
- (9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support, family credit, disability working allowance or an income-based jobseeker's allowance.

- 2.35 Trusts are given discretion to decide whether or not to impose reasonable charges for services, other than advice, guidance or counselling provided under Part IV of the Children Order (Article 24(1)). In deciding whether or not to impose charges, Trusts should bear in mind that in some cases parents may accept the provision of services more readily if they are given the opportunity to contribute to the cost. Others may be deterred from seeking support before a crisis if their liability for repayment is unclear.
- 2.36 A Trust which is looking after a child must consider whether or not to recover contributions towards the cost of the child's maintenance from a parent of the child or, when he is 16, the child himself (Article 39(1)). The only exceptions to this are where a child is looked after under an interim care order, an emergency protection order (or any other provision of Part VI). Contributions may only be recovered when the Trust considers it reasonable to do so and not at all from a person who is in receipt of income support, family credit, disability working allowance or an income-based jobseeker's allowance while the child is allowed to live with a parent of his (Article 39(2)-(4)).
- 2.37 A Trust wishing to receive contributions must serve a contribution notice on the contributor, specifying a weekly sum not greater than that which the Trust would be prepared to pay foster parents for



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looking after a similar child and which it is reasonable to expect the contributor to pay. The notice must also state the proposed arrangements for payment (Article 40). If the contributor does not agree with the sum and arrangements for payment (as specified in the notice or otherwise proposed by the Trust), or if he withdraws his agreement, the Trust may apply to the court for a contribution order. This order may not specify a sum greater than that which was in the contribution notice. If the contributor and the Trust agree the terms of a new contribution notice, this will discharge an existing contribution order. Failing agreement, a contribution order may be varied or discharged on the application of the contributor or the Trust (Article 41).



### CHAPTER 3: RANGE OF SERVICES

- 3.1 Trusts are given a general duty under the Children Order to promote the upbringing of children by their families (Article 18(1)). In support of this duty Trusts are given a number of related duties in respect of family support services. They are required to make provision for advice, guidance, counselling, assistance and home help services. They are empowered to provide social, cultural or leisure activities or assistance with holidays (Schedule 2 to the Order refers). In addition, Trusts are required to provide such family centres as they consider appropriate in relation to the children in their area.
- 3.2 Every Trust is required to take reasonable steps through the provision of services under Part IV of the Children Order to prevent children in its area suffering ill-treatment or neglect. A Trust is required to inform another Trust if a child, whom the Trust believes is likely to suffer harm, lives or proposes to live in the area of that other Trust (Schedule 2, paragraph 5). There is a connected duty to take reasonable steps, (through provision of Part IV services), to reduce the need to bring proceedings for care or supervision orders, family or other proceedings which might lead to placement in care, High Court proceedings under the inherent jurisdiction or criminal proceedings in respect of children. Trusts should also encourage children not to commit criminal offences and avoid the need for placing them in secure accommodation (Schedule 2, paragraph 8). These provisions bring together the duties placed on Trusts to offer services to families which may break up without the provision of services. In addition, in the child protection context, if it appears to a Trust that a child is suffering or is likely to suffer ill-treatment at the hands of another person living at the same premises and that person proposes to move from those premises, the Trust may assist that other person to obtain alternative accommodation, including assistance in cash (Schedule 2, paragraph 6).

#### **Day care services**

- 3.3 Chapters 4 to 9 in this volume give detailed guidance on development of services, standards to be met in different types





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of services, and the registration, inspection and review functions.

That part of the guidance applies to day care services in general but there are particular considerations in relation to children in need and their use of day care.

- 3.4 Trusts should have an agreed policy for discharging their general duty to provide day care for children in need. This should involve examining day care services for children in need in the wider context of the services used by all children, so that children in need have similar opportunities for developing skills and interests. They should have regard to Article 18(5) of the Children Order which requires them in the discharge of their duties under Part IV to facilitate provision of services by other organisations including voluntary bodies and the private sector. In some cases it will be better for the children and more cost effective to use an independent service. It may also mean that children attend a facility which is in the area where they live or go to school and so will be with children from their own community or neighbourhood.
- 3.5 In considering whether or not to offer day care services for children in need, Trusts should ensure that full consideration is given to the views of parents and children. The Children Order gives Trusts a duty to do this in respect of the children they look after and this should, as a matter of good practice, also be applied in respect of children in need who are being cared for by their parents.
- 3.6 There should be a variety of day care facilities in the area so that there is some choice for children in need and they can attend the one which best meets their needs. Where a Trust decides to offer day care for a child in need, the parents should be involved in the discussion about the type of day care service and their views should be respected. Wherever possible Trusts should arrange for a child in need to go to the day care service which the parents prefer so long as that accords with the child's needs and best interests.



### **Day nurseries**

- 3.7 Day nurseries look after pre-school children for the length of the working day. They may be run by Trusts, voluntary organisations, private companies or individuals as a business, community groups as a co-operative enterprise, employers in the public or private sectors for their workforce, or any of these bodies on a partnership basis. Children will attend part-time or full-time depending on their needs and their parents' needs. Attendance at a day nursery provides opportunities for children in need to take part in group activity with their peers. Activities and learning experiences are planned by skilled staff and will enhance development of children's skills. It is for each Trust to decide on its policy about using day nurseries for children in need who are aged under two. In many if not all cases it may be considered that child minding is more appropriate because a child minder provides care on an individual basis in a domestic setting. However, where, for example, an older sibling is already attending a day nursery and there is concern about parenting skills, a place for the young child may be in his best interests.

### **Playgroups**

- 3.8 Playgroups provide sessional care for children aged between three and five. They aim to provide learning experiences through structured play opportunities in groups, and with involvement of the parents in all aspects of the operation of the group. Most playgroups are run on a self-help basis by groups of parents with one or two paid staff. Playgroup sessions last for no longer than four hours. Where a session lasts for more than four hours a day, full day care regulations apply.
- 3.9 Attendance at playgroup will give children in need opportunities to take part in group activity with their peers who probably come from the same neighbourhood. The philosophy of the playgroup movement is based on the premise that parents are fully involved in the running of a group although most groups employ one or two paid staff. Arranging a playgroup place for a child in need may offer a



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means of helping parents improve their parenting skills because the involvement will show how parents contribute to the child's development. This will need careful planning and discussion with the playgroup organisers who will need to have proper support in order to help. Trusts, in developing their policies on day care services for children in need, should also consider the value of sponsoring places in playgroups and facilitating the development of new groups as part of their wider responsibilities for parents and children in need, including children with a disability.

### **Childminding**

- 3.10 Child minders look after children under the age of twelve in domestic premises, usually the child minder's own home. They offer this service all the year around for the full working day. Parents and child minders negotiate the terms and conditions.
- 3.11 Some Trusts operate sponsored child minding schemes or employ child minders who look after pre-school age children in order to help families with health or social difficulties. Children receive individual care in a domestic setting and this may provide an effective way of supporting parents with a child in need, particularly where the child is very young. Trusts should provide adequate support for child minders with whom they place such children. This might include training opportunities, access to specialised equipment, regular visits from social services staff and counselling. Trusts should ensure that any package of family support which includes placing children in need with child minders also recognises the importance of group activities, particularly for three and four year olds, so that arrangements are made for attendance at some form of group facility such as playgroup or nursery class. Close working arrangements between a nursery and a group of child minders can be helpful.

### **Out-of-school clubs and holiday schemes**

- 3.12 Out-of-school clubs offer to care for the school-age child in the absence of the parents or carers from the end of the school day until



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the parent can collect the child and also sometimes before school starts. They are not open access. They may be run by a Trust, voluntary or community group or private company. Children will be escorted to the club by a responsible person and not allowed to leave until collected by the parent, or person who has parental responsibility, or who is looking after the child.

- 3.13 These services have an important preventive function because they provide for children who might otherwise be at risk of being harmed or becoming delinquent. Trusts may wish to consider setting up clubs or supporting existing ones as a community resource to help them discharge their duties under paragraphs 5 and 8 of Schedule 2 to the Children Order (prevention of neglect and abuse and reducing the need for care proceedings). This might also involve discussing the benefits of such services with the relevant education and library board and school governors. Apart from its preventive role, attendance at a club or holiday scheme provides opportunities for children to develop leisure interests. Where it is decided that it is appropriate for children in need to attend an out-of-school club or holiday scheme, Trusts should take account of the children's views and where possible, arrange for them to go to their preferred club or scheme. Where it is decided to use independently run clubs or holiday schemes for children in need Trusts should ensure that the workers are properly supported. This might include regular visits, access to training, specialised equipment or counselling.

### **Supervised activities**

- 3.14 This term covers specific activities provided for school age children out of school hours and in the holidays. Their purpose is not care for children in the absence of their parents. Leisure centres may offer supervised activities for children who will be instructed in a particular skill, sport or pastime. Supervised activities may help children in need develop particular skills which enhance their confidence and self-esteem as well as allowing them to take part in a wider range of activities. Trusts should bear this in mind when developing their day care policies for children in need.



### **Befriending service**

- 3.15 A befriending scheme will recruit and train volunteers who help a parent having difficulty coping with young children. They usually involve regular visits to the family in the home. This type of service has been successfully developed by Home-Start Consultancy which provides support and advice to autonomous local schemes. Data collected about use of the schemes show that referrals come mainly from health visitors or social workers with a few self-referrals. Other befriending services may also offer opportunities for parents to take part in group activities in order to lessen feelings of isolation, improve parents' insight into their difficulties and develop parenting skills. There are some educational home visiting services attached to schools.
- 3.16 All these befriending services offer parents under stress significant amounts of time from volunteers who are likely to be seen as friends with no power or tradition of interfering in family life and who may themselves have surmounted similar difficulties to those met by the family being visited. Where staff working in Trusts identify at an early stage that a parent may have difficulty in coping with young child or children, referral to a befriending service can offer an effective preventive service. However, it is important that such referrals are monitored and, where appropriate, the volunteers properly supported.

### **Parent/toddler groups**

- 3.17 A parent/toddler group may meet once or twice a week for one or two hours. These are usually run on a self-help basis, sometimes attached to a playgroup. The parent or carer stays with the child but most groups will also have one or two paid people to organise sessions. Groups provide opportunities for parents and carers to meet others with children of a similar age and share their experiences. The children will be able to take part in different play activities. Trusts should consider how to encourage parents with children in need to attend groups as a means of providing



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opportunities to meet others in their community and to become more confident about their ability to cope. Some parents may be reluctant to attend a group through lack of confidence or low self-esteem. Discussion with group organisers may be necessary in order to identify how to encourage them to attend, perhaps by arranging for another parent to bring them to the group.

### **Toy libraries**

- 3.18 These may be run by Trusts, schools or voluntary groups. Many provide toys specially designed to help children with a disability or those with learning difficulties. Toy libraries will usually be able to advise parents about the type of toy which will help children develop particular skills and will also help a parent learn about suitable toys for different ages and stages. Most toy libraries are open once or twice a week and may make a small charge for borrowing toys. Generally, children can experiment with the toy before taking it home. Some toy libraries also offer play sessions. There are a few mobile toy libraries and in some areas the toy librarian will visit families in their homes. Toy libraries are places where parents can obtain informal advice about play, toys and child development. They provide access to a wide and changing range of toys and for more disadvantaged families this can help extend the learning experiences of their children.

### **Drop-in centres**

- 3.19 These provide an informal open door for parents and children. Some may be targeted on particular types of family (for example those living in temporary accommodation, particular ethnic groups, lone parents) or others may be neighbourhood based. They may be managed by statutory bodies, self-help groups or voluntary bodies. Some may combine the drop-in element with playgroup sessions or keep fit classes or they may be part of other facilities – for example, family centres.



### **Playbuses**

- 3.20 These are usually double decker buses converted to provide space for groups to meet and take part in particular activities. Some are managed by statutory authorities, others by voluntary groups. Apart from being used by parents with pre-school age children, they may also cater for retired or unemployed people, people with a disability or teenagers. Playbuses are a particular useful resource in sparsely populated rural areas or isolated parts of cities. They can also provide a service for families who have difficulty reaching other facilities.

### **Family centres**

- 3.21 **Paragraph 10 of Schedule 2 to the Children Order gives Trusts a general duty “to provide such family centres as they consider appropriate in relation to children within their area”.** The Order defines family centres as places where a child, his parents and anyone who has parental responsibility for him or is looking after him may go for occupational, social, cultural, or recreational activities or advice, guidance or counselling or the person may be accommodated whilst he is receiving advice, guidance and counselling.
- 3.22 This general duty is not confined to children in need. Trusts should decide whether to discharge this duty through providing such facilities themselves or facilitating other organisations to do so. If they have not already done so, they should establish what family centres there are in their area, the type of services each provides and how they are used. This might be done in conjunction with the process of identifying children in need and publishing information about Trust services and those provided by other organisations (paragraphs 1 and 2 of Schedule 2) and when reviewing the day care services used by children aged under twelve in the area (Article 20).



3.23 Family centres may be run by Trusts or voluntary bodies. There are three main types:

(a) **Therapeutic**

In these, skilled workers carry out intensive casework with families experiencing severe difficulties with the aim of improving the ability to function as a family and relationships between parents and children or between siblings. Some Trusts have adopted a policy of using former day nurseries and residential children's homes as family centres where services are offered for pre-school age children and there will usually be a range of other services offered such as playgroup sessions, toy libraries, pre-employment and skills training, marriage guidance, child health clinics or out-of-school clubs.

(b) **Community**

Local voluntary groups including churches may provide a neighbourhood based facility for parents to use as a meeting place and take part in particular activities. They may also offer such activities as playgroup sessions, parent/toddler groups, toy libraries and adult education classes.

(c) **Self-help**

These may be run as a co-operative venture by a community group and are likely to offer various support services for families in an informal and unstructured way.

3.24 Trusts should consider whether family centres of the therapeutic type would provide an effective way of discharging some of their duties under Part IV of the Children Order. In particular, attendance at a family centre might form one element of a package of services put together for a family with a child in need. These facilities, unlike the others described in this chapter, provide a place where parents and children of all ages can go and for this reason they may be suitable for a wide range of families. They may also provide a place where





adult members of a family can go to take part in activities which may help to improve their confidence and their ability to cope more effectively with their difficulties.

- 3.25 Family centres may provide accommodation where families can be observed for prolonged periods which may help to identify particular difficulties with parenting skills and what action to take to improve family function. They may also provide a setting where the children can be looked after whilst the parents are discussing their difficulties. A family centre with residential accommodation may be used in other ways apart from intensive case work involving the whole family. It might include offering accommodation to disruptive children for short spells or to one or other of the parents in order to work intensively with an individual member of a family or to prevent family breakdown.
- 3.26 Other types of family centre are more likely to encourage community involvement and development of facilities for families on a geographical basis. Where Trusts are concerned about families with children who are living in a poor environment, it may be desirable to encourage the setting up of a neighbourhood facility for all local families to use, perhaps involving voluntary organisations.
- 3.27 Trusts should ensure that their policy on family centres is developed in line with that for children in need and that it forms part of the material assembled in the exercise of the duty to review day care services used by under twelves.

#### **Accommodation**

- 3.28 Under Article 21(1) Trusts must provide accommodation for a child in need in their area where there is no-one with parental responsibility for him, or he has been lost or abandoned, or the person caring for him is prevented (whether or not permanently and for whatever reason) from providing him with suitable accommodation or care. Article 21(3) gives Trusts a duty to provide accommodation for children aged 16 and 17 if the Trust considers their welfare would be seriously prejudiced without such a service.



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Article 21(4) gives Trusts discretion to provide accommodation for any child if they consider it would safeguard or promote his welfare (even if the person with parental responsibility is prepared to accommodate him). Under Article 21(5) Trusts also have power to accommodate a person aged 16 and under 21 in any home provided under Part VII of the Children Order (provided the home takes people who have reached the age of 16) if it will safeguard and promote the young person's welfare. Children who are accommodated are referred to as "looked after" by the Trust and the duty to "accommodate" a child replaces the duty in the Children and Young Persons Act (Northern Ireland) 1968 (section 103) to receive a child into "voluntary care". Accommodation in this context relates to the provision of care and maintenance for the child. Article 27(2) of the Children Order points up the Order's specific meaning of "accommodation" by setting out ways in which Trusts may meet their duty to accommodate.

- 3.29 The Children Order also empowers Trusts to assist an adult deemed to be a risk to a child and who is willing to leave so as to save the child the trauma of removal, to obtain accommodation away from the family home (Schedule 2, paragraph 6).

### **Duty to collaborate**

- 3.30 It is emphasised that the obligation to fulfil these requirements in the Children Order rests with Trusts. However, Article 46 enables a Trust to request help from any body mentioned below where it appears to the Trust that that body could help in the exercise of any of the Trust's functions. A body whose help is so requested shall comply with the request if it is compatible with that body's own statutory or other duties and obligations and does not unduly prejudice the discharge of any of its functions.

The bodies are –

- (a) any HSS Board;
- (b) any education and library board;



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- (c) any HSS Trust or special agency;
- (d) any district council;
- (e) the Northern Ireland Housing Executive; and
- (f) such other persons as the Department may direct for the purposes of Article 46.

### **Voluntary arrangements for accommodation**

- 3.31 The provision of accommodation for a child under a voluntary arrangement is a family support service. Arrangements made between the Trust and parents should be in writing and cover appropriate ways of terminating use of the service that will not militate against the child's best interests. Parents who are seeking to agree arrangements in their child's best interests will appreciate the need to minimise disruption to the child. The agreement should be framed so as to enhance the parents' role in their child's life.
- 3.32 Generally the Trust may not look after the child by providing accommodation if the parent or person with parental responsibility is acting in the best interests of the child and is able and willing to provide or arrange for the child's accommodation independently. There are two exceptions to this. It does not apply if a person in whose favour a residence order has been made with respect to the child, or a person who has care of the child under an order made in the exercise of the High Court's inherent jurisdiction with respect to children, agrees to the provision of accommodation (Article 22(2) and (3)). This may occur when someone else asks for accommodation to be provided – for example the child – or if the Trust itself suggests that this would be in the interests of the welfare of the child. If more than one person has the benefit of a residence order or has care of the child under an inherent jurisdiction order, they must all agree to the child being looked after by the Trust (Article 22(4)). If the parent who has a residence order in his favour agrees to the provision of accommodation, the parent without the residence order cannot object



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to accommodation being provided or remove the child, and if he wishes to take over care of the child he will have to get the residence order discharged. If the child has reached 16, accommodation may be provided despite parental objection, provided that the child agrees to it (Article 22(5)).

- 3.33 The Trust must ascertain the child's wishes about provision of accommodation and give due consideration to such wishes as it has been able to ascertain, having regard to his understanding (Article 21(6)). This requirement must be kept in mind when planning arrangements for the child.
- 3.34 A Trust has a number of choices when considering whether to accommodate a child. The options are foster care, a placement in a residential establishment or some other appropriate arrangements (such as semi-independent living for an older child). This accommodation may be provided directly by the Trust or by another agency, for example a voluntary organisation, on its behalf. **The importance of the assessment of need being made in consultation with the child, his parents or anyone else (such as a relative) who was looking after the child before the Trust provides accommodation cannot be over-emphasised: it is a statutory duty under Article 26(2).** Planning for the child's immediate care and future welfare based on a full assessment of need in partnership with all concerned will be fundamental to the appropriate provision of accommodation.
- 3.35 The basis on which the arrangements are made must involve consultations about placement of the child and discussions about Trust plans for him with all those involved with the child or in the plan. Agreements reached will need to involve all those with parental responsibility and will require careful negotiation. The plan for the arrangements will set out (amongst other things) the reasons for, purpose and anticipated length of the child's stay in Trust accommodation (or accommodation provided by other agencies on behalf of the Trust), the arrangements for contact with the child and any delegation of parental responsibility which may be necessary.



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In a voluntary arrangement the Trust should explain that it will usually be in the child's interests for his return to be planned by all those concerned and that termination of the arrangement should be undertaken in that spirit wherever possible, in accordance with a planned timetable.

### **Reunification**

- 3.36 When the Trust is looking after a child, it is required to make arrangements for the child to live with a member of his family unless to do so would be impracticable or inconsistent with the child's welfare (Article 27(7)). "Family" in this context means any person falling within the scope of Article 27(4) of the Children Order or a relative, friend or other significant person in the child's life. This requirement is intended to ensure that the Order's emphasis on the promotion of the upbringing of children within or by their families is applied equally to all children looked after by the Trust. The duties in paragraph 9 of Schedule 2 to the Order (provision for children living with their families) and paragraph 11 (maintenance of the family home) could be used together to achieve reunification of a family when the child is living apart from some or all of his family but is not looked after by the Trust. This could also be considered when a Trust is notified about a child being accommodated by an education and library board or others. The same emphasis on the importance of family links is found in the requirements that a child should be accommodated near his family home (Article 27(8)(a)) and that brothers and sisters be accommodated together as long as this is practicable and consistent with each child's welfare (Article 27(8)(b)).

### **Support services for workers and parents**

- 3.37 Article 19(4) gives Trusts power to provide facilities such as training, advice, guidance and counselling to people working in a day care setting (including child minding), and anyone who stays with the children while they are attending the service. This power is not limited to providing services for people working with or accompanying children in need. It enables Trusts to help people working in day



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care and child minders raise their standards and to help parents, those with parental responsibility and those looking after children to improve their parenting skills.

### **Training**

- 3.38 Trusts should develop and agreed policy about the extent to which they wish to use this power as part of their policies on family support and day care. In considering this they should have regard to guidance on day care and educational services for pre-school age children and that on day care services for school-age children which give advice on quality and the proportion of qualified staff in each type of day care setting.

### **Advice**

- 3.39 Trusts should ensure that people working with families with children in need know where to turn for advice. This does not mean that Trusts have to be the source of advice. But it should be recognised that people working with children may sometimes feel isolated and stressed. Ready access to advice helps them provide good quality services. Trusts should also have regard to their duty under paragraph 9 of Schedule 2 to the Children Order to make available advice for children in need. This also applies to guidance and counselling services.

### **Guidance**

- 3.40 Trusts should have an agreed policy on the need to issue detailed guidance about services and their delivery. Where this is done it should be within the framework of this guidance.

### **Counselling**

- 3.41 People looking after or working with children may find the task stressful and frustrating at times. This can lead to feelings of inadequacy and ultimately inability to provide services to an



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acceptable standard. Trusts should have an agreed policy about the provision of counselling for parents, those with parental responsibility or looking after a child and workers, and should ensure that information about this is available. It need not be provided by the Trust but all concerned should know how to gain access to the service.

#### **Family aides**

- 3.42 This terms describes the service under which the Trust provides someone to live in the family home for a short spell or to go daily, usually to help with the task of running the household. This can be useful in cases of prolonged illness or to help parents cope with a child with a disability. It is often this sort of practical help which is difficult to arrange when a family is facing a crisis and parents therefore value it.

#### **Other facilities**

- 3.43 Trusts should consider what other support might be given to help them discharge their duties and assist parents and providers in bringing up or caring for children. Services might include use of rooms for meetings, access to bulk buy opportunities or photocopying/printing services.



## CHAPTER 4: NEED FOR SERVICES AND INFORMATION

- 4.1 This chapter outlines the children's need for services including play, parents' need for day care and the role of information services.

### Children's need for services

#### Pre-school children

- 4.2 Children benefit in terms of their social, emotional, intellectual and physical development from spending some time with their peers and adults who are not part of the immediate family. Up to the age of three children may enjoy being with other children but are less likely to play as a group, preferring to play on their own or with one adult. From the age of about three most children will have begun to understand about sharing toys and taking turns and their confidence, maturity and independence are likely to be enhanced by being with their peers.

#### Children of statutory school age

- 4.3 Among children of primary school age a small number will return to an empty house – so called “latchkey children”. The percentage is likely to be higher among children of secondary school age. In most areas there is a rich variety of activities and pastimes for school-age children but there are very few out-of-school clubs or holiday schemes offering care while parents are not available. While most school-age children do not attend a general out-of-school facility, many are likely to take part in some form of organised activity with their peers for a few hours each week.
- 4.4 Many researchers consider that school-age children need opportunities to take part in activities where they are responsible for choosing what to do, for the setting up of the project or task and its completion in order to develop self-confidence, foster skills, build individual and group relationships. It is also thought that the way in which children use non-school time and the quality of their out-of-





school experience affects their later development and ultimately full enjoyment of adult life.

### **Play**

- 4.5 Children's need for good quality play opportunities changes as they grow up, but they need such opportunities throughout childhood in order to reach and maintain their optimum development and well-being. Young children develop knowledge of themselves and their world through play. For school-age children play is a means whereby they can develop a broader range of interests, complementary to subjects learnt during school time, and a positive approach to use of leisure time.
- 4.6 Trust staff working in the day care field as policy makers, advisers, managers or registration or inspection officers should develop understanding about the role of play in terms of child development.

### **Parents' need for day care**

- 4.7 A child's development will depend on the quality of substitute care provided if parents are absent from the home during the day. There is much debate about the most suitable form of non-parental care for babies and toddlers and whether a group setting is harmful. Current research suggests that the quality and consistency of the substitute care provided is crucial to the child's well-being.
- 4.8 It is for the parent or person with parental responsibility to decide who to entrust with the care of their children and to make the necessary arrangements for them to go to the facility. It is unreasonable to expect children aged under twelve to be wholly responsible for themselves and parents will have to make arrangements for someone else to look after them when or if they are unable to do so. For children aged over twelve it is generally accepted that parents, while encouraging a child's growing independence, need to ensure that their children are not unnecessarily exposed to risk of harm or injury.



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- 4.9 Article 6(5) of the Children Order makes clear that any person caring for a child, but not holding parental responsibility, may do what is reasonable in all the circumstances for the purposes of safeguarding or providing for the child's welfare. This would allow a carer to exercise delegated responsibility in the absence of the parent and take action in an emergency to protect the child. Such action should be the subject of a clear agreement between the parent and carer. In some circumstances – for example where the parents are not available for long periods of time – it will be necessary to make similar arrangements for older children to be looked after. In other circumstances older children may be capable of looking after themselves – by taking themselves to and from school and going to an out-of-school activity such as a special club.

### **Information services**

- 4.10 Article 20 of, and paragraph 2 of Schedule 2 to, the Children Order require Trusts to publish information about the services they provide themselves and, where appropriate, those provided by other organisations. Parents currently find out about the different day care and related services available in their community from a variety of sources. Policy makers, those responsible for the day-to-day running of services and people working in a day care setting or with families experiencing difficulties should pay attention to how parents obtain information and, where appropriate, the use they make of it. Within each Trust there should be an agreed policy on information services for children and their families. The Trust may wish to run such a service itself. There may be advantages in enabling an outside organisation to set up and run such a service because parents may find it more accessible.



## CHAPTER 5: STANDARDS IN DAY CARE SERVICES FOR UNDER TWELVES

5.1 Certain general principles should inform good practice in day care:

- children's welfare and development are paramount;
- children should be treated and respected as individuals whose needs, including special educational needs, should be catered for;
- parents' responsibility for their children should be recognised and respected;
- the values deriving from different backgrounds – religious, racial, cultural and linguistic – should be recognised and respected;
- parents are the first educators of their children; this should be reflected in the relationships with other carers and providers;
- parents should have easy access to information about services in their area and be able to make informed choices.

### **Programme of activities**

5.2 The day's programme should be planned before the facility opens or the children arrive. Different considerations apply depending on the opening hours of the facility, its primary purpose and the ages and numbers of children attending, but the main points to bear in mind are:

- the activities should be appropriate to age and developmental stage;
- there should be variety so that children are given opportunities to develop physical, cognitive and social skills;



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- staff should involve the children in the planning of the activities;
- the programme should be flexible and should allow for quiet and noisy activities;
- in the case of children in a full day care setting there should be sufficient time for rests/naps;
- children should work at their own pace as much as possible.

### **Training**

- 5.3 Because working with children is demanding and complex, caregivers require a wide range of skills in order to provide good quality services. Training produces benefits for a variety of reasons. A trained person will understand how to respond sensitively to children's needs. Parents are usually good at such responsiveness without any special training, but, because of the difference in their emotional commitment, such responsiveness may not be so automatic for caregivers. To some degree sensitive responsiveness will reflect personality characteristics but appropriate training will help to improve it for most caregivers. Training can make caregivers more aware of stages in children's development and the need to adjust to the child's changing developmental needs.
- 5.4 There have been many different training courses available for people wishing to work in this field with some courses leading to a qualification – for example the certificate awarded by the National Nursery Examination Board or the diploma awarded by the Business and Technician Education Council (BTEC) – and others offering a certificate of attendance but no indication about the level or range of skills obtained. More recently the introduction of the system of National Vocational Qualifications (NVQ's) has led to nationally agreed standards which provide a framework within which to assess levels of competence. As NVQ's enable people to acquire qualifications through assessment of work based learning it is now



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possible for more people working with children to obtain relevant vocational qualifications. In addition to awards already available for “Child Care and Education”, awards are likely to be available soon for foster parents, child minders, playworkers and others.

Commissioners of services are establishing minimum levels of competence as part of the setting of quality standards for service delivery. However it is not possible to give detailed advice at this stage as such work is in its early phase given the recent advent of relevant awards.

- 5.5 People working with school-age children in day care settings also need particular skills, and training provides a means of developing these. It is suggested that Trusts should inform themselves about training for playworkers and the relevant vocational qualification as well as other child care related NVQ's.
- 5.6 Many workers who already hold qualifications in day care or a related area will benefit from in-service or refresher training events and courses. These might be on specific topics, such as child protection or working with children with special educational needs, or on general issues such as child development. Multi-disciplinary training events or those which involve people working in different types of settings run by different organisations also provide an effective way of improving understanding of different skills. With the advent of competence based awards (NVQ's), most training should link to specific awards and assist candidates towards accreditation of units of competence. Commissioners will wish to establish minimum levels of staff competence as part of quality standards for service and Trusts should develop policy on training for their own day care staff and encourage independent providers to do this also, linked to commissioning standards. It should underpin the exercise of their duties in respect of children in need and registration of independent day care providers and child minders. It is desirable that child minders are encouraged to take up training opportunities and seek access to assessment of competence as child minding awards become available.



### **Special educational needs**

- 5.7 Trusts should have regard to the advice and guidance concerning assessments and statements of special educational needs (see **Volume 5: Children with a Disability**). Generally the development of young children with a disability or special educational needs is more likely to be enhanced through attending a day care service for under twelves or educational service for pre-school children used by other children. Policy makers, registration officers, providers and practitioners need to consider the means whereby this aim might be achieved. In making arrangements for integrating children with a disability with other children in a day care or pre-school education setting, particular attention should be paid to the physical environment, staff/child ratios and training (eg in sign language for the children with hearing impairment). It may at times be desirable for there to be services catering specifically for children with a disability and special educational needs but these might, with advantage, be attached to a service used by all children so that joint activities can be arranged from time to time.

### **Equal opportunities and racial groups**

- 5.8 The Children Order requires Trusts (Schedule 2, paragraph 12) in making arrangements for provision of day care, to “have regard to the different racial groups to which children within their area who are in need belong” and in the exercise of their power to cancel someone’s registration on the grounds of seriously inadequate care to have regard to the child’s “religious persuasion, racial origin and cultural and linguistic background”. (Article 128(2)(b) and (6)).
- 5.9 People working with children should value and respect the different racial origins, religions, cultures and languages in society so that each child is valued as an individual. Children from a very young age learn about different races and cultures including religion and languages and will be capable of assigning different values to them. The same applies to gender and making distinctions between male and female roles. It is important that people working with children



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are aware of this, so that their practice enables the children to develop positive attitudes to differences of race, culture, religion and gender.

- 5.10 Trusts should have approved equal opportunities policies including arrangements for monitoring and reviewing progress towards implementation. They should ensure that they have available data on the ethnic origins of the local population which is essential for assessment of the extent to which the day care services for pre-school age children in the area are operating in a non-discriminatory way. Trusts should also ensure that the arrangements for involving independent organisations and individuals in the exercise of the review duty enable all racial groups within the area to contribute fully. This may involve providing interpreter and translation services as well as seeing that arrangements for consultative meetings and their membership do not discriminate.

### **Parental involvement**

- 5.11 Trusts need to ensure that their policies on day care for under twelves and the exercise of their duties and powers under the Children Order properly reflect the importance of involving parents. Those concerned must recognise that parents generally have the greatest knowledge of their own child. Parents should be kept fully informed about their child's activities in a day care setting or with a child minder. Providers should make sure that there are sufficient opportunities for parents and the people who work with the child to discuss his progress and plans for future activities. In the case of child minders the relationship with the parents is likely to be close and there are daily opportunities to exchange information about activities and progress. The same principles apply, although it may be necessary to make special arrangements to discuss progress when the child minder and the parents are not having to respond to the demands of children.
- 5.12 In the case of day care facilities in non domestic premises, there will be a variety of management arrangements with some being



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managed by a statutory body, some by a commercial company or individual as a business, some by a voluntary body and some by a committee, possibly on a self-help basis. Whatever the arrangements are, there should be an agreed policy on parental involvement. The policy should ensure that, as well as having time to talk about their child's activities, parents are also able to express their views on management issues and are fully consulted about changes. In some cases – for example playgroups and community day nurseries – parents are actively involved in managing the service and some may work as unpaid volunteers with the children. In others there may be a user committee to act as a forum for discussion and consultation. In a facility such as a playgroup where there is a philosophy of parental involvement in all aspects – management, organisation and day to day operation – those responsible should make sure that parents who are unable, for whatever reason, to give much time to the work of the playgroup are nevertheless able to make a contribution in another way.

#### **Health issues**

- 5.13 The Trust should establish effective working relationships with organisations and individuals responsible for day care services so that there are agreed arrangements for obtaining advice from health professionals on matters relating to the health and development of children and also in an emergency. The Department commends the practice in day nurseries of having a named doctor and health visitor from whom they may seek advice.
- 5.14 Where a day care provider or child minder identifies a possible need for specialist help for a child – eg speech therapy, physiotherapy – he must tell the parents so that they may take the appropriate steps to obtain advice and if necessary treatment for the child. In no circumstances should a provider or child minder take such action on his own initiative.
- 5.15 A child needs to be in optimum health in order to benefit from his day care experience. Children under school starting age who are in a





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day nursery or with a child minder, should not miss out on the child health surveillance programme. Health checks are offered on a regular basis to all pre-school children. Day care providers and child minders should provide information about the child's development to parents to assist with the health checks.

- 5.16 In all day care facilities there should be at least one member of staff with first aid training who is responsible for keeping the first aid box fully supplied and checking its contents from time to time. Managers should ensure that all staff have a working knowledge of first aid. Child minders should also have at least a working knowledge of first aid and the first aid box whose contents are checked regularly. It is recommended that child minders are encouraged to undergo first aid training. Local branches of the Red Cross or St John's Ambulance are useful sources of advice and training.
- 5.17 Food hygiene and the arrangements for safe storage and preparation of snacks and meals are important for ensuring that children do not become unwell whilst in day care or with a child minder. There are booklets on Food Safety (published in the Food Sense series) and the Food Handlers Guidance (HMSO 1990) which give advice on this issue for the general public and people working in the catering industry as cooks or food handlers. These provide useful basic information on this topic.

### **Staffing**

- 5.18 The staff/child ratios in this chapter are those that will normally be needed to secure good quality care for young children. Trusts should use them in deciding what requirements should be observed by people providing day care for the under twelves and by child minders. Factors to be taken into account include:
- the opening hours of the different services;
  - the need for staff to spend most of their working day in direct contact with the children;



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- the particular need for very young children to receive consistent one-to-one attention;
- qualifications, training and experience of the staff;
- the overall size of the facility;
- the stage of development reached by particular children eg the presence of children with a disability.

5.19 The ratios recommended are derived from judgements of how to put into practice the general objectives of quality of care in paragraph 5.24. This also requires the Trust to consider the total adult complement in a facility (eg employees, students, trainees) to ensure the focus of the work remains child centred and continuity of care is promoted. Trusts should base their requirements in respect of each application for registration on an overall assessment of the quality and standards of the particular facility.

### **Behaviour and sanctions**

5.20 People responsible for running a day care facility need to have an agreed policy on its day to day operation and to develop procedures to address unacceptable behaviour and promote positive attitudes in the children which will include appropriate sanctions. It will encourage development of a sense of right and wrong behaviour if children are encouraged to co-operate in the social organisation of the facility. The sanctions applied in the case of unacceptable behaviour must take account of the age and stage of development of the child, be given at the time, be relevant to the action or actions and be fair. The child should always be told why his behaviour is not acceptable and the reasons for applying a particular sanction. **Day care providers and child minders should ensure that parents are fully informed about and support the policy on modifying unacceptable behaviour and the range of sanctions.**



### **Corporal punishment**

- 5.21 **Corporal punishment (smacking, slapping or shaking) should not be used by any parties within the scope of this guidance.** It is permissible to take necessary physical action in an emergency to prevent personal injury either to the child, other children or an adult or serious damage to property.

### **Public liability insurance**

- 5.22 It is good practice for day care providers and child minders to carry public liability insurance. Parents need to be reassured that the service or person who has undertaken to care for their child is paying due attention to the business side of the arrangement. Evidence of up-to-date and adequate public liability insurance cover is a good way to demonstrate this. Trusts should encourage day care providers and the child minders to take out such insurance cover.

### **Quality of care**

- 5.23 Those responsible for services for children in Trusts should develop their knowledge and understanding of the issue, so that there is general agreement about aims and objectives. It is desirable that all concerned with services for young children inform themselves about and keep up to date with research in this field.
- 5.24 The main factors which influence quality of care are:
- the nature of adult/child interaction;
  - the nature of the interaction between children/peers;
  - size of group and numbers of staff;
  - continuity, training and experience of staff;
  - recognition of children's developmental needs;



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- type of contract/involvement between parent and day care provider;
- ability to structure and support children's learning;
- elements in programme of activities;
- equality of opportunity policy in employment and service delivery;
- children's involvement in planning and choosing activities and projects;
- elements of imagination, challenge and adventure in activities;
- organisation, display and accessibility of equipment, toys and materials;
- attention to health, safety and type of physical environment.

5.25 Defining quality of care involves looking at these factors from the point of view of child development as well as the rights or expectations of children, parents and people working with young children.

#### **Child development**

5.26 This involves focusing on the child's experience in terms of potential advantages and disadvantages that the experience offers the child and the possible effects of the care upon the child's development. One aspect of good quality care is that it is developmentally beneficial to the child, and poor quality care is that which inhibits, or at least does not facilitate the child's development. Most research on quality has been explicitly or implicitly guided by this approach.



### **Rights or expectations of children**

- 5.27 Children have a right to an environment which facilitates their development. An approach based on children's rights would encompass all the factors necessary for their development. However, depending upon the values held by society at large, the child may be regarded as having rights which go beyond the provision of an environment which can be empirically demonstrated to facilitate development. For example, children should have the right to be cared for as part of a community which values the religious, racial, cultural and linguistic identity of the child. The justification for the awarding of such a right would be in terms of fostering the child's sense of identity. Children's sense of identity is a fundamental aspect of their development and so such a right could be included within a definition based upon the facilitation of child development. Other examples of rights which might be assigned to children include the right to health, individuality, respect, dignity, opportunities for learning and socialising with adults and children, freedom from discrimination such as racism or sexism and cultural diversity. The extent to which a day care setting fulfils these rights may be used in defining the quality of care for that setting. All these rights can be regarded as potentially contributing to children's physical, intellectual, social and emotional development. There is research evidence which specifies the details of the relationship between the experience of the rights and subsequent development. For example the right to a stable learning and caring environment can be specified in terms of which aspects of that environment will facilitate intellectual, linguistic or social development. Assumptions about the appropriate child care practices in relation to some other rights – the right to cultural diversity for example – have yet to be tested by research.

### **Rights or expectations of parents**

- 5.28 The two approaches outlined above are child-centred. However certain parental rights should be considered as part of a definition of quality of care because this enables parents to influence the nature



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of their children's care environments. To this end the following opportunities for parents should be considered:

- to acquire information about the care environment;
- to express their views on the care environments;
- to alter the care environment of their child;
- to contribute to their child's care environment;
- to choose between alternative child care environments.

This approach enables parents to have some choice over division of their time between parenting and other activities. Access to services, choice between services, transport to services and hours during which care is available, are all relevant for parents wishing to make informed choices.

#### **Rights or expectations of people working with young children**

- 5.29 The characteristics of the care environment will be dramatically influenced by the characteristics of the workers, and the workers themselves will be affected by the environments in which they work. There are therefore good grounds for including the rights of workers in a consideration of the quality of care. The research evidence linking staffing characteristics and children's experience and development is considered below. Another approach is to consider the rights of the worker as an employee and the extent to which employment rights are met within a particular setting. While there are differences between these approaches, they overlap in so far as conditions of services for workers can be shown to influence the nature of children's experience in ways which have implications for their development.



### **Research evidence and the quality of care**

- 5.30 Quality of care is defined in terms of experiences which affect children's development and well-being. Research on child development points to several aspects of the young child's experience as having potential developmental consequences including adult-child interaction, peer interaction, interpersonal relationships, learning opportunities, health and safety and whether children are happy.

#### **Adult – child interaction**

- 5.31 There are several studies in home and day care settings which reveal positive developmental benefits associated with aspects of adult-infant interaction, notably affection and sensitive responsiveness between adult and child. Children enrolled in day care with more responsive caregivers are likely to have better cognitive and language development and also to be more socially competent. Research in home environments has also found that responsive interaction fosters secure attachments and it seems likely that similar processes will operate in day care settings.

#### **Peer interaction**

- 5.32 Where children have more experience of peer interaction their social skills improve, and this can be an advantage for children receiving out-of-home care. One of the great benefits of the expansion of group day care services since the early 1960s – for example the growth in the number of playgroups – has been the increased opportunities for pre-school age children to develop their skills in peer interaction. This has become more important with the general reduction in family size, increased mobility of families and other factors which have led to greater isolation of families with young children and a consequent reduction in other opportunities for peer play for pre-school age children. There is ample evidence that the social skills of three to four year old children are facilitated by group experience in a variety of sessional and full day care settings. Same-



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age and mixed-age groups including children with learning difficulties supply useful and complementary forms of experience, and if children can experience both sorts of group activity that will probably be beneficial.

### **Interpersonal relationships**

- 5.33 Secure attachment relationships are associated with a wide range of developmental advantages for the child. Where a warm, secure relationship exists between adult and child, the child is better able to use the adult to explore the environment. This is true in the home, and in day care where children are securely attached to a caregiver. Toddlers show different patterns of social interaction with stable caregivers. Such differences may well account for the developmental effects sometimes associated with instability of care. Young children learning to communicate will often use idiosyncratic speech or gestures and a caregiver who is familiar with a child is most likely to know such idiosyncrasies, and be able to respond quickly and appropriately, than a new caregiver. Research such as the American National Day Care Staffing Study demonstrates the importance of stability of caregivers and finds poorer language and social development associated with higher staff turnover. There are two major aspects involved in stability of care. One concerns the continuity of the care placements, and the other the stability of caregivers within a placement. In both cases the greater the instability the more detrimental it will be for the child's experience. It is very likely that stability may be more important in the case of younger children at a period when the establishment of stable interpersonal relationships and the development of communications skills are more vulnerable. In peer relationships social and sophisticated role playing proceeds better between good friends, so that stable peer groups are more likely to foster competent social skills. Stability of care is likely therefore to be strongly associated with the nature of the interpersonal relationships which a child forms with adults and peers with possible consequences for the child's development.





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### **Learning opportunities**

- 5.34 Young children are continuously learning about the environment and people around them. The way in which experiences are structured affect how learning progresses. People working with young children should be skilled in structuring and supporting that learning. Sometimes learning opportunities are explicitly planned for, but often they are inherent in the daily activities of the children. Children will obviously benefit more in terms of communicative and cognitive competence from environments which provide the most appropriate learning opportunities. Indeed, they are likely to become bored and even upset in situations which are unstimulating. Children need variety in their experience and their activities need to be adapted to their developmental level to provide good learning opportunities. Three to five year olds in day care settings can benefit when there is input from people trained in education in the early years.

### **Health and safety conditions**

- 5.35 The importance of health and safety is obvious. A child who is made sick or injured by his surroundings is not benefiting from them. A hazardous environment may also distract caregivers from optimising the experiences of children and force them to control the children in such a way as to limit exploration which is a basic mechanism of learning.

### **Standards for day care for children under compulsory school age**

#### **Full day care**

- 5.36 This terms includes playgroups whose sessions last for more than four hours and “crèches” in shopping centres, training establishments, leisure facilities or equivalent as well as day nurseries run by statutory authorities, voluntary bodies, private companies or community groups.



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(a) **Staff/child ratios**

The standard recommended ratios are:

0 to 2 years = 1:3

2 to 3 years = 1:4

3 to 12 = 1:8

Managers or officers in charge should be excluded from the calculation when considering the ratios where the service has places for more than twenty children because most of their time will be taken up with administration and the management of staff. Job skills and non-employed status trainees should not be considered as staff. Only exceptionally can people under 18 (see HSS CC2/99) be regarded as staff. A higher ratio may be appropriate for the following reasons; if not all the staff are qualified or sufficiently trained; if there are very young babies (under twelve months) who need constant attention. Officers in charge and their deputies should hold a relevant qualification in either child care, early years education, social work, health visiting or nursing. They should also have experience of working with young children. At least half the staff should also be qualified in child care, early years education or social work and other staff should be encouraged to follow relevant training courses. Each facility should have adequate support staff – for example, cooks, cleaners, clerical staff – so that those employed to care for the children are not required to prepare food, carry out other domestic tasks, undertake routine administration or be involved in maintenance of the premises or equipment.

(b) **Premises and space standards**

Day nurseries may be found in purpose built or converted buildings. Whatever type of building is used, the environment should be warm, welcoming, light and make the children feel at home. These space standards which represent clear space per children are desirable:



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Age of child	Square Feet	Square Metres
0 to 2 years	45	4.2
2 to 3 years	30	2.8
3 to 5 years	30	2.8
5 to 12 years	25	2.3

Fixtures such as cupboards should be excluded when considering whether there is adequate space. As the premises used for day nurseries are very different, the way in which the space can be used will vary.

These points should be taken into account:

- no room (regardless of size) should have to accommodate more than twenty-six children except for special occasions and, where possible, the maximum should be lower for younger children;
- there should be a separate room for babies and toddlers with proper facilities for nappy changing and preparation of feeds close to it;
- there should be separate areas or, where possible, rooms for quiet, noisy and messy activities;
- there should be appropriate facilities, and space, for children with a disability;
- there should be a minimum of one lavatory to ten children with the same number of wash hand basins;
- there must be separate toilet facilities for staff;
- there should be office space and a staff room;
- there must be a kitchen which should be of an appropriate size and adequately equipped to provide meals and snacks



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for children and staff; it should conform to environmental health and food safety regulations;

- there should be outside play space, preferably adjacent to the building and exclusively for the use of the children. Where this is not achievable – for example in an urban area – proper arrangements must be made so that the children are taken regularly to local parks or playgrounds or the equivalent. If possible there should be space for parents or other local groups to meet. The person in charge will wish to have a room where he can talk to parents or other individuals.

(c) **Maximum number of places**

Where it is proposed to set up a day nursery with more than fifty places, the premises and layout should be organised so that the children are accommodated in self-contained units of not more than twenty six. Facilities with less than fifty places should also be organised with this principle in mind but it may not be practicable or sensible to have completely self-contained units.

(d) **Size of groups within the facility or unit**

Generally, children do better in small groups rather than large groups. This is so for a wide range of developmental indicators. The size of group which is most beneficial will change with the age of the children. Babies and toddlers generally need smaller groups than older children. For three and four year olds research suggests an upper limit of six to eight for peer group size to optimise peer interaction. Larger groups may lead to overstimulation and disruption. This also applies to sessional facilities.

(e) **Furniture and equipment**

The furniture and equipment provided should help to create a warm, cheerful, stimulating and safe environment. Chairs and tables should



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be child-sized with enough small tables to allow children to choose between different activities and places. Where possible there should be low adult-sized seating so that staff can sit comfortably on a level with the children. Vinyl floor coverings should be non-slip but easy to clear. Carpeted areas help to identify places for different types of activity. There should be a wide range of equipment available, so that children can safely develop their social, cognitive, and physical skills. The equipment should include materials for art, craft, music, manipulative and construction activities, for exploring the natural world and developing physical skills. This also applies to sessional facilities.

### (f) **Toys**

Facilities should have sufficient toys available to provide stimulating, safe and developmentally appropriate activities for the children. Day care providers need to have a clear policy on buying and replacing toys which is subject to regular review. In developing such a policy providers should, where appropriate, seek expert advice – for example from toy libraries. This also applies to sessional facilities.

### (g) **Snacks and meals**

Day care providers should ensure that the snacks and meals provided are varied and nutritious. Parents' wishes should be respected and as far as practicable taken account of in the meals and snacks provided. Meal and snack times should be treated as social occasions with staff eating with small groups of children.

### (h) **Observation and records**

The Children Order requires day care providers to keep records of the children attending a day care service. This requirement is confined to factual details about the child and his parents. It is also important that people working with young children in a full day care setting observe what each child within the facility is doing, assess what this means in terms of learning and development, report and record it.



### **Sessional day care**

5.37 This term covers facilities which are open for mornings or afternoons only where no main meals are provided. These facilities are mainly used by children aged from three to five rather than babies or toddlers, although exceptionally some may admit children from the age of two and a half.

#### **(a) Staff/child ratios**

The standard recommended ratio is 1:8 for children aged three and above. This is based on the assumption that workers will not expect to have time for a break during the session and will be in direct contact with the children throughout. Some sessional facilities such as playgroups are likely to use volunteers on a regular basis to work with the children. Regular volunteers should be treated as part of the overall ratio. In all cases at least half of the staff should hold a relevant qualification in day care, or education, or have completed an appropriate training course. Advice on appropriate training can be obtained from the Northern Ireland Pre-School Playgroups Association (NIPPA), the Northern Ireland Child Minder's Association (NICMA) or any of the awarding bodies such as the Central Council for Education and Training in Social Work (CCETSW).

#### **(b) Premises and space standards**

Sessional day care will be provided in a variety of premises. Many playgroups will share community centres, village or church halls with other users. Some rent rooms from schools where they are likely to have sole use of that space with (possibly) access to other facilities in the school. A few own their premises – often demountable buildings attached to a school or other institution, 25 square foot per child (2.3 square metres) of clear space is desirable. There should be a minimum of one lavatory per ten children. It is desirable to have more than one room so that quiet and noisy activities can be separate and there is space for children to rest. Organisers should ensure access to outside playspace which should where possible be



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adjacent to the premises. This may not always be possible and organisers should make arrangements to take the children to playgrounds or local parks or equivalent from time to time.

### (c) **Snacks**

All facilities should provide snacks and drinks for the children during the session. These should be varied, nutritious and chosen to reflect the wishes and preferences of the children's parents.

### (d) **Observation and records**

The advice in paragraph 5.36(h) should be generally followed in the case of sessional facilities but perhaps in a less formal way. In particular there may be more emphasis on oral reporting to parents and other individuals rather than keeping written records.

### **Nursery schools and classes**

- 5.38 Nursery education – whether in nursery schools or nursery classes within primary schools – can be offered on a full-time or part-time basis. Nursery education has a value in terms of present benefits to many young children as well as in terms of their preparation for the years of compulsory schooling; in this respect it may particularly help children from disadvantaged backgrounds or with special educational needs. Trusts should continue to promote the participation in nursery education of children in these two categories of need and liaise with local schools to ensure that admissions arrangements give due priority to such children. Settling-in procedures may include home visiting, visits to the school and information packs which reinforce the benefits that early schooling brings.

### **Child minding**

- 5.39 Child minders may look after pre-school and school-age children. This section also applies to nannies employed to look after the children of more than two sets of parents because they are not



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exempt from the requirement to register with a Trust. Child minders work in their own homes, usually on their own although some may work with an assistant and some in partnership with another child minder. Some may also provide training opportunities for people on a child care course – for example an NNEB student – or anyone gaining work experience to work with young children in a domestic setting.

(a) **Child minder/child ratio**

The standard recommended ratios are:

1:3 children aged under five

1:6 children aged between five and seven

1:6 children aged under twelve of whom no more than three are under five.

Good practice suggests that a single-handed child minder should look after no more than three children aged under five. When children over five years are present the number of children should not exceed six. In both cases the child minder's own children are included. Where a child minder employs an assistant the same adult child ratios apply. Rather than doubling the numbers of children where an assistant is employed, Trusts should determine the maximum number of children to be cared for, taking account of available space and the age of the children. When deciding on the ratios to set, Trusts should have regard to the number of children aged over twelve and under 14 who are likely to be in the house regularly. The Children Order gives Trusts power to set a limit on the number of children within the under twelve age banding and they may wish to use this to apply an upper limit to the number of babies who may be looked after by a child minder.





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(b) **Premises**

The premises should be free from hazards and welcoming to the children. There should be sufficient space for children to have undisturbed naps during the day. This might involve using a separate room such as a bedroom which will often not be on the same floor as the living room or kitchen. Access to a garden should be safe and the garden free from hazards. There should be adequate arrangements for the control of pets so that children are not at risk of injury. Where a child minder does not have a garden, she should make arrangements to take the children to local playgrounds or parks regularly.

(c) **Equipment and toys**

Fires, switches, plugs and cookers should be adequately protected so that there is no risk of the children injuring themselves. There should be arrangements for safe storage of items such as ornaments, sharp knives and kitchen equipment which could injure the children or cause an accident. There should be a stairgate and the door to the garden should be secured so that children cannot get out unsupervised or without the knowledge of the child minder. Any door fitted with glass should have safety glass or be covered with protective plastic film. There should be sufficient equipment such as high chairs, bedding and buggies or car seats so that the child minder can provide good quality care. An equipment loan scheme which might be run by Trusts or local child minding groups is an effective way of ensuring that child minders have access to the amount and type of equipment they need. Child minders should consider how best to ensure that the children they care for can choose from a variety of toys. They will need to ensure also that their own children's toys are kept secure and any toys brought by minded children are returned promptly. Toy libraries provide access to a range of toys which the children can choose for themselves and enable child minders to offer variety to the children.



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(d) **Relationship with parents**

Child minders and parents need to have a clear understanding about the terms and conditions of the arrangements with which both agree. The Department recommends a written contract to cover such matters as the level of fees, the times for leaving and collection the child, the arrangements covering sickness in the child, parent and child minder, holidays, child's attendance, where appropriate at playgroup, pre-school education facility or special activity such as swimming, special dietary requirements and policy on behaviour and sanctions. The model contract prepared by the Northern Ireland Childminding Association is commended.

(e) **Observation, assessment, records and reports**

The Children Order requires child minders to keep records of the children they look after. Trusts should take account of the advice below about keeping records of observation and assessment of children's activities. As child minders usually work alone in domestic premises, maintenance of formal records is not practicable. However they should be able to share with the parents details about what the child has done during the day including any changes in behaviour. This might involve keeping notes as well as relying on memory. Trusts should encourage child minders to develop these skills.

**Standards for day care services for school-age children**

- 5.40 Day care services provide play opportunities for school-age children outside school hours and in the holidays in three types of setting which may overlap: a care setting where children are looked after by other adults when the parent is not available; and open access or drop-in play setting where children go to meet other children and when there is some adult supervision; a special interests setting where children develop particular skills and knowledge.
- 5.41 The Children Order requires Trusts to regulate day care services used by school-age children aged under twelve. The Article 19



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general duty to provide day care for children in need and the power to provide such a service for other children, apply to children of any age. These paragraphs deal in detail with the standards which are acceptable for registration purposes for services used by school-age children aged under twelve. They should also be applied where a service is run on premises which are exempt from the registration requirements or by a Trust itself. The services covered are sessional and full day care, out-of-school club and holiday schemes. Holiday schemes look after children of school age during the school holidays and operate like out-of-school clubs. The latter usually offer care to school-age children in the absence of their parents or carers from the end of the school day until collected but may also operate before school.

### **Sessional and full day care and out of school holiday schemes**

- 5.42 Sessional care facilities normally run after the end of the school day for two or three hours and perhaps for an hour before school. Holiday schemes sometimes work on a full day basis. Children will be escorted to the facility and will stay there until collected by a parent or someone who has parental responsibility or is looking after the child.

#### (a) **Staff/child ratio**

The standard recommended ratio is:

1:8 for school children aged under twelve.

A higher ratio may be necessary when children with a disability attend a facility; a lower ratio may be appropriate for some short sessional facilities not lasting the full day. Day care providers running such facilities should ensure that at least half the staff hold a relevant qualification, for example in child care, teaching, playwork or youth work, and the person in charge must be qualified, unless he has considerable experience. Where facilities are used by children aged over twelve as well as under twelve, day care providers should



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ensure that there are sufficient staff in total to maintain the 1:8 ratio for the under twelves. In the case of full day care holiday schemes the person in charge should be treated as supernumerary in the calculation of the ratio where there are places for more than twenty four children. This does not apply to sessional facilities.

### (b) **Premises and space standards**

Facilities may be organised in a variety of places ranging from those designed with the needs of children in mind where the provider is the sole occupant, through shared facilities which are designed for children to non-purpose built accommodation shared with other users. The space standard for children aged under twelve should be 25 square feet of clear space per child (2.3 square metres). Regard should be had to the number of older children likely to be present, and whether children with a disability attend. There should be some office space, facilities for providing snacks or main meals (according to the type of facility and its operational policy), toilet facilities (a minimum of one lavatory and wash basin per ten children and separate facilities for staff). Where possible, day care providers should be able to separate boisterous and quiet activities. This is particularly important for facilities used by the same children all day. There should also be access to outside playspace preferably adjacent to the premises. Where this is not possible, local parks and other open spaces should be used.

### (c) **Number of places and group size**

There is insufficient information available to advise on maximum numbers. Organisers need to give careful consideration to this point and in so doing consider such points as viability, and likely catchment area. In care settings where children are likely to remain for two hours and more during the holidays, high overall numbers may mean that proportionately fewer children receive individual attention regardless of the actual staff/child ratios. It is suggested that where a very large facility is concerned – with over one hundred places for example – it should be organised so that the children are in self-



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contained units of not more than thirty. The group size of children aged under twelve should not normally exceed ten.

(d) **Visits and outings**

These are likely to add to the children's interest and enjoyment. This applies particularly to holiday schemes, but out-of-school clubs may also wish to arrange occasional visits to local facilities such as swimming baths, skating rink or library. The arrangements for transporting the children need to be carefully planned. Where necessary, additional people should be recruited to ensure safety. This is particularly important where children with a disability are concerned. There must be agreed arrangements for obtaining parental permission in writing for outings and visits. The use of consent forms is commended.

(e) **Furniture and equipment**

This should be suitable, in reasonable repair and well maintained. Day care providers may wish to supplement chairs with beanbags and floor cushions which help create a friendly and informal atmosphere. Equipment and materials should be in sufficient supply for the number of children attending or likely to attend. It should include materials for art, collage, sport and games, dressing up, music, jigsaws, construction toys and crafts.

(f) **Observation, assessment, reports and records**

The Children Order requires registered providers to maintain records of the children attending any facility but this will be limited to factual matters. It is desirable for people working with children in out-of-school or holiday settings to develop skills in observing what the children are doing and to assess the implications in terms of child development and planning future activities. Day care providers should decide whether to adopt a policy of having written records in order to help development of this skill.



## CHAPTER 6: REGISTRATION OF DAY CARE SERVICES AND CHILD MINDING

6.1 The main purposes of registration under Part XI of the Children Order are:

- to protect children;
- to provide reassurance to persons using independent services who are arranging for their child to be looked after by someone who is not a relation and may be a stranger;
- to ensure that services meet acceptable standards;
- to ensure that people wishing to provide services for children do so within an agreed framework.

Registration is required of anyone providing or intending to provide day care and those providing or intending to provide child minding services for reward. This applies to voluntary organisations, community groups, child minders, employers and the private sector. It follows that registration has to be a positive process, there to help the setting up of good quality services for families to use on an informed basis and with confidence. Applications must be handled promptly and sympathetically.

6.2 Trusts should therefore use this function in an enabling and facilitating way and seek to encourage developments. Policy on registration should be developed by the Trusts. They have a wealth of knowledge and expertise about day care services for young children and how to provide and maintain acceptable standards of care. This should be shared with intending providers and child minders so that there is a clear understanding about the standards required and the reasons for them. Trusts should also recognise the expertise or knowledge which may be held by those applying for registration and work to building on this.



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6.3 Requirements imposed under Article 125 (Child minders) and Article 126 (Day Care) should be limited to those set out in the Children Order and regulations made by the Department under these Articles. Trusts must impose these mandatory requirements and only such others as are essential for the proper operation of the service. Trusts will also wish to advise on and look for standards of good practice, but it is important to maintain a clear distinction between what is obligatory for registration purposes and suggestions for improving the service.

### **The registration system**

6.4 The Children Order gives Trusts a duty to maintain a register of day care providers and child minders. It is for Trusts to decide how to set up and operate the registration system. Senior officers should be involved in monitoring the system.

6.5 Trusts should have regard to the need for:

- a systematic approach to the task so that applications are dealt with quickly and efficiently;
- appropriate training and adequate support for staff responsible for processing applications and assessing standards of care;
- the provision of comprehensive information about the process, including the time it will take and what is expected of applicants.

### **Involvement of legal advisers**

6.6 Trusts should identify the circumstances when their legal advisers must be consulted before a particular step is taken.



### **Fire Authority for Northern Ireland**

- 6.7 Trusts will need to establish working arrangements with the Fire Authority so that each understands the other's policy and procedures. It is recommended that each Trust consult the Fire Authority before granting registration. The latter will be prepared to inspect the premises and advise Trusts about fire safety as well as giving advice to the person who has applied for registration.

### **Environmental health and food safety**

- 6.8 Trusts need to establish effective working arrangements with environmental health departments within the relevant district council so that there is clear understanding about each other's policy and procedures. Environmental Health Officers are a useful source of advice on food hygiene and food safety matters as well as other aspects relating to environmental health. Trusts should also ensure that environmental health officers clearly understand that child minding is a service provided in domestic premises.

### **Health and safety**

- 6.9 Trusts should establish effective working relationships with the Health and Safety Inspectorate. Trusts should provide guidance to their staff on health and safety, food hygiene, fire safety and planning procedures.

### **Police checks**

- 6.10 Trusts should take steps to ensure that providers are aware of the need to check the criminal background of all those who apply to work with children including volunteers, trainees and students. The Departmental Circular "Making the Right Choice" CC2/96 gives advice about the arrangements for checking with the police the possible criminal background of those who apply to work with children. The list of persons on whom checks should be requested identifies the main groups and is not meant to be exhaustive. Child





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minders and other adults in the household are included in the list as one of the main groups to whom the arrangements apply. Trusts should ensure that they establish close working relationships with the police so that the arrangements for carrying out the police checks do not unduly delay completion of the registration process.

### **Handling of applications**

- 6.11 Trusts should ensure that decision on applications for registrations are normally reached within **three months** of receipt of the completed application form in the case of child minders and providers of sessional day care (playgroups, out of school clubs) and **six months** in the case of full day care services. Where there is likely to be a delay the applicant should be informed of the reasons and told when the decision is likely to be made.

### **Staffing**

- 6.12 The Children Order introduces a common age limit of under twelve which is to apply to people providing day care for children in non-domestic premises and child minders working in domestic premises. Trusts should consider the implications of the new age limit for registration and inspection staff in the light of the views of the staff concerned and the resources available.

### **Workload**

- 6.13 The Trust should decide on the appropriate workload for registration and inspection officers, having regard to its policy on day care and related services for families with young children. The following factors are relevant when working out what staff are needed to run an efficient registration system:

- the recommended time limits for completion of the process set out in paragraph 6.11 above;
- quantity and type of existing facilities in the area;



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- the likely rate of new applications and for what type of service;
- average number of visits made to intending day care providers before process is complete;
- average number of visits made to intending child minders before process is complete;
- average amount of administrative work (telephone calls, letters etc) associated with each application;
- some allowance for dealing with more complex applications;
- volume of inquiries from intending providers or child minders;
- support visits to registered persons;
- inspection duty;
- administrative support (eg clerical help, management time).

6.14 Individual staff processing applications should not inspect facilities which they are responsible for registering. It is also important to ensure adequate management and administrative support is provided. Trusts should set up arrangements for monitoring the efficiency and effectiveness of the system so that remedial action can be taken if needed.

#### **Who is required to register?**

6.15 The registration system is based on the concept of “registered persons”. The term “person” in law includes individuals and corporate bodies eg companies, district councils, organisations such as charities and some committees. Trusts are not required to keep separate register of non-domestic premises where day care activities are provided. “Premises” is defined as including a vehicle (Article 118(1) and (2)).



- 6.16 Two categories of person are required to register:
- (a) A child minder who looks after one or more children aged under twelve for reward on domestic premises (Articles 118(1) and (2) and 119(1)).
  - (b) A carer who provides day care on non-domestic premises for one or more children aged under twelve. Separate registration is necessary for a person who provides a day care service in more than one place. The “for reward” criterion does not apply in the case of a person providing day care on non domestic premises (Articles 118(1)(b) and (2) and 120(2)).
- 6.17 **The term “day care” covers such facilities as day nurseries, playgroups, permanent crèches in shopping centres, leisure centres, further or higher educational establishments, temporary crèches set up for special events such as conferences, out-of-school clubs, holiday playschemes, adventure playgrounds, child minding and nannies (in certain circumstances).**

**Supervised activities not to be subject to registration**

- 6.18 In Article 19 of the Children Order the term “day care” includes care or supervised activities provided for children during the day and the same terms are used for out-of-school provisions for school age children. The same definition applies to Part XI which covers day care provided by the voluntary and private sectors (Article 2(2) definition of day care). “Supervised activity” is defined in the Order as one “supervised by a responsible person”. It is not intended that all supervised activities will in practice be subject to registration. Article 121(6) of the Children Order provides the Department of Health and Social Services with power to exempt specified supervised activities from any requirement to register. This power has been exercised. The Day Care (Exempt Supervised Activities) Regulations (see Annex D) set out the registration will not be required for supervised activities in relation to:



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- (a) uniformed organisations and religious activities for children;
- (b) leisure and recreational activities;
- (c) extra-curricular activities occurring in schools; and
- (d) activities designed to enhance a child's skills and attainments, including dancing, sports related activities and educational tuition.

The intention is to limit registration to situations where the primary intention is to provide care for children. There may be borderline cases where a Trust believes that day care is being carried out and that the person responsible should be registered as providing day care. In such cases the Trust will wish to notify the person concerned of its belief, and of the registration requirements, before consulting legal advisers about further action. Such notification is suggested in all cases where the Trust believes that registration requirements in relation to day care are being contravened – regardless of whether the person concerned was relying on an exemption.

- 6.19 Although they may not be required to register, Trusts should ensure that those responsible for running supervised activities take account of good practice and child protection guidance. Particular attention is drawn to “Our Duty to Care”, “Away from Home and Safe” and “Making the Right Choice”.

### **Persons exempt from registration**

- 6.20 The following individuals are exempt:
- a relative (a parent, grandparent, brother, sister, uncle, aunt, a step-parent and by affinity) of the child;
  - a person with parental responsibility (within the meaning of Article 6);



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- a foster parent in respect of the foster child (but he is required to register if he looks after other children (Article 119(2));
- a person employed by the parent to look after the child mainly in the child's home (Article 119(4));
- a person employed by two sets of parents to look after the children of both of them in the home of one or other of the children (Article 119(5)).

A person employed by more than two sets of parents to look after their children is required to register as a child minder.

### **Institutions exempt from registration**

6.21 Articles 121(1) and (2) of the Children Order list the institutions and establishments which are exempt from the requirement to register under Part XI of the Children Order even though children aged under twelve attend them. These are:

- a home provided by a Trust under Part VII;
- a voluntary home or a privately run children's home;
- a residential care home;
- a hospital (including a private hospital) or a nursing home;
- a home or other institution not falling within the above mentioned but provided by the Secretary of State, a government department or a prescribed public body;
- any school providing full-time education.

People who provide what are sometimes referred to as "private nursery schools" are required to register with a Trust. Those providing a nursery unit in any school which is an integral



part of the institution are not required to register.

6.22 These exemptions do not apply in situations where:

- a person (including a voluntary or community group or private company) who is not employed by the organisation managing the institution, is allowed to use part of the building to provide day care;
- the person responsible for the institution or establishment, or someone employed by him, provides a day care service but the service is not an integral part of the institution or establishment nor included in the job description of the employee.

#### **Occasional day care facilities**

6.23 Article 121(4) provides for day care facilities which are used on less than six days in a year to be exempt from the registration requirement. This exemption is intended to cover day care facilities set up for conferences and other occasional events. In all cases, before using the premises to provide day care for the first time, the organiser has to notify the relevant Trust that a day care facility is being provided. He should give information about its location, the numbers and age range of the children, numbers of staff and opening hours. Trusts should keep a record of such notifications. It is unnecessary to visit the premises on each occasion but this should be done from time to time so that Trusts may satisfy themselves about the suitability of the premises. Where different organisations use the same premises, the six days apply in respect of each organisation not in respect of the premises.

#### **Time limit**

6.24 Articles 119 and 120 provides that registration is required where the child minder or day care provider is offering a service for children aged under twelve for a period or total periods of more than two



hours in a day. This applies irrespective of the time spent in day care or with a child minder by an individual child. **Therefore facilities such as day nurseries and crèches in shopping centres, or leisure centres or colleges which are open throughout the day are registrable, even though individual children are likely to attend for less than two hours.**

#### **Fit person**

6.25 Article 124(1) and (2) defines two categories of fit person. Where the person is proposing to look after children aged under twelve the Trust has to be satisfied that he is suitable to do this. The Trust has to satisfy itself that other people living or working on the premises are “fit to be in the proximity of children aged under twelve”. The Trust should have regard to the following points when considering whether someone is fit to look after children aged under twelve:

- previous experience of looking after or working with children or people with a disability or the elderly;
- qualification and/or training in a relevant field such as child care, early years education, health visiting, nursing or other caring activities;
- ability to provide warm and consistent care;
- knowledge of and attitude to people of different religious and racial backgrounds;
- commitment and knowledge to treat all children as individuals and with equal concern;
- physical health;
- mental stability, integrity and flexibility;
- known involvement in criminal cases involving abuse to children.



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With persons living or working on the premises the points are:

- previous records;
- known involvement in criminal cases involving abuse of children.

Trusts should use the above list as a basis for deciding on the fitness of an applicant for registration. Persons applying for registration should know what factors are being considered when their fitness is being assessed.

### **Suitable premises**

6.26 Article 124(5) requires the Trust to satisfy itself about the fitness of the premises before granting registration. Trusts' information to prospective applicants should explicitly state the advisability of contacting the Trust before making a financial outlay on premises. In considering suitability Trusts should look at situation, construction and size. The type of premises used will vary considerably and each Trust should decide for itself whether particular premises satisfy its criteria for suitability having regard to location, type of building and size. Trusts should have regard to the points in lists (a) and (b) below when deciding on the suitability of premises for caring for children aged under twelve. Persons applying for registration should know what factors are being considered when assessing the suitability of premises.

#### **(a) Domestic premises**

- access to garden safety within it (fencing of ponds for example) and access to the road (children should be unable to leave the premises unsupervised);
- outside playspace;





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- safety of fires, electrical sockets, windows, floor coverings and glass doors (safety glass or protective plastic film should be used);
- cooking facilities and safety in the kitchen or cooking area;
- use of stairgates;
- presence of pets and arrangements for their control;
- arrangements for keeping the premises clean;
- facilities for rest and sleep;
- washing, toilet facilities and hygiene;
- fire safety eg smoke detectors, matches locked away;
- safe storage of drugs and dangerous substances.

While there is no statutory requirement to consult the Fire Authority for Northern Ireland before granting registration to a child minder, this may be advisable. Child minders should be encouraged to do fire safety training. An intending child minder who lives in a flat above ground level must not be refused registration on the grounds that the premises are not “fit” because they are above street level and/or outside playspace is not adjacent.

### (b) **Non-domestic premises**

The advice in Chapter 5 on space standards and organisation of room or rooms in services used by pre-school and school-age children should be taken into account in addition to these factors:

- access to road (children should be unable to leave the premises unsupervised) and outside playspace;
- safety in the outside play area;



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- glass doors (safety glass or protective plastic film should be used);
- arrangements for arrival and departure;
- washing, toilet facilities and hygiene;
- safety of fires, electric sockets, windows and floor coverings;
- cooking facilities and safety in the kitchen area;
- safe storage of drugs and dangerous substances;
- arrangements for keeping the premises clean;
- facilities for rest and sleep.

The Trust should consult the Fire Authority for Northern Ireland before granting registration. Fire officers will be able to advise day care providers about the use of fire fighting equipment, exit doors fitted with panic bolts and latches and rapid evacuation of children. It is suggested that day care providers should be encouraged to use this source of advice. There is no objection to having a day care facility above the ground floor, there should be proper arrangements for safeguarding access to the stairs or lifts. Registration should never be refused on the grounds that the facility was to be on the first floor or higher.

### **Equipment**

- 6.27 Article 124(5) gives a Trust power to refuse registration if it considers that any equipment on the premises in question is not fit having regard to condition, situation, construction and size. There are different sources of advice on the safety of different types of equipment and registration and inspection officers should ensure that they are kept informed about these. In their examination of the equipment in a day care facility or a child minder's home Trusts should take account of these points:



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- the equipment should be appropriate to the age and stage of development of the children;
- where a British Standard exists, the equipment and furniture should conform to it;
- the amount of equipment and furniture and their quality and type should be adequate for the number of children attending the facility and the adults working there;
- the organisation of kitchen equipment in non-domestic premises must comply with environmental health regulations.

### **Non-parental care of babies and toddlers**

6.28 Under the provisions of the Children Order a Trust has a duty to register persons providing day care in non-domestic premises who intend to offer places for babies and toddlers provided that they satisfy the requirements regarding their own fitness and suitability of premises and equipment. In deciding on the requirements to be imposed, Trusts should pay particular attention to the following:

- separate room for babies and toddlers;
- organisation of staff rosters should maximise the continuity of carer;
- each baby to be looked after by one person during each shift;
- knowledge of child development in the very young and understanding about ways of enhancing development of skills through interaction, play etc.

### **Mobile facilities (playbuses)**

6.29 There are particular points to be considered in the case of day care services provided on playbuses. These include the organisation and



layout of the space, access to the stairs (in the case of double-deckers), handrails on stairs, access to the driver's cab and exit/entry doors, fire precautions and safety generally. It may therefore not be practicable to apply the same standards as required for other premises. Many mobile facilities are used by a range of client groups and use of the space is planned on that basis. Because mobile facilities work across Trust areas responsibility for registration rests with the Trust in whose area the organisation or individual responsible is based.

### **Registration requirements**

6.30 Articles 125 (child minders) and 126 (day care providers) set out the requirements which a Trust must impose on a person's registration and with which the registered person must comply. Trusts have discretion to impose other requirements which must not conflict with the mandatory requirements (these requirements might include a statement as to the maximum number of students and trainees in any facility). In general it is suggested that the discretion is used by Trusts to encourage day care providers and child minders to operate in a businesslike way – for example by taking out public liability insurance – and to raise standards through training. Requirements might also include a statement as to the maximum number of students, trainees or other adults in a facility. In deciding on the requirements to be imposed, a Trust is to treat each individually so that the requirements reflect its particular circumstances.

6.31 The mandatory requirements relate to:

- number of children;
- maintenance and safety of the premises and equipment;
- maintenance of records;
- notification of changes;
- numbers of staff (day care providers only).



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### **Numbers of children**

- 6.32 Chapter 5 contained detailed advice on this which should be followed when deciding on the requirements to impose on the registered person. Trusts should adopt a flexible approach to this matter.

### **Maintenance and safety of premises and equipment**

- 6.33 Trusts should take account of guidance in Chapter 5 on standards of services when imposing requirements. Day care providers and child minders should be encouraged to pay proper attention to this aspect so that children are cared for safely.

### **Records**

- 6.34 Registered persons must keep records of the following:
- names and addresses of all children attending;
  - names and addresses of staff (in the case of day care providers) or assistants (in the case of child minders);
  - in the case of child minders names of persons living or likely to be living in the house;
  - names of the members of the Board of Directors, management committee or group.

The records about the child should include age/date of birth, name by which he is known and birth name (if different) and surname, names of parents, emergency telephone numbers and information about health problems or conditions (if any) and whether he is on any medication. This last point is particularly important in the case of children in full day care or with a child minder, and may be desirable in some instances (eg where children with a disability are concerned). In the case of child minders details about other adults in



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the house should include the immediate family, any lodgers or subtenants, or live-in employees. An assistant employed by a child minder is not required to register under the Children Order.

### **Numbers of staff**

- 6.35 This paragraph applies to day care providers only. The advice in Chapter 5 on staff/child ratios should be followed. Attention should also be paid to numbers and types of support staff. The Trust should make inquiries about use of volunteers and ascertain whether this is done regularly or occasionally.

### **Notification of changes**

- 6.36 Registered persons are required to notify changes in the numbers of staff (day care providers) or in the assistants (child minders) looking after children and people living in the premises. It is suggested that as a matter of good practice child minders should also inform the Trust about major alterations to the premises and if they cease to work as a child minder. On receipt of information about any changes the Trust should decide on the appropriate action to take, such as instituting checks and/or making a visit. Day care providers are required to report changes in the type of day care offered. For example a pre-school facility which decides to offer an after school service for school-age children or changes the opening hours. On being notified of changes the Trust will wish to consider the need to visit. If it is satisfied that the person and premises still meet the fitness and suitability criteria, a revised certificate should be issued.

### **Variation, addition or cancellation of imposed requirements**

- 6.37 Article 125(6) (child minders) and Article 126(8) (day care providers) give Trusts power to vary, add to or cancel any imposed requirements. This power is provided so that the Trust can respond appropriately either to changes notified by the registered person or matters raised or identified during an inspection.



### **Refusal of registration**

6.38 Article 124(1), (2), (3), (4) and (5) gives the Trust power to refuse registration where it is satisfied that:

- the person who intends to care for the children is not fit to do so;
- someone living or likely to be living in the household, or working or likely to be working the premises, is not fit to be in the proximity of children aged under twelve;
- the premises and/or equipment are not suitable.

Article 122 disqualifies certain categories of person from registration unless the Trust gives written consent to removal of the disqualification (see also The Disqualification for Caring For Children Regulations at Annex B). Article 123(1) states that a Trust must register an applicant if the application is properly made and there are no other grounds for refusal. The registration system is to operate on the basis that a Trust has to be able to demonstrate why it is satisfied that a person is not fit and/or the premises and/or equipment are not suitable. Applicants for registration have to provide the information necessary to enable the Trust to satisfy itself about these matters. Trusts should seek legal advice before exercising this power. The basis for refusal should be supported by evidence.

### **The register**

6.39 Article 188 requires Trusts to maintain a register of child minders and people who provide day care services. The main purpose of the register is to provide information about the day care services and child minders in the area to parents and other interested parties such as employers. The form in which the register is kept should be decided by each Trust and in so doing the following points should be taken into account:



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- (a) the register should be compiled so that child minders, sessional day care facilities such as playgroups and out-of-school clubs, and full day care facilities such as day nurseries can be identified separately. It may also be desirable to identify separately those run by district councils and other statutory authorities, nurseries run by companies or individuals as businesses and those run by voluntary organisations. This might apply also to other types of day care or supervised activity;
- (b) each entry should include the name, address, telephone number and number of places. The register should not be kept on open shelves because of the risk of details about these facilities being used in an improper way;
- (c) inquirers need to be able to find out easily where they may consult the register. Trusts will wish to decide whether it should be kept in one or more places. Public notices about where it is kept should be displayed in a range of locations;
- (d) the register may be kept on a computer.

### **Publicity**

- 6.40 **Trusts should ensure that the introduction of the registration system is given adequate publicity so that intending child minders and providers of day care know about the need for registration and where to go for information.** Information for intending child minders and day care providers should make clear the advantages of registration such as access to other Trust services as well as making clear that it is an offence not to be registered.

### **Applications for registration**

- 6.41 Article 123(2) requires people applying for registration to do so in accordance with regulations made by the Department of Health and Social Services (see Chapter 9). These include a requirement for the





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applicant to provide details about the people helping to look after the children and those living or likely to be living on the particular premises. Trusts should design their own application forms and notes of guidance. The form should require the applicant to supply the following information:

- name of person, company, committee or group and, in the case of the last three, a list of the Board of Directors, officers and members of the committee or group;
- address where it is proposed to care for the children, together with address for correspondence if different;
- type of service to be provided;
- in case of day care provided on non-domestic premises, proposed numbers and age range of children;
- previous experiences of providing day care or supervised activities and relevant qualifications;
- references;
- health information;
- details of criminal convictions;
- names and addresses of members of staff;
- names of other people living on the premises;
- names of other adults in the household (in the case of child minders).

The notes of guidance should explain how the application will be dealt with including arrangements for checking the criminal background, visiting the applicant, the documentation which should be endorsed such as planning permission, fire certificate etc.



### **Follow up after granting of registration**

- 6.42 The Children Order requires the Trust to carry out an inspection of a registered person at least once a year. It is also desirable to make occasional visits to provide support and advice to registered persons. In this way it will be possible to identify at an early stage areas of concern and remedial action can be instituted more effectively.

### **Cancellation of registration**

- 6.43 Article 128 gives the Trust power to cancel registration where:
- (a) the circumstances would justify refusing to register someone as a child minder or provider of day care (Article 128(1)(a) and (2)(a));
  - (b) the care being given to an individual child is considered by the Trust to be seriously inadequate having regard to his needs including his religious persuasion, racial origin and cultural and linguistic background (Article 128(1)(b));
  - (c) the person has contravened or failed to comply with a requirement imposed on their registration (Article 128(1)(c) and (2)(c));
  - (d) the condition of the premises is such that the Trust would be justified in refusing registration (Article 124(5)).
- 6.44 The Trust should ensure that the evidence produced to justify cancellation is capable of standing up to examination in a court. The Trust should always seek advice about a proposed cancellation from its legal advisers. While each case has to be handled in the light of particular circumstances, the following factors should be taken into account:



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(a) **Circumstances which would justify refusal:**

- person no longer fit to look after children aged under twelve by reason of attitude to them, standard of care or health;
- persons living in the household not fit to be in the proximity of children aged under twelve by reason of behaviour or attitude towards them:
- premises or equipment not suitable.

Trusts should use the power to cancel registration flexibly. In particular it is inappropriate to cancel registration because of short-term lapses from agreed or intended ratios.

(b) **Seriously inadequate care:**

- signs of uncaring neglect such as a child being left in a dirty nappy for extended periods, inadequate clothing, cold rooms, inappropriate restraint or child left unattended;
- grossly inappropriate types of activity and play opportunities;
- failure to recognise and respond sensitively to child's religious, racial, cultural and linguistic needs;
- gross lack of emotional and physical warmth.

In assessing whether a registered person is failing to recognise and respond sensitively to a child's religious, racial, cultural and linguistic needs, Trusts might consider whether he is being treated less favourably on religious or racial grounds or if he is being ridiculed or his dietary needs are not being met.



### **Emergency cancellation**

- 6.45 Article 129 gives the Trust power in cases of emergency to apply to the court to cancel a person's registration, to vary an imposed requirement or to remove or impose a requirement. Any application to the court for such an order has to be accompanied by a written statement of reasons (Article 129(3)). Notice of the application is not required to be given to the registered person. The court must satisfy itself that the child who is being or may be cared for by the registered child minder or person providing day care is suffering or likely to suffer significant harm. The court has discretion about whether to make the order (Article 129(1)). Cancellation of registration or variation, removal or imposition of a requirement are effective from the date of the order. The Trust is responsible for serving notice of the order on the registered person together with a copy of the written statement of reasons (Article 129(4)). Trusts should always seek legal advice before exercising this power. The evidence submitted must be capable of examination by a court.

### **Certificate of registration**

- 6.46 Article 127 requires the Trust to issue each registered person with a certificate. This must specify the person's name and address, the address where the service is provided and the requirements imposed under Article 125 or 126. Amended certificates must be issued. The registration system should be organised so that once it has been decided to grant registration a certificate is issued immediately. If a certificate is lost or destroyed, a copy may be issued on payment of a fee, the level of which is to be determined by the Department of Health and Social Services. Trusts should design their own certificates, ensuring that all the information is clearly presented.

### **Appeals**

- 6.47 A Trust which:
- refuses registration;



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- cancels registration;
- refuses consent to a person disqualified from registration (Article 122);
- imposes, removes or varies any registration requirements;
- refuses to grant an application for variation or removal of a requirement,

must notify the applicant or registered person at least fourteen days before the proposed action of its intention and the reasons for it and give him an opportunity to object. If, after hearing the objections, the Trust still decides to take the action proposed, it has to send a notice in writing. The person then has the right of appeal to a court. It is for Trusts in consultation with their legal advisers and any others with an interest to have agreed procedures for dealing with objections from applicants or registered persons. This may involve arranging for the objections to be heard by an independent panel.

### **Offences**

6.48 Article 132 covers offences:

- (a) In the case of the offence of caring for children whilst disqualified from registration, a person found guilty on summary conviction would be liable to a term of imprisonment of not more than six months or a fine or both. For all other offences the penalty would be a fine.
- (b) In the case of a child minder, it is an offence to look after children aged under twelve whilst unregistered. Where a Trust believes that someone is doing this, it may serve a notice – an “enforcement notice” – on the person concerned informing him of the requirement to register and stating that he must not look after children aged under twelve for reward until he is registered. If the person contravenes the terms of



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the notice, he is guilty of an offence. This means that for child minders the act which could lead to charges being brought is not caring for children under twelve but doing this in defiance of any notice issued by the Trust. This provision is included in the Children Order to deal with persons who occasionally look after children for reward, usually to help a friend or neighbour in an emergency, but to not intend to do this as a business. **It is important to ensure that persons who plan to work as child minders clearly understand that they are required to register.**

### **Re-registration (transitional provisions)**

- 6.49 Part I of the Children and Young Persons Act (NI) 1968 is repealed by the Children Order. Paragraph 26 of Schedule 8 to the Order contains transitional provisions so that premises and child minders registered with the Trust under the 1968 Act may retain that registration for a period of up to one year of the coming into force of the Children Order. During that twelve month period Trusts should, where appropriate, re-register child minders under Article 118(1)(a) and persons in respect of non-domestic premises under Article 118(1)(b) of the Children Order.
- 6.50 **Trusts should take steps to ensure adequate publicity is given to these transitional provisions and to the need for those persons registered under the 1968 Act who wish to continue to work as child minders or day care providers to re-register under the Children Order.** It is for each Trust to decide how to publicise this and organise the registration process. In so doing, it should ensure that existing facilities are not refused registration under the Children Order on the grounds that existing staffing levels or space standards fall below those recommended in this guidance provided the overall standards are satisfactory. In such cases where a Trust considers the standards in an existing facility are below those recommended the child minder or day care provider should be given a specified time to reach them. The exact time limit will depend on the particular circumstances of the case, but normally it should be no more than one year.



## CHAPTER 7: INSPECTION

- 7.1 Article 130 gives Trusts a duty to inspect domestic premises in which registered child minders are working and non-domestic premises where day care for children aged under twelve is being provided at least once a year. Under Article 130(2) the Trust may also authorise someone to enter any premises in its area if it has reasonable cause to suspect that a child is being looked after by a child minder who is not registered and is not exempt from the requirement to register or by an unregistered person providing day care in non-domestic premises. Any person carrying out this inspection duty is required to carry a document authorising him to undertake the task.
- 7.2 Article 130(5) requires the Trust to notify each registered person in advance that an inspection is to be carried out. Reasonable notice should be given. Trusts may also decide to make visits with no advance warning. This may be necessary where the person who had carried out the inspection was concerned to establish that an acceptable standard of care was being provided consistently.
- 7.3 The Children Order gives the person carrying out the inspection power to examine the premises, the children, the arrangements for their welfare and the records which registered persons are required to keep under the provisions of Article 125 or Article 126 as appropriate. Where the records are kept on computer, its operation may be checked with help from the registered person if required. It is an offence to obstruct the person carrying out the inspection.

### Examination of premises

- 7.4 This should involve looking at safety measures such as fireguards, stairgates, access to outside playspace etc, electrical sockets, windows, storage and cooking facilities, hygiene and cleanliness. Use of the space or rooms and toilet facilities. Regard should be had to the advice in Chapters 5 and 6 and the officer should satisfy himself that the registered person is properly complying with the requirements imposed in respect of safety.



### **The children and the arrangements for their welfare**

- 7.5 The officer carrying out the inspection should satisfy himself that the children are being well cared for and the standard of care provided is acceptable having regard to their needs, including their religious persuasion, racial origin and cultural and linguistic background. He should also take account of the general advice in Chapter 5 and where appropriate any voluntary codes of practice.

### **Records**

- 7.6 The examination of the records should involve checking that these conform to the imposed requirements. It is desirable that the inspection officer makes inquiries to find out about the registered person's policies on observation, assessment, records and reports on the children and how these are implemented.

### **Purpose**

- 7.7 The main purposes of the inspection are:
- to enable the Trust to satisfy itself that children are appropriately cared for and services are being provided to an acceptable standard;
  - to provide reassurance to parents;
  - to ensure that the facilities provided are in accordance with the information held on the register;
  - to encourage day care providers and child minders to raise standards.
- 7.8 There should be arrangements for monitoring the effectiveness of inspection. This should be seen as an integral part of the registration process and used to ensure high standards of service. Registration is granted after visits and discussion with the person concerned but





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before the day care service opens or the child minder cares for any children. Inspection provides an opportunity for Trusts to satisfy themselves about the quality of services offered by observing the interaction between the adult or adults and the children, and other relevant matters.

### **Process**

- 7.9 Carrying out an inspection requires particular skills. It is important that staff are given appropriate opportunities to develop knowledge and understanding of the process. They may involve training through seminars and workshops.
- 7.10 Each inspection should cover the same items. It is suggested that a written checklist provides an effective way of ensuring consistency between members of staff and across different facilities. There should be a written report of each inspection visit which should include details about how the room or rooms were organised, what the children were doing and the range of activities offered, the staff or child minder's interaction with the child or children, the arrangements for meals and rests and health and safety aspects. There should be arrangements for exchange of information between staff responsible for the inspection and for carrying out reviews of services in the area (see Chapter 8).
- 7.11 Trusts should ensure that the workload carried by people responsible for regulating services used by under twelves takes account of this inspection duty. Apart from the time taken to visit the facility or child minder, there should be adequate administrative support for issuing notifications in good time and report writing. Effective exercise of the inspection duties requires that staff are knowledgeable about the care of children and the optimum environment for development of skills as well as the techniques of registration and inspection. It is for Trusts to decide how best to achieve this. The "arms length" inspection units set up under the Health and Personal Social Services (Northern Ireland) Order 1991 are likely to develop considerable knowledge about the technique of registration and



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inspection. Where appropriate, arrangements should be made to enable staff responsible for registering and inspecting the providers of day care services and child minders to benefit from this specialised knowledge.



## CHAPTER 8: THE REVIEW DUTY

- 8.1 **The review duty in Article 20 of the Children Order establishes that the level, pattern and range of day care and related service for young children should be worked out at local level by Trusts in consultation with the appropriate education and library board and district council.** Trusts will wish to decide how this is to be carried out. Regard should be had to:
- whether any additional structures or working arrangements are needed to facilitate a co-ordinated approach;
  - effective working relationships with other bodies involved with planning, housing, leisure and recreation;
  - effective working relationships with other statutory bodies, voluntary organisations, the private sector, employers and parents.
- 8.2 Article 20 of the Children Order requires that the review takes account of all the day care services in the area including those run by the Trust, education and library boards, district councils and those in the independent sector. A report of the review is to be published and is to include information about changes in services and related matters. The review should cover day care services and supervised activities for school-age children. The review process should enable any expansion of services for this age group to be properly co-ordinated.
- 8.3 **Article 20(2) requires the review to be conducted at least once every three years. The first review has to be carried out within one year of the commencement of the Children Order.**
- 8.4 There should be arrangements for exchange of information between those involved in the work on the review duty and those who discharge the Trust's general duty to provide day care for children in need. The review should pay attention to the services which might



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be used by children in need taking into account Trusts' responsibilities towards such children in need and their families.

- 8.5 Article 20(7) requires the Trust to “have regard to any representations which it considers relevant”. It should agree on the arrangements for seeking views from all interested parties and individuals at the appropriate levels and sectors. The review should be an open process and early involvement is recommended with voluntary bodies. An Early Years Committee has been established in each HSS Board area. This is an effective way of involving and consulting outside interests and co-ordination of Trusts' review duties at this level may be appropriate.
- 8.6 The purpose of the consultation exercise is to enable the organisations and individuals who are interested in services for children and their families to express their views on the existing pattern of services, the need for changes (if any) and/or developments and how these might be instituted. The Trust should not limit the matters on which those consulted are asked to comment or express views.
- 8.7 In implementing Article 20(6)(c) (the proposals for changes to services and related matters) the Trust should cover the day care services it manages and, as far as possible, independent services in the area. The review should also cover Trust policy on implementing Article 19 (4) of the Children Order – power to provide facilities such as advice, training, guidance and counselling to day care providers. Where possible a date or time limit should be attached to any changes or developments reported.

#### **The review process**

- 8.8 The concept of “review” involves measurement or assessment. This is not possible without agreed aims and objectives for the service or services in question so that the review is undertaken within a framework. The process of review should be preceded by establishment of the appropriate structures and the setting of policy



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aims and objectives. It should be recognised that it is not a one-off exercise.

8.9 The Trust, in liaison with the relevant education and library board and district council, will wish to devise procedures for carrying out the review, bearing in mind that these should be the main stages in the process:

- setting the terms of reference;
- assembling baseline data;
- analysis;
- consultation;
- preparing the report;
- publication and dissemination of the report;
- follow-up.

### **Setting the terms of reference**

8.10 The Trust, education and library board and district council will wish to agree on detailed terms of reference for the review. This part of the process should include agreeing how the detailed work is to be done and the arrangements for overseeing it.

### **Baseline data**

8.11 Trusts, in liaison with relevant education and library boards and district councils, will be able to assemble factual information about numbers of places in day care services (full day care and sessional care for pre-school and school-age children), supervised activities and with child minders, numbers of children attending nursery schools and classes and reception classes in primary schools.



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This data will include numbers of facilities and the places in them and the different types of provider (eg Trust, voluntary groups, community or self-help groups, employers and partnerships). The exercise of the registration function will enable Trusts to draw conclusions about rates of new applications, time taken to process them and, possibly, mismatches between supply and demand for services in particular places. The exercise of the inspection duty will enable Trusts to draw some initial conclusions about use of services and experiences offered to the children. Trusts should ensure that information about the extent to which they have used Article 19(4) is assembled as part of the data collection.

### **Analysis**

- 8.12 The baseline data should be used as a starting point for analysing how this compares with known policy objectives on day care and early years education and to establish points of concern. Innovative or unusual schemes should be clearly identified as well as centres of excellence and know mismatches between supply and demand and other problems such as recruitment. The analysis should involve examination of issues such as type of curriculum or programme, variations in group size, physical environment including health and safety, staff development and training, religious, cultural and equal opportunities aspects, parental involvement and the policy on day care for children in need and how this is implemented and monitored. Attention should be paid to other support services for parents (eg toy libraries, befriending or home visiting schemes, parent/toddler groups and information services).

### **Consultation**

- 8.13 The Trust, in liaison with the other agencies involved, should work out the consultation procedures in the light of local circumstances. It should give organisations and individuals a reasonable amount of time to respond, but it is suggested that this should never exceed three months. Attention should be paid to ways of seeking views from a cross-section of the population. To facilitate co-ordination it is



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suggested that the review duty may best be carried out by the Area Early Years Committee.

### **Preparation of the report**

- 8.14 The Trust should aim to produce a succinct report which is accessible to a wide audience. This may involve producing it in a variety of formats eg Braille or large print.

### **Publication and dissemination**

- 8.15 The Trust should decide the form of publication and the arrangements for dissemination. In so doing it should have regard to these general points:

- the report should help to increase interest in services for young children among the population as a whole;
- it should encourage debate about local services and how their developments can produce benefits;
- the review process should be a continuing one.

Article 20(6) requires the Trust to publish the results of the review as soon as is reasonably practicable. The Trust should publish the report no later than three months after the closing date for the consultation exercise. It should be made readily available. The Trust should ensure that all the organisations and individuals who contributed to the review receive copies.

### **Follow-up**

- 8.16 There should be agreed arrangements for follow-up. These will depend on a number of factors including the type of co-ordination machinery and arrangements within the relevant agencies for monitoring policy development. The review process must be an active procedure which encourages development of good quality



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services, planned and delivered in the light of local wishes and expectations. Agreed, well publicised arrangements for follow-up will help this to happen.

### **Content of the report**

8.17 There should be consistency between Trusts in carrying out their duties under the Children Order. To this end each Trust should ensure that the report of the review covers:

- basic data on services in the area;
- map of the area with the location of facilities marked;
- policies on day care and early years education, children in need, services for children with special educational needs, policies on equal opportunities including religion, race, gender and disability;
- centres of excellence and those with innovative or unusual features;
- known problems for example, mismatch of supply and demand, difficulties in staff recruitment, shortage of child minders or difficulties in the operation of the registration system;
- training opportunities;
- range of other support services for families;
- method of conducting the review;
- numbers of Trust staff involved in services for pre-school age children and out of school activities and in what capacity;
- changes in provision, plans for the future and monitoring arrangements.





**CHAPTER 9: CHILD MINDING AND DAY CARE REGULATIONS  
ON APPLICATIONS FOR REGISTRATION**

- 9.1 Regulations in respect of child minding and day care (The Child Minding and Day Care (Applications for Registration) Regulations) are reproduced at Annex A.
- 9.2 The definition in the regulations deals with the question of hours. In most cases persons intending to offer a day care service which satisfies the criteria for full day care will expect to provide at least one main meal for the children.

**Applications for registration**

- 9.3 The details specified in the Schedules to the regulations provide Trusts with information about an intending child minder or day care provider to form the basis for reaching a decision about an application for registration to look after children aged under twelve. It is for Trusts to decide whether to ask applicants to supply information in addition to that specified in the Schedules, but it should not conflict with the details specified.

**Providers of day care**

- 9.4 The Schedules to the regulations require intending providers of day care to supply information about the name of the company or organisation and the person in charge. Trusts will wish to note that this has been included in order to ensure that information about the person, who will have day-to-day responsibility for providing a day care facility, is supplied. This is necessary in cases where a firm or company is responsible for several day care facilities and the Trust needs to establish that the person who has daily contact with the children attending a particular facility satisfies the fitness criteria. It would be less relevant to apply this test to the company or firm.
- 9.5 Paragraph 4 of Schedule 1 to the regulations requires applicants to supply information about access to the premises for cars. Trusts will



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wish to have information about this in order to satisfy themselves, in particular, that the arrangements for parents and those with parental responsibility or looking after a child to leave a child at a day care facility are adequate in terms of the child's safety and do not cause traffic congestion. This does not necessarily mean dedicated car parking for the facility, but intending providers of day care should be able to show how they have addressed the issue.

#### **Referees**

- 9.6 The Trust will wish to take up references as part of the process of satisfying itself about an applicant's fitness. It should ensure that any notes which accompany the application form make it clear that anyone given as a referee will be approached and applicants must obtain agreement from their referees.

#### **Health checks**

- 9.7 Paragraph 11 of Schedule 1 and Paragraph 8 of Schedule 2 to the regulations cover details about an applicant's (and person in charge, where different) health, requiring information about serious illnesses over the previous five years, hospital admissions during the last two years and any current medical treatment. The Trust will wish to satisfy itself about the general state of health of an applicant or person in charge because looking after young children is often demanding and occasionally stressful. The Trust will already have a general policy on health and the circumstances in which it considers it appropriate to approach a general medical practitioner. It is for the Trust to decide in the light of the information supplied whether this is necessary. The applicant's permission must always be obtained before any approach is made.

#### **Police checks**

- 9.8 Paragraph 12 of Schedule 1 and Paragraph 9 of Schedule 2 to the regulations set out the details about criminal convictions which the Trust requires applicants to supply. The Trust will already have



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agreed arrangements with the police for checking the criminal backgrounds of certain categories of persons whose proposed employment would give them substantial access to children. Trusts should note that the existing agreements on categories of persons to be checked should be adhered to. They will wish to ensure that the existing procedures work efficiently so that applications for registration are not subject to undue delay. Trusts will know that checks on a person's criminal background are not a substitute for taking up references or conducting a thorough examination of the information in the application form in order to satisfy themselves about the applicant's previous history.



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STATUTORY RULES OF NORTHERN IRELAND

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1996 No. 468

CHILDREN

**The Child Minding and Day Care (Applications for Registration)  
Regulations (Northern Ireland) 1996**

*Made..... 3<sup>rd</sup> October 1996*

*Coming into operation..... 4<sup>th</sup> November 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 123(2) of the Children (Northern Ireland) Order 1995<sup>(a)</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.-(1) These Regulations may be cited as the Child Minding and Day Care (Applications for Registration) Regulations (Northern Ireland) 1996 and shall come into operation on 4<sup>th</sup> November 1996.

(2) In these Regulations-

“the Order” means the Children (Northern Ireland) Order 1995;

“full day care” means day care provided for children under the age of 12 for a continuous period of 4 hours or more in any day in premises other than domestic premises;

“person in charge” means in relation to day care where the applicant is not an individual, the person appointed as the person in charge of providing the actual day care by the applicant;

“sessional day care” means day care provided for children under the age of 12 for less than a continuous period of 4 hours in any day in premises other than domestic premises.

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<sup>(a)</sup> S.I. 1995/755 (N.I.2)

*Applications for registration*

2.-(1) The statement which, in accordance with Article 123(2)(a) of the Order (statement with respect to the applicant), is to be contained in an application for registration under Article 118 of the Order, shall include the information specified in Schedule 1.

(2) The statement which, in accordance with Article 123(2)(b) of the Order (statement with respect to certain other persons), is to be contained in an application for registration under Article 118 of the Order, shall include the information specified in Schedule 2.

*Revocation*

3. The Child Minding (Registration Requirements) Regulations (Northern Ireland) 1974<sup>(a)</sup> insofar as they continue to have effect, are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social  
Services on 3<sup>rd</sup> October 1996.

(L.S.)

*P. A. Conliffe*  
Assistant Secretary

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<sup>(a)</sup> S.R. 1974 No. 318

SCHEDULE 1

Regulation 2(1)

**Information to be provided about the applicant**

1. The full name of the applicant, including (if different) name at birth and any other former names, or where day care is to be provided by a partnership, committee or incorporated or unincorporated body, the full names of the partners, members of the Committee, Board of Directors, or the Board, identifying the Chairman, Secretary and Treasurer.
2. The address at which the children are to be looked after, and the applicant's address if different.
3. Whether the premises available to the applicant at which the children are to be looked after are domestic premises.
4. In the case of day care, a description of the facilities available to the applicant for day care, including the number of rooms, their functions, the numbers of lavatories and washbasins, any separate facilities for adult workers and access to the premises for cars.
5. Whether the applicant wishes to register as a child minder, or as a provider of day care, and if the latter, whether he will provide full day care or sessional day care.
6. In the case of day care, the proposed hours for which the applicant wishes to provide day care.
7. Relevant experience of the applicant, including any previous work with children or with elderly or disabled people, whether paid or not.
8. The number and ages of any children of the applicant or any children for whom he is to be responsible.
9. Any relevant qualifications (with dates) of the applicant, giving details of the organisation running the course, the subjects studied, the length of the course and the name of the qualification.
10. The names of two referees for the applicant who may be contacted.
11. The name and address of the applicant's general medical practitioner and whether he may be approached for details concerning the state of health of the applicant, together with details of anything for which he is currently being treated by his general medical practitioner or by a hospital, and details of any hospital admissions during the last 2 years and of any serious illnesses in the last 5 years.

12. Details of any criminal convictions of the applicant, including –

- (a) the date of offence;
- (b) the nature of offence;
- (c) the place where it occurred;
- (d) the name of the court which gave the conviction; and
- (e) the penalty imposed.



## SCHEDULE 2

Regulation 2(2)

### **Information to be provided about any person in charge or any person assisting or likely to assist, or living or likely to live in the premises**

1. In the case of child minders, the name and date of birth of anyone living (or likely to be living) in the premises in which they intend to look after children, including members of the family and lodgers, and the name and address of any other person assisting (or likely to be assisting) in looking after the children.
2. In the case of day care applicants, the name and date of birth of anyone living (or likely to be living) on the premises to be used for day care, details of how many staff will be employed in looking after the children and in what capacity, details of any person in charge, any other person assisting (or likely to be assisting) in looking after children on the premises in question, with their name and address.
3. The full name of the person in charge and his address if different from any address referred to in paragraph 2 of Schedule 1.
4. Relevant experience of any person in charge, including any previous work with children or with elderly or disabled people, whether paid or not.
5. The number and ages of any children of the person in charge or any children for whom he is to be responsible.
6. Any relevant qualifications (with dates) of the person in charge giving details of the organisation running the course, the subjects studied, the length of the course and the name of the qualification.
7. The name of two referees for the person in charge who may be contacted.
8. The name and address of the general medical practitioner of the person in charge or of any assistant of the person in charge and whether that practitioner may be approached for details concerning the state of health of the person in charge or assistant, together with details of anything for which either person is currently being treated by his general medical practitioner or by a hospital, and details of any hospital admissions during the last 2 years and any serious illnesses in the last 5 years.
9. Details of any criminal convictions of any of the persons mentioned in paragraph 1, 2 or 3 including –
  - (a) the date of offence;

- (b) the nature of offence;
- (c) the place where it occurred;
- (d) the name of the court which gave the conviction; and
- (e) the penalty imposed.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations require that child minders and providers of day care provide the information specified in Schedules 1 and 2 when applying for registration under the Children (Northern Ireland) Order 1995 (“the Order”).

The information required by Schedule 1 includes details about the applicant including his qualifications and experience and the premises in which the children will be looked after. Schedule 2 requires details of the person in charge or any other person living in (or likely to be living in) those premises, and any person in charge or assisting (or likely to be assisting) in looking after the children.

The Regulations revoke the Child-Minding (Registration Requirements) Regulations (Northern Ireland) 1974.

Article 123(2) of the Order is the enabling provision under which these Regulations are made. It was brought into operation on 18<sup>th</sup> July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).

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STATUTORY RULES OF NORTHERN IRELAND

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1996 No. 478

CHILDREN

**The Disqualification for Caring for Children  
Regulations (Northern Ireland) 1996**

*Made*..... 8<sup>th</sup> October 1996

*Coming into operation*..... 4<sup>th</sup> November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 109(1) and (2) and 122(1) and (2) of the Children (Northern Ireland) Order 1995<sup>(a)</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.-(1) These Regulations may be cited as the Disqualification for Caring for Children Regulations (Northern Ireland) 1996 and shall come into operation on 4<sup>th</sup> November 1996.

(2) In these Regulations “the Order” means the Children (Northern Ireland) Order 1995.

*Disqualification from fostering a child privately or registration under Part XI of the Order*

2. For the purposes of Articles 109 (persons disqualification from being private foster parents) and 122 (persons disqualified from child minding or providing day care) of the Order, a person is disqualified from fostering a child privately or registering under Article 118 of the Order (registration for child minding and day care) if –

- (a) he is a parent of a child who at any time has been made the subject of an order under
  - (i) Article 50(1)(a) of the Order (care order),
  - (ii) section 31(1)(a) of the Children Act 1989<sup>(b)</sup> (care order),

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<sup>(a)</sup> S.I. 1995/755 (N.I.2)

<sup>(b)</sup> 1989 c.41

- (iii) section 44(1) of the Social Work (Scotland) Act 1968<sup>(a)</sup> (supervision requirement);
- (b) one of the following orders has been made at any time with respect to a child so as to remove the child from his care or prevent the child living with him-
- (i) an order under Article 50(1)(a) of the Order (care order),
- (ii) any order that would have been deemed to be a care order by virtue of paragraph 11, 12 or 30 of Schedule 8 to the Order (transitional provisions for children in compulsory care) had it been in operation immediately before the day on which Part V of the Order comes into operation,
- (iii) a fit person order or training school order made under the Children and Young Persons Act (Northern Ireland) 1968<sup>(b)</sup> or the Children and Young Persons Act (Northern Ireland) 1950<sup>(c)</sup>,
- (iv) a parental rights order under section 104 of the Children and Young Persons Act (Northern Ireland) 1968<sup>(d)</sup> or section 82 of the Children and Young Persons Act (Northern Ireland) 1950,
- (v) an order under section 31(1)(a) of the Children Act 1989 or an order under section 1(3)(c) or 7(7)(a) of the Children and Young Persons Act 1969<sup>(e)</sup> (care orders),
- (vi) any other order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the Children Act 1989 (transitional provisions for children in compulsory care) had it been in force immediately before the day on which Part IV of that Act came into force,
- (vii) a supervision order which imposes a residence requirement under section 12AA of the Children and Young Persons Act 1969<sup>(f)</sup> (requirement that young offender live in local authority accommodation), or

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<sup>(a)</sup> 1968 c.49

<sup>(b)</sup> 1968 c.34 (N.I.)

<sup>(c)</sup> 1950 c.5 (N.I.); the whole Act was repealed by Schedule 8 to the Children and Young Persons Act (Northern Ireland) 1968, except for certain provisions which are not relevant to these Regulations

<sup>(d)</sup> Part VI of the Act is repealed from 4<sup>th</sup> November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(e)</sup> 1969 c.54; sections 1(3)(c) and 7(7)(a) were repealed by Schedule 15 to the Children Act 1989

<sup>(f)</sup> Section 12AA was inserted by paragraph 23 of Schedule 12 to the Children Act 1989 and amended by Schedule 13 to the Criminal Justice Act 1991 (c.53)

(viii) an approved school order or a fit person order under section 9(1)(a) or (b) of the Children and Young Persons Act 1933<sup>(a)</sup> or section 61(1)(a) or (b) of the Children and Young Persons (Scotland) Act 1937<sup>(b)</sup>;

(c) a supervision requirement has been imposed under section 44(1) of the Social Work (Scotland) Act 1968 at any time with respect to any child for the purpose of removing that child from his care, or his rights and powers with respect to any child had at any time been vested in a local authority in Scotland under that Act or the Children Act 1948<sup>(c)</sup>

(d) an order has been made at any time, for the purposes of removing a child who was being kept, or was about to be received, by him, under –

(i) Article 35 of the Adoption (Northern Ireland) Order 1987<sup>(d)</sup> (removal of protected children from unsuitable surroundings),

(ii) section 34 of the Adoption Act 1976<sup>(e)</sup> or section 43 of the Adoption Act 1958<sup>(f)</sup> (removal of protected children from unsuitable surroundings), or

(iii) section 34 of the Adoption (Scotland) Act 1978<sup>(g)</sup> (removal of protected children from unsuitable surroundings);

(e) an order removing a child from his care has been made at any time under –

(i) section 8(1) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(h)</sup> or section 6(1) of the Children and Young Persons Act (Northern Ireland) 1950 (removal of foster children,

(ii) section 12 of the Foster Children Act 1980<sup>(i)</sup> or Part I of the Children Act

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<sup>(a)</sup> 1933 c.12; section 9 was repealed by the Schedule to the Scrap Metal Dealers Act 1964 (c.69)

<sup>(b)</sup> 1937 c.37; section 61 was repealed by Schedule 9 to the Social Work (Scotland) Act 1968

<sup>(c)</sup> 1948 c.43; the whole Act, as it extends to Scotland, was repealed by Schedule 9 to the Social Work (Scotland) Act 1968

<sup>(d)</sup> S.I. 1987/2203 (N.I.22); Article 35 is repealed from 4<sup>th</sup> November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(e)</sup> 1976 c.36; section 34 was repealed by Schedule 15 to the Children Act 1989

<sup>(f)</sup> 1958 c.5; the whole Act was repealed by Schedule 4 to the Adoption Act 1976

<sup>(g)</sup> 1978 c.28

<sup>(h)</sup> Part I of the Act is repealed from 4<sup>th</sup> November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(i)</sup> 1980 c.6; the whole Act was repealed by Schedule 15 to the Children Act 1989

1958<sup>(j)</sup> (removal of foster children), or

(iii) section 12 of the Foster Children (Scotland) Act 1984<sup>(k)</sup> (removal of foster children);

(f) he has been convicted of any offence mentioned in the Schedule;

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<sup>(j)</sup> 1958 c.65; the whole Act was repealed by the Foster Children Act 1980

<sup>(k)</sup> 1984 c.56

(g) there has been a refusal to register a voluntary home in relation to an application made by him under –

(i) Article 80 of the Order (application for registration),

(ii) section 127(2) and (3) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(a)</sup> or section 99(2) and (3) of the Children and Young Persons Act (Northern Ireland) 1950 (application for registration), or

(iii) paragraph 1(1) and (2) of Schedule 5 to the Children Act 1989 or section 57(2) and (3) of the Child Care Act 1980<sup>(b)</sup> (application for registration);

(h) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a voluntary home which was removed from the register under –

(i) Article 82 of the Order (cancellation of registration),

(ii) Article 87 of the Order (appeals),

(iii) section 127(4) of the Children and Young Persons Act (Northern Ireland) 1968 or section 99(4) of the Children and Young Persons Act (Northern Ireland) 1950 (cancellation of registration),

(iv) section 128 of the Children and Young Persons Act (Northern Ireland) 1968 or section 100 of the Children and Young Persons Act (Northern Ireland) 1950 (appeals),

(v) paragraph 1(4) of Schedule 5 to the Children Act 1989 or section 57(4) of the Child Care Act 1980 (cancellation or registration), or

(vi) paragraph 5 of Schedule 5 to the Children Act 1989 or section 58 of the Child Care Act 1980 (appeals);

(i) there has been a refusal to register a registered children's home in relation to an application made by him under –

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<sup>(a)</sup> Part VIII of the Act is repealed from 4<sup>th</sup> November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(b)</sup> 1980 c.5; the whole Act was repealed by Schedule 15 to the Children Act 1989



- (i) Article 96 of the Order (application for registration), or
  - (ii) paragraph 1 of Schedule 6 to the Children Act 1989 (application for registration);
- (j) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a registered children's home and that home was removed from the register under –
  - (i) Article 98 of the Order (cancellation of registration),
  - (ii) Article 103 of the Order (appeals),
  - (iii) paragraph 4 of Schedule 6 to the Children Act 1989 (cancellation of registration), or
  - (iv) paragraph 8 of Schedule 6 to the Children Act 1989 (appeals);
- (k) he is a person in respect of whom a prohibition has been imposed under –
  - (i) Article 110 of the Order (power to prohibit private fostering),
  - (ii) a notice in writing is given by a Board or Health and Social Services Trust under section 1(3) of the Children and Young Persons Act (Northern Ireland) 1968 (withholding consent to the care and maintenance of a child being undertaken by a person),
  - (iii) section 69 of the Children Act 1989, section 10 of the Foster Children Act 1980 or Part I of the Children Act 1958 (power to prohibit private fostering), or
  - (iv) section 10 of the Foster Children (Scotland) Act 1984 (power to prohibit private fostering);
- (l) he has at any time been refused registration in respect of nurseries, day care or child minding or had any such registration cancelled under –
  - (i) Part XI of the Order (child minding and day care for young children),

(ii) section 11(5) (refusal to register) or section 15 (cancellation of registration) of the Children and Young Persons Act (Northern Ireland) 1968,

(iii) Part X of the Children Act 1989 (child minding and day care for young children), or

(iv) section 1 (refusal to register) or section 5 (cancellation of registration) of the Nurseries and Child-Minders Regulation Act 1948<sup>(a)</sup>; or

(m) he has at any time been refused registration or had such registration cancelled under section 62 of the Social Work (Scotland) Act 1968<sup>(b)</sup> (registration of establishments).

Sealed with the Official Seal of the Department of Health and Social Services on 8th October 1996.

(L.S.)

*P. A. Conliffe*  
Assistant Secretary

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<sup>(a)</sup> 1948 c.53; the whole Act was repealed by Schedule 15 to the Children Act 1989

<sup>(b)</sup> Section 62 was amended by section 3 of the Registered Establishments (Scotland) Act 1987 (c.40)

## SCHEDULE

Regulation 2(f)

### **Offences which disqualify persons from private fostering and registering under Article 118 of the Order**

1. Offences specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968<sup>(a)</sup>, the Homosexual Offences (Northern Ireland) Order 1982<sup>(b)</sup>, Schedule 1 to the Children and Young Persons Act 1933<sup>(c)</sup> and Schedule 1 to the Criminal Procedure (Scotland) Act 1975<sup>(d)</sup>.

2. Any offence involving injury or threat of injury to another person.

3. Offences under any of the following –

(a) Article 37(1)(b) or (c) of the Adoption (Northern Ireland) Order 1987<sup>(e)</sup>, section 36(1)(b) or (c) of the Adoption Act 1976<sup>(f)</sup> or section 36(1)(b) or (c) of the Adoption (Scotland) Act 1978 (refusing to allow the visiting of a protected child or inspection of the premises or refusing to comply with or obstructing the removal of the child);

(b) Article 63(15), 68 or 69(9) of the Order, section 9(1)(e) and (f), 32(3), 140(6) or 144(3) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(g)</sup>, section 44(15), 49 or 50(9) of the Children Act 1989, section 17(8) or 71 of the Social Work (Scotland) Act 1968, or sections 6 to 10 of the Child Abduction Act 1984<sup>(h)</sup> or section 32(3) of the Children and

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<sup>(a)</sup> 1968 c.34 (N.I.); Schedule 1 has been amended by Article 12 of, and Schedule 1 to, the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I.6)); Article 7(2) of the Child Abduction (Northern Ireland) Order 1985 (S.I. 1985/1638 (N.I.17)); Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I.4)) and paragraph 54 of Schedule 9 to the Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I.17)) to offences under Schedule 1 include an offence under the Protection of Children (Northern Ireland) Order 1978

<sup>(b)</sup> S.I. 1982/1536 (N.I. 19)

<sup>(c)</sup> 1933 c.12; Schedule 1 has been amended by sections 48 and 51 of, and Schedules 3 and 4 to, the Sexual Offences Act 1956 (c.69), section 1(5) of the Protection of Children Act 1978 (c.37) as supplemented by section 160 of the Criminal Justice Act 1988 (c.33) and further amended by section 170 of, and paragraphs 8 and 9 of Schedule 15 to, that Act and Schedule 16 to that Act

<sup>(d)</sup> 1975 c.21; Schedule 1 has been amended by section 21 of, and Schedules 1 and 2 to, the Sexual Offences (Scotland) Act 1976 (c.67); section 3(2) of, and Schedule 2 to, the Incest and Related Offences Act 1986 (c.36) and section 170 of, and paragraphs 50 and 51 of Schedule 15 to, the Criminal Justice Act 1988

<sup>(e)</sup> Article 37(1)(c) is repealed from 4<sup>th</sup> November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(f)</sup> Section 36(1)(c) was repealed by Schedule 15 to the Children Act 1989

<sup>(g)</sup> Part I and section 32 of the Act are repealed from 4<sup>th</sup> November 1996 by Schedule 10 the Children (Northern Ireland) Order 1995

<sup>(h)</sup> 1984 c.37

Young Persons Act 1969<sup>(a)</sup>; (offences of intentional obstruction of a person executing an emergency protection order, a place of safety order, or abduction or obstruction of lawful recovery of an abducted child);

(c) Article 132 of the Order, section 14 of the Children and Young Persons Act (Northern Ireland) 1968 or section 78 of the Children Act 1989 (providing day care or acting as a child minder in unregistered premises or contravening an enforcement order);

(d) Article 79(3) of the Order, section 127(5) or 129(3) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(b)</sup>, section 99(5) or 101(3) of the Children and Young Persons Act (Northern Ireland) 1950, paragraph 1(5) of Schedule 5 to the Children Act 1989, section 57(5) of the Child Care Act 1980 or section 29(5) of the Children Act 1948 (carrying on a voluntary home without it being registered or in contravention of a condition attached to registration);

(e) Article 95(3) of the Order or section 63(10) of the Children Act 1989 (caring for and accommodating a child in a children's home which is not registered), or Article 97(4) of the Order of paragraph 2(3) of Schedule 6 to the Children Act 1989 (breach of conditions attaching to registration of registered children's home);

(f) Article 117 of the Order, section 9(1) of the Children and Young Persons Act (Northern Ireland) 1968, section 2(8) of the Children and Young Persons Act (Northern Ireland) 1950, section 70 of the Children Act 1989, section 16 of the Foster Children Act 1980, section 14 of the Children Act 1958 or section 15 of the Foster Children (Scotland) Act 1984 (offences in respect of private fostering);

(g) section 6(5), 60(3), 61, 62 or 68(3) of the Social Work (Scotland) Act 1968 (refusal of registration and offences in respect of day care or residential care);

(h) the common law offence in Scotland of plagiary (theft of a child below the age of puberty);

or

(i) section 52(1)(a) or section 52A of the Civic Government (Scotland) Act 1982<sup>(c)</sup> (offences relating to indecent photography of children).

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<sup>(a)</sup> 1969 c.54; section 32(3) was amended by paragraph 16 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41)

<sup>(b)</sup> Part VIII of the Act is repealed from 4<sup>th</sup> November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(c)</sup> 1982 c.45; section 52A was inserted by section 161 of the Criminal Justice Act 1988

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations specify various circumstances in which a person –

- (a) is disqualified from fostering a child privately; and
- (b) is disqualified from being registered as a child minder on domestic premises or as a person who provides day care for children under the age of 12 on non-domestic premises.

Articles 109(1) and (2) and 122(1) and (2) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18<sup>th</sup> July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No.297 (C.17)).

**NOTES ON PLANNING, FIRE SAFETY, FOOD HYGIENE  
AND HEALTH AND SAFETY**

**SECTION A PLANNING PROCEDURES**

**Legislation**

1. Primary legislation is the Planning (Northern Ireland) Order 1991. Article 11 defines ‘development’ where a planning application must be made as ‘the carrying out of building, engineering, mining, or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land’.

Subordinate legislation is in the Planning (Use Classes) Order (Northern Ireland) 1989. This groups into classes those uses of land which, from the planning point of view, have similar implications for local amenity. The effect is to exclude from the definition of development, and hence from planning control, changes of use where the existing and proposed uses fall into the same class.

**Planning Requirements**

2. Where construction of new buildings or a material change of use of an existing building is involved, a planning application to the relevant Divisional Planning Office is required. It should be noted that there are two situations where proposals in some cases may not have to be made the subject of a planning application.

- (a) Domestic Premises:

Planning permission not be needed for day care facilities on a modest scale on existing residential property (ie providing the character and use of the building remain essentially residential). Internal alternations or installation of toilet or washroom facilities do not need planning permission.

(b) Non-Domestic Premises:

The planning system is concerned with the primary use of buildings or land. Ancillary uses are not subject to planning control. Many employers may in this way be able to set aside part of their premises for a day nursery for the children of their employees without having to make a planning application.

The provisions in **The Use Classes Order** give some flexibility. Where buildings listed below are used for the following purposes, changing their use to a day nursery or other day care service, is not material and therefore planning permission is not required:

- (i) Provision of any medical or health service other than premises attached to the residence of the consultant or practitioner;
- (ii) a crèche, day nursery or day centre;
- (iii) provision of education;
- (iv) for the display of works of art (otherwise than for sale or hire);
- (v) as a museum;
- (vi) as a public library or reading room;
- (vii) as a public or exhibition hall.

### **Formal Determination of Need for Planning Permission**

3. It is possible to obtain a formal determination of the need for planning permission by applying to the relevant Divisional Planning Office for a determination under Article 41 of the Planning (Northern Ireland) Order 1991. Form A1A is needed and a fee is payable. The planning authority should be written to and given a description of the proposed development and its location. A determination can only be given if the development has not already begun.

## **Leaflets**

4. The following leaflets are considered useful and are available from The Planning Service Headquarters or any Divisional Planning Office:
  - Creches, Day Nurseries and Pre-school Play Groups;
  - Your Home and Planning Permission.

## **SECTION B FIRE SAFETY REQUIREMENTS**

### **LEGISLATION**

1. The main legislation on fire safety is:
  - The Fire Services (Northern Ireland) Order 1984.
2. The Fire Services (Northern Ireland) Order 1984 requires the Fire Authority for Northern Ireland to give advice on fire safety when requested. This advice is available free of charge to any person or regulatory authority who requests it. Fire officers will inspect premises at the request of Trusts to advise on their suitability for the purposes of child minding or day care. Trusts should encourage day care providers and child minders to approach their local fire brigade for advice on fire safety.
3. The Fire Services (Northern Ireland) Order 1984 also covers fire precautions in occupied premises and is administered by the Fire Authority for Northern Ireland. Under this Order certain premises require a fire certificate, which will specify fire precautions such as:
  - the means of escape;
  - fire fighting equipment;
  - means of warning in the event of fire etc.

The fire brigade has to ensure that any statutory requirements made under the Fire Services (Northern Ireland) Order 1984 are complied with.



4. The Fire Services (Northern Ireland) Order 1984 does not apply to single private dwellings. In such domestic premises (or other premises not requiring a fire certificate) fire authorities will advise on whether fire safety standards are adequate for the planned use.

### **Training for Day Care Providers**

5. It is a general requirement attached to fire certificates that all people who work in buildings for which a fire certificate is required shall be given instruction and training to ensure that they understand the fire precautions and action to be taken in the event of fire. The training should include people on regular duties or cleaners etc. These arrangements must take account of the special needs of anyone likely to be on the premises, for example anyone with a physical handicap.
6. In non-certificated premises much depends on the fire safety awareness and initiative of local management. Sensible fire precautions and good housekeeping practices will reduce the possibility of having a fire and needing to evacuate the building. All staff should receive instruction on how to raise the alarm if they discover a fire, on the action to take on being alerted to a fire and in the practical use of the portable fire fighting equipment provided.

### **Fire Safety Guidance for Child Minders**

7. The fire brigade may be contacted for specific advice and are also able to provide suitable fire safety literature.
8. Particular care is needed over:
  - means of escape;
  - heating and fire guards;
  - electrical safety;
  - storage of flammable materials.

### **General Fire Safety**

9. A smoke alarm should be fitted in domestic premises used for child minding.
10. A child should not be able to gain unsupervised access to a kitchen.

## **SECTION C FOOD HYGIENE**

### **Main Legislation**

#### **The Food Safety (Northern Ireland) Order 1991.**

1. This Order widened the range of powers of Enforcement Officers. These new powers include the right to issue improvement Notices and Emergency Prohibition Notices.
2. Improvement Notices, for example, may be served where the Enforcement Officer has reasonable grounds for believing that the proprietor of a food business is not complying with, say, a requirement of the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995.

#### **The Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995.**

3. These regulations apply to any business in which any person engages in the handling of food.

In the main, the requirements cover:

- (a) the need to identify all steps in the activities of a food business which are critical to food safety and to ensure that adequate safety controls are implemented maintained and reviewed;
- (b) the prohibition of carrying on a food business in any premises which is insanitary or its condition is such that food is exposed to the risk of contamination;
- (c) the cleanliness of articles and equipment which are likely to come into contact with food;
- (d) protecting food from the risk of contamination;
- (e) the personal cleanliness of food handlers, including their clothing and the action to be taken if they suffer from or are carriers of infections likely to cause food borne diseases;
- (f) the construction of food premises, including the requirements for a wholesome water supply, suitable washing up facilities, handbasins, lighting, ventilation, sanitary conveniences and accommodation for clothing;
- (g) the cleanliness and repair of food rooms and the prevention of any risk of infestation by pests;

- (h) the proper disposal of waste material.
- 4. **The Food Safety (Temperature Control) Regulations (Northern Ireland) 1995** which introduce temperature controls for certain foods, require that relevant foods be kept below 8°C or above 63°C.
- 5. The enforcing authority for the above legislation is the district council for the area in which the premises are situated. The council can also give advice.
- 6. **Food Premises (Registration) Regulations (Northern Ireland) 1992 as amended by the Food Premises (Registration) (Amendment) Regulations (Northern Ireland) 1993** under which those looking after 7 or more children may be required to register with the district council.

### **Training**

- 7. Although the local Environmental Health Officer is an invaluable source of advice, this officer is invariably only at an establishment for a relatively short time and consequently not all conditions and practices on which advice may be given would be apparent to the Officer. The need to produce safe food of good quality rests with the establishment. Food handlers must receive adequate supervision, instruction and/or training in food hygiene. The local Environmental Health Officer may be able to give further advice on where such training may be obtained.

### **Further Information**

- 8. Further information may be obtained from:
  - (a) The Codes of Practice issued under the Food Safety (Northern Ireland) Order 1991 (available from HMSO);
  - (b) Food Handlers: Fitness to Work (available from BAPs, Distribution Centre, P.O. Box 410, Whetherby, LS 23 7LN – Price £2.50);
  - (c) A Guide to Food Hazards and Your Business;
  - (d) A Guide to the General Food Safety Temperature Control Regulations 1995;
  - (e) The Guide to the General Food Hygiene Regulations 1995;

- (f) Industry Guide to Good Hygiene Practice: Catering Guide.

Items (c)-(e) are available free from BAPs and item (f) is available from HMSO, ISBN 0-11-321899-0 Price £3.50.

## **SECTION D HEALTH AND SAFETY REQUIREMENTS FOR DAY CARE PROVIDERS**

### **Legislation**

#### **The Health and Safety at Work (Northern Ireland) Order 1978.**

1. This Order lays down the essential health and safety responsibilities for employers, employees and the self-employed. Its main aim is to secure the health, safety and welfare of persons at work and to protect third parties against risks to their health and safety arising from the work activities of others. The following are statutory regulations made under the Order:

- (a) The Electricity at Work Regulations (Northern Ireland) 1991.

These regulations require all electrical equipment and systems to be safe to use, properly installed and maintained and worked on by competent persons.

- (b) The Reporting of Injuries, Disease and Dangerous Occurrences Regulations (Northern Ireland) 1986.

All fatal and major injuries which occur to any person as a result of work activity must be reported to the enforcing authority (the Department concerned or a district council, depending on the type of work activity). Similarly all injuries to employees which result in their being off work for more than three days must be reported as above. Certain diseases and dangerous occurrences must also be reported.

- (c) The Health and Safety Information for Employees Regulations (Northern Ireland) 1991.

Every employer is required to display an official poster or provide leaflets for employees which set out basic information on health and safety law in an easily understandable form.

- (d) The Management of Health and Safety at Work Regulations (Northern Ireland) 1992.

Every employer is required to assess risks in the workplace and take protective and preventive measures that follow from the assessment, carry out health surveillance (where appropriate), set up emergency procedures and provide employees with information and training about workplace health and safety.

## **Health and Safety Requirements**

### **Domestic Premises**

2. Child minders working in their own homes have a duty under the Health and Safety at Work (Northern Ireland) Order 1978 to ensure their own safety as well as that of others who may be affected by their work activities. However, child minders, working in other premises would be classed as domestic servants, to whom the Health and Safety at Work (Northern Ireland) Order 1978 does not apply.

### **Non-domestic Premises**

3. Persons in charge of non-domestic premises, which they make available for use by those not in their employment, have duties to take such steps as are reasonable to ensure that there are no risks to health and safety. These duties extend to the premises themselves, any connected premises, such as corridors, stairs and storage premises, the ways into and out of the premises and any machinery, equipment and substances in the premises (Article 6 of the Health and Safety at Work (Northern Ireland) Order 1978).

### **Duties of Employers**

4. Employers have general duties towards their employees and others, not in their employment, who might be effected by their activities. These are broadly expressed as being to ensure that:
- (i) equipment is safe and without risk to health;
  - (ii) premises are safe and properly maintained and the working environment is safe and healthy;
  - (iii) adequate information, training and supervision is given to ensure health and safety;
  - (iv) any materials are properly handled, stored and carried so as to prevent risk.

## **Training**

5. Training in health and safety matters should be sufficient to ensure that employees know how to ensure their own safety and the safety of any children they are caring for. The same standards are expected of the self-employed.

## **Further Information**

6. Further information is available from any Health and Safety Executive office from whom the following leaflets are available:

The Guide to Workplace Health and Safety (1 HAS 95);

The Legal Framework of Health and Safety at work in Northern Ireland (73 HAS 95);

Report that Accident (35 HAS 95);

Guidance for small businesses on electrical work (HAS 60).

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STATUTORY RULES OF NORTHERN IRELAND

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1996 No. 444

CHILDREN

**Day Care (Exempt Supervised Activities)  
Regulations (Northern Ireland) 1996**

*Made..... 23rd September 1996*

*Coming into operation..... 4th November 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 121(6) of the Children (Northern Ireland) Order 1995<sup>(a)</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:

*Citation and commencement*

1. These Regulations may be cited as the Day Care (Exempt Supervised Activities) Regulations (Northern Ireland) 1996 and shall come into operation on 4<sup>th</sup> November 1996.

*Supervised activities exempted from registration*

2. The supervised activities exempted from registration required under the provisions of Article 118(1)(b) of the Children (Northern Ireland) Order 1995 are those relating to –

- (a) uniformed organisations and religious activities for children;
- (b) leisure and recreational activities;
- (c) extra-curricular activities occurring in schools; and
- (d) activities designed to enhance a child's skills and attainments, including dancing, and sports-related activities and educational tuition.

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<sup>(a)</sup> S.I. 1995/755 (N.I.2)

Sealed with the Official Seal of the Department of Health and Social  
Services on 23<sup>rd</sup> September 1996.

(L.S.)

*P. A. Conliffe*

Assistant Secretary



## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the exemption from the registration requirements of Article 118(1)(b) of the Children (Northern Ireland) Order 1995 (“the Order”) of persons providing certain supervised activities for children.

Article 121(6) of the Order is the enabling provision under which these Regulations are made. It was brought into operation on 18<sup>th</sup> July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. 1996 No. 297 (C.17)).