

FOSTERING FOR ADOPTION & CONCURRENT PLANNING PROCEDURE

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1. BACKGROUND

- 1.1 In March 2012, the Government published 'An Action Plan for Adoption: Tackling Delay' and this was followed in July 2012 by the Prime Minister announcing proposals to introduce a new legal duty for 'Fostering for Adoption'. In January 2013, the Government published 'Further Action on Adoption: Finding more loving homes'. All of these documents addressed the need to place children with their potential permanent carers more quickly.
- 1.2 In June 2013, 'Fostering for Adoption – Practice Guidance' was published. This was funded by the Department for Education, commissioned through Coram Centre for Early Permanence and written by the British Association for Adoption & Fostering (BAAF). In July 2013 the Statutory Guidance on Adoption was amended to include references to Fostering for Adoption & Concurrency.
- 1.3 The underlying legislation is the Adoption & Children Act 2002 and the Adoption Agencies (Miscellaneous Amendments) Regulations 2013. The Care Planning, Placement & Case Review (England) (Miscellaneous Amendments) Regulations 2013 introduced the procedure for the temporary approval of prospective adopters as foster carers.

2. FOSTERING FOR ADOPTION & CONCURRENT PLANNING – WHAT IS THE DIFFERENCE?

- 2.1 Both Fostering for Adoption & Concurrent placements involve a child being placed with dual approved carers at the earliest point possible in the permanence planning process to avoid the damage and distress to the child of repeated fractured relationships and attachments.
- 2.2 In both models carers would be approved prospective adopters who were also approved as foster carers either under the Fostering Regulations or, for a specific child, under Regulation 25A of the Care Planning, Placement & Case Review (England) Regulations 2010.
- 2.3 The Statutory Guidance on Adoption July 2013 refers to Fostering for Adoption as building on the experiences of concurrent planning and the principle of early permanence.
- 2.4 The Coram / BAAF leaflet for those wishing to consider Fostering for Adoption states '*A Fostering for Adoption placement will only be made where there is clear evidence to the local authority that there is very little likelihood that the birth parents can resolve their problems or that other family members can take care of the child.*'

- 2.5 The 'Fostering for Adoption – Practice Guidance' also produced by Coram and BAAF states, '*concurrent planning requires the identification and delivery of a detailed rehabilitation plan while the child is placed with carers who are approved for both fostering and adoption who support the plan. If the rehabilitation plan proves to be unsuccessful, the foster carers can go on to adopt the child once care proceedings and the placement order application are completed.*'
- 2.6 Historically concurrent planning has always been used for younger children, mainly aged under two. The original model of concurrent planning was developed in the USA and then pioneered through a small number of projects in the UK. It was envisaged that, whilst the possibility of rehabilitation was being assessed, the dual approved carers would be involved in contact and in building a relationship with the birth parents if only in so far as updating them with information about the child. This same level of contact between carers and birth parents is not referred to in Fostering for Adoption.
- 2.7 The major difference between concurrent planning and Fostering for Adoption appears to be the age of the child it is envisaged each will apply to and the stage the permanence plan has reached. The Adoption Statutory Guidance states '*concurrent planning is usually most appropriate where the child is under 2*'. The BAAF Good Practice Guide on Concurrent Planning¹ envisages that Fostering for Adoption will be used '*for those children where the issues of concern in relation to the birth family are so significant that the local authority has determined that adoption is the likely plan and is not actively pursuing work towards rehabilitation*'.
- 2.8 When considering a Fostering for Adoption placement for a child who is already in the care of a local authority and where the Court process is underway, care needs to be taken over the timing of a move to a Fostering for Adoption placement. If the move is undertaken too close to the end of the Court proceedings, the local authority runs the risk of moving a child, the Court not endorsing the plan for adoption and the child having to be moved again.
- 2.9 Neither Fostering for Adoption nor concurrent planning should be confused with 'parallel' or 'twin track' planning neither of which involve the child actually living with dual approved carers who will go on to adopt the child if the plan of adoption is ratified by the Court.
- 2.10 Fostering for Adoption does **not** describe a situation where a foster placement evolves into a prospective adoptive placement in an unplanned way i.e. where a child has lived with a foster carer for a significant length of time and, if the plan becomes one of adoption, the foster carer asks to be considered to adopt them.

¹ Borthwick S & Donnelly S, Concurrent Planning – Achieving early permanence for babies and young children', BAAF 2013

3. WHEN CAN FOSTERING FOR ADOPTION OR CONCURRENT PLANNING BE USED?

- 3.1 It is essential that the local authority has fully explored the possibility of engaging with birth parents and the wider family to explore solutions and placement options. This will normally include the convening of a Family Group conference and other investigations to ensure that all family options have been explored.
- 3.2 If it appears that permanence outside the family may be an option for the child, it is important to consider what will best meet the child's needs for stability and security while the legal process takes its course.
- 3.3 The local authority must have the legal authority to place the child with foster carers either under s20 of the Children Act 1989² or via an interim care order. In either case the social worker will have completed an assessment that concludes that removal of the child *'is proportionate to the evaluated risk to the child and that there is a likelihood of a plan for adoption being the preferred outcome if the parents cannot address the issues identified in the child's timescales.'*³
- 3.4 Fostering for Adoption & Concurrent planning should be considered in **all** cases where the need for permanence for a child is under discussion particularly those where it is more likely than not that adoption will be the plan but there is still the possibility that birth parents may be able to successfully address the difficulties preventing them from parenting their child.⁴
- 3.5 Concurrent planning could also be considered for voluntarily relinquished babies where it is known before birth that adoption is requested. In these circumstances full enquiries should be made with regard to possible extended family or any other placements options within the family. It should also be made clear to all parties that any agreement given by the birth mother prior to six weeks after the birth is not considered binding in any way.
- 3.6 Fostering for Adoption or Concurrent planning may be appropriate in the following circumstances:
 - Where birth parents have had previous child(ren) placed for adoption or placed in other forms of permanent care and the evidence strongly suggests that their circumstances have not changed and therefore this child is at the same risk as previous children

² This would not be the preferred legal route as s20 placements are uncertain and rely on the consent of the parents. This may negate the aim of minimising disruption for the child.

³ Borthwick S & Donnelly S, Concurrent Planning – Achieving early permanence for babies and young children', BAAF 2013

⁴ Adoption Statutory Guidance 2011

- With regard to **Fostering for Adoption**, the local authority does not have a pro-active plan to rehabilitate the child as the assessed risks are too high
- With regard to **Concurrent planning**, where there are on-going assessments of the birth parents and possibly wider family members, there will be Plan A which is rehabilitation to birth parents and Plan B which is the adoption of the child by the dual approved carers with whom the child is placed
- Where this is the birth parents' first child but the circumstances of the parents pose such a risk to the child that there is no plan to return the child to the birth parents or other extended family members
- Where parents have indicated that they may want their child adopted but have not formally consented (S53(3) Adoption & Children Act 2002).

4. WHAT HAS TO HAPPEN?

- 4.1 Children for whom Fostering for Adoption or Concurrent planning may be considered will be identified through the permanency planning process which may be as a result of presentation at the Permanence Panel, safeguarding investigations or pre-birth assessments.
- 4.2 Children for whom **Concurrent planning** is considered appropriate should be identified at the earliest possible stage. A pre-birth assessment provides the opportunity to:
- Identify and safeguard babies possibly most likely to suffer future significant harm
 - Ensure that vulnerable parents are offered support at the start of their parenting rather than when difficulties have arisen
 - Establish a working relationships with parents before the baby is born
 - Assist parents with any problems that may impair their parenting capacity⁵
- 4.3 A thorough exploration of family networks should be undertaken and viability assessments conducted to identify any family members who may be suitable to offer care and to exclude those not considered suitable. A Family Group Conference should be arranged at an early stage to identify and formalise what help and support can be provided by the birth family

⁵ Hart D (2001) 'Assessment before birth'. In Howarth J (ed) *The Child's World: Assessing children in need*, London: JKP

- 4.4 There should be discussions with the Legal service to establish that this is a suitable case for **Concurrent planning** or **Fostering for Adoption**. It is important that the local authority's plan is transparent and understood by all parties to the proceedings to avoid the criticism that the local authority is pre-judging the outcome of the Court proceedings. When the Court gives the local authority the power to place a child in foster care, it is open to the authority to place the child with approved carers who are also approved as suitable to adopt. The child is placed under the Fostering Regulations until the outcome of the proceedings is known. The status of the placement will change to that of an adoptive placement under the Adoption Agencies Regulations if:
- A final care plan for adoption is approved by the court
 - A placement order is made; and
 - Following consideration of the match at the Adoption panel and a positive recommendation, the Agency Decision Maker endorses this recommendation
- 4.5 The central issues of concern regarding the parenting capacity of the birth parents must be identified so it is clear to everyone what has to change, and in what timescales, in order for the child to return to the birth family.
- 4.6 A detailed plan of assessment and parenting skills work must be drawn up with the birth parents depending on individual circumstances and agreed with all parties to the legal process. This will be in the form of a contract of expectations and will identify what the parents have to do and what resources will be available to them to undertake the work specified.
- 4.7 The agreement should make it clear that the emphasis is on parental behaviour rather than stated intentions or promises. It should provide a clear structure to families whilst focusing on the child's need for security and belonging within the child's timescale.
- 4.8 It is essential that birth parents and their legal representatives understand the local authority's plan for the child and the possible outcomes of the Court process. Birth parents should be advised to seek legal representation and also be made aware of the availability of the independent support service for birth parents for whose child adoption may be the plan.
- 4.9 Birth families need to understand Concurrent planning and Fostering for Adoption and why it is in their child's best interest to work towards early decision making for their child's future whether that be a return to the birth family or adoption by the dual approved carers

- 4.10 The child's social worker should make an early referral to the Adoption Team to identify a Family Finding Social Worker who can work with the child's social worker to identify suitable carers.
- 4.11 When considering a match, it must be remembered that this is potentially the child's permanent home and therefore careful thought must be given to the life-long appropriateness of the match.
- 4.12 There also needs to be close liaison between the PACT social worker and the Children Looked After (CLA) Team to ensure that joint working is established at the earliest opportunity.
- 4.13 If the final Care Plan, based on all the assessments, is one of adoption, the child's plan for adoption must be submitted to the Agency Decision Maker for ratification. It is only following this ratification that an application for a Placement Order can be lodged with the Court. The Agency Decision Maker must be provided with all the required reports including a Child's Permanence Report completed by the worker from the CLA team.

5. THE PLACEMENT

- 5.1 Whether **Fostering for Adoption** or a **Concurrent** placement, the child will be placed with the carers under the Fostering Regulations and all the usual procedures will apply. The carers need to understand that the placement is one of foster care and that the expectation is that they will work with the plan of rehabilitation until the Court has made a decision about the final care plan. If adoption is agreed as the plan by the Court, the expectation is that the carers will adopt the child subject to the Adoption Panel's recommendation and Agency Decision Maker's endorsement.
- 5.2 Extreme care must be exercised when recording any details electronically and, as with a child placed for adoption, there should be no details recorded that could identify the carers' names or address.
- 5.3 If the placement is made early on in the Court process, there may not be full information about the child's needs as these will emerge over time. However the dual approved carers must be given as much information as possible for them to make an informed decision.
- 5.4 Prior to the child being placed with the dual approved carers, there will be a placement planning meeting chaired by the Adoption Team Manager or a Senior Practitioner from that Team. This is to ensure that the carers have all the information they require in order to safely care for the child and that everyone involved is aware of the plan and their responsibility within it. There will need to

be clear agreement between the child's social worker, the support worker from the Adoption Team and the supervising social worker from the Fostering service about their respective responsibilities and roles.

- 5.5 Prior to the placement being made, there would normally be a meeting arranged between the carers and the birth parents, This would be in a neutral venue without the child being present. This meeting must be arranged with advice from the carers' support worker from the Adoption Team.

6. CONTACT

- 6.1 A contact plan will be developed pre-placement and kept under review. Contact will be agreed by the Court but, where the placement is of a very young child, their developmental and emotional needs must be paramount. Recent research has commented on the distress experienced by young children as a result of frequent levels of contact⁶. It should also be noted that there has been criticism of these studies notably by Dale⁷ who expresses concern that the messages will be extrapolated for all situations and used to camouflage the lack of available resources needed for intense work with families to effect rehabilitation.
- 6.2 However a suggested plan of contact for a young child in a concurrent placement would be three sessions of 2-4 hours a week. This programme also allows birth parents time to work on the issues impeding their parenting in accordance with a clear agreement (see 4.6 & 4.7). A very young child should also be given some time to settle into their foster home before contact starts. The length of time should be determined by the child's needs at placement and will need to be agreed by all parties and by the Court. Infants withdrawing from drugs taken by their mothers in pregnancy need nurturing, consistent care and may find the frequent disruption of contact increases their distress.
- 6.3 In Fostering for Adoption placements the Court process and the permanency planning may be at a more advanced stage and therefore assessments of the parenting capacity may have been completed. In these cases the level of contact must be commensurate with the assessed needs of the child at that particular time.
- 6.4 Consideration needs to be given to the following contact issues:

⁶ Kenrick J (2009) 'Concurrent planning: a retrospective study of the continuities and discontinuities of care, and their impact on the development of infants & young children placed for adoption by the Coram Concurrent Planning Project', *Adoption & Fostering*, 33:4, pp 5-18

Humphreys C & Kiraly M (2011), 'High-frequency family contact: a road to nowhere for infants', *Child & Family Social Work*, 16:1, pp 1-11

⁷ Dale P (2011, unpublished) *Restrictions on Natural Parent Contact with Infants during Care Proceedings: Some cautions about recent research & developing practice*, accessed 30 October 2013 at www.peterdale.co.uk/wp-content/uploads/2011/08/ContactPaper2011.pdf

- **Where will contact take place?** This will be away from the carers' home but needs to be in a venue that encourages positive interaction between birth family members and the child
- **Who will provide transport for the child to and from contact?** It is important that there is consistency in who this is in order to avoid further trauma to the child. Ideally the carer should provide this transport but there need **to** be arrangements made to ensure that birth family members are not able to have access to the carers or any identifying details (e.g. car number plate, names on signing in sheets, etc)
- **Who will supervise the contact and what is the purpose of that supervision?** There needs to be consistency in the supervisor for the same reason as above. The birth family need to be aware of the purpose of contact and what part the assessment of it will play in the final outcome. Records of contact need to be accurate and focussed on the child's needs and how the birth parents are able to meet these.
- **Will photographs be taken during contact and, if so, for what purpose?** Particular attention should be paid to the use of mobile phones in terms of taking photographs. Photos taken on mobile phones can quickly be up loaded to a computer and this may not be appropriate.⁸
- **How will the carers provide progress updates for the birth parents?** This may be in the form of a book that is passed via the contact supervisor. It could also be used for the birth parents to ask for information of the carers about the child.
- **If it is clear that the child needs the reassurance of the carers in contact, how will this be managed?** The needs of the child must be paramount but thought needs to be given to the management of confidentiality if the carer is required to be present in contact. If, however, it is clear that the contact is causing undue distress to the child, consideration should be given to the appropriateness of continuing contact. This would need to be discussed with the legal team.

⁸ Fursland E (2010), *Social Networking & Contact: A guide for social workers and foster carers*. London:BAAF

7. DUAL APPROVED CARERS

7.1 The primary motivation for carers who undertake Concurrent placements and Fostering for Adoption will be adoption. They can be approved in the following ways:

- Dually and fully approved under the Adoption Agencies (Miscellaneous Amendments) Regulations 2013 and as foster carers under the Fostering Services (England) Regulations 2011. These carers would then be available to be matched with any child for whom Concurrent planning or Fostering for Adoption was deemed appropriate. In order to be dually approved they would need to be presented to a joint Adoption & Permanence Panel that met the requirements of both the above regulations.
- Approved as prospective adopters and being considered for a specific child where adoption is the likely plan but is not agreed by either the Agency Decision Maker or the court. These carers could then be approved as foster carers under Regulation 25A of the Care Planning, Placement & Case Review (England)(Miscellaneous Amendments) Regulations 2013. Their approval would cease when **a)** the placement is terminated by the local authority **b)** on the approved prospective adopter's approval as a prospective adopters being terminated **c)** on the approved prospective adopter being approved as a foster parent in accordance with the Fostering Services Regulations **d)** if the approved prospective adopter gives written notice to the responsible authority that they no longer wish to be approved as a temporary foster carer in relation to the specific child **e)** on the child being placed for adoption with the approved prospective adopter in accordance with the Adoption & Children Act 2002.

7.2 Regulation 25A of the Care Planning, Placement & Case Review Regulations provides that the child's responsible local authority can only temporarily approve a prospective adopter as a foster carer for a specific child if:

- They are satisfied that placing the child with that particular carer is the most **appropriate** placement for the child and it is in the child's best interests to be placed with them
- **They** have assessed the carer's suitability to care for the child as a foster carer

- They have considered whether placing the child with that carer will safeguard and promote the child's welfare and meet the child's needs as set out in the care plan

7.3 In order to comply with Regulation 25A of the Care Planning, Placement & Case Review Regulations a report must be compiled by a social worker from the Fostering service together with the social worker from the Adoption Team and presented to the Agency Decision Maker for a decision. A report would also need to be compiled on the matters laid down in 7.2 to show why this placement was deemed appropriate. The report on the carers must also evidence their understanding of the following:

- The availability of information on the child and the child's family including the child's siblings
- The nature and meaning of parental responsibility, what it means in relation to a looked after child and what it means on a day to day basis
- The role of the local authority in assessing, planning and decision-making for the child and the child's family
- The nature of care proceedings and the placement order application, timing and process
- Their responsibilities under the Fostering Regulations
- The position and role of the birth parents and their rights and responsibilities
- The arrangements for contact between the child and the birth parents and any other significant people in the child's life
- The role of the child's social worker, the fostering supervising social worker and the adoption support worker
- The significance of the care plan, the placement plan and reviews
- The role of the Independent Reviewing Officer
- The requirement to keep appropriate records
- The availability of support including parenting support, health and education
- The importance and nature of 'safe caring'

- Health checks and the health plan
 - The importance and nature of the child's life story book
 - The arrangement for the payment of fostering allowances
 - Foster care competences and associated support and developmental opportunities
- 7.4 Where there are other children in the carer's home, thought needs to be given as to how they will be prepared for the placement. These may be birth children of the carer, other adopted children or maybe siblings of the child it is proposed to place. There needs to be an understanding of the fact that this may or may not become a permanent placement depending on the outcome of Court.
- 7.5 Whilst the child is placed under the Fostering Regulations, an allowance will be paid. However this does not automatically mean that an allowance will be paid if the placement becomes one of adoption. The eligibility for an Adoption allowance would be determined under the Adoption Support Services Regulations 2005. An Adoption Support Plan will be completed at the point that the match between the child and the carers is presented to the Adoption Panel and this will include a recommendation on the eligibility or not for financial support.
- 7.6 Currently there is no automatic right to adoption leave for carers who are giving up employment to take a child as this will initially be a fostering placement. The carers should explore with their employer whether there is any flexibility in how they manage the time they need to take off work.
- 7.7 Dual approved carers will be supported by a worker from both the Fostering & Adoption services. These workers need to be clear with the carers about their respective roles and responsibilities. It should be recognised that the carers may need a high level of support to manage the possibility of the child returning to the birth family whilst also meeting the child's need to form strong attachments to their primary carers.

8. WHEN IT BECOMES ADOPTION

- 8.1 Until such time as the court considers and approves the local authority care plan for adoption and a placement order is made by the court, no assumptions can be made and the placement continues to be one of fostering.
- 8.2 When the placement order has been made, the match between the child and prospective adopters will be presented to the Adoption Panel with the same

reports as required for any other match presented to the Panel where the child has not previously been living with the carers.

- 8.3 The Adoption Panel will have direct evidence of the quality of the placement to date but must consider the match in light of the proposed fundamental change from a foster to an adoption placement. *'In that sense the role of the panel is not to 'rubber stamp' that which has already happened but to openly and supportively explore what has happened and what might need to happen'*⁹
- 8.4 Where the Adoption Panel makes a recommendation, the Agency Decision Maker will then consider that recommendation and make a decision under Regulation 33 of the Adoption Agency Regulations 2005.
- 8.5 The placement would then proceed as any other adoption placement with the acknowledgement that the application for an Adoption order could be submitted to the court at any point as the child is already living with the carers.

9. WORK WITH THE CHILD

- 9.1 Many Concurrent and Fostering for Adoption placements will involve very young children. However consideration must be given to how the placement is explained where an older child is involved.
- 9.2 Work with the child should involve age appropriate explanations that the Court will make the final decision as to where and with whom they will live. These explanations will need to be repeated and revised over time depending on the current situation. The child's wishes and feelings about adoption also need to be taken into account. If a Placement Order is made and the match agreed by the Adoption Panel, the child will need to understand the status change of the placement.
- 9.3 There will need to be a clear agreement from the beginning with the dual approved carers as to how they and the child refer to each other.¹⁰
- 9.4 When planning the placement, there needs to be agreement about who will be responsible for preparing the child's Life Story book and who will collect material for it.

⁹ Simmonds J (2013) 'Fostering for Adoption: Practice Guidance', BAAF / Coram

¹⁰ Simmonds J (2013) 'Fostering for Adoption: Practice Guidance', BAAF / Coram