

## **REVIEWING THE APPROVAL OF A FOSTER CARER**

### **What does 'review of approval' mean?**

'Review of approval' is the process that your fostering service uses to check that you and your household continue to be suitable to foster and any terms of approval you have are still suitable.

### **When will my approval be reviewed?**

The approval of all foster carers must be reviewed, and a decision about suitability made, within a year of approval, and thereafter whenever it is felt necessary, but at intervals of no more than 12 months.

A review could be called for one of a number of different reasons, for example

- the foster carer has had a change in their personal circumstances e.g. met a new partner, divorced/separated
- foster carer has a serious health issue
- foster carer has moved house
- plans to change any terms of approval e.g. number of children they can care for or the type of fostering they do.
- following an allegation
- a standards of care concern has been raised

Foster carers must have their approval reviewed at least within every 12 months – this is normally called the 'annual review'.

### **Will I be taken back to the fostering panel?**

The first ever review must go to the fostering panel, subsequent reviews do not have to, however, The Fostering Network considers it good practice for a fostering service to use their panel if they are

planning to terminate or change terms of approval (where the foster carer disagrees with changes to terms).

Your fostering service may have a policy that they take their foster carers back to panel every 'x' number of years e.g. every 3 years. We would advise you to check your fostering handbook to see what your service's policy is.

### **If I agree with the changes to my terms of approval can this take effect immediately?**

Where a foster carer agrees to proposed changes of approval terms, the fostering service must provide a statement setting out any additional support needs and how these will be met, together with the foster carer's signed agreement in writing. The changes can then take immediate effect (no need for a 28 day period to 'make representations' (i.e. challenge the proposed changes, because all parties agree)).

### **What information will my fostering service obtain for my review?**

When a fostering service undertakes a review they must **make such enquiries and obtain such information as they consider necessary** in order to review whether the foster carer and their household continues to be suitable. They are required to seek and take into account the views of the foster carer, any child placed with the foster carer (subject to the child's age and understanding), and any placing Local Authority which has, within the preceding year, placed a child with the foster carer (this will be from the child social worker). They may also get the written views of the foster carer's own children.

Once all information has been obtained, a report will be written and the foster carer should be provided with a copy of it. The report must be factually correct and there must be a clear distinction between what is fact and what is opinion. It is OK to express an opinion, but, where an opinion is given there should be evidence to support it. We would advise a foster carer to read through the review report and if there are any points they are not happy with, make a note of these. It might take a few reads to fully digest and process the content of the review report. If any information is factually incorrect and/or you wish to make any comments about the review report we would advise a foster carer to put this in writing to their fostering service. We would expect factual errors to be changed, any other disagreements about the report will be at the discretion of the fostering service as to whether they change or amend it and a foster carer can negotiate with them about this. A foster carer's written submission is important to have in such instances.

### **Who will carry out my review?**

Each fostering service conducts foster carer reviews their own way, so check your foster carer handbook to be clear about how your service does this. A review might be carried out by the foster

carer's own Supervising Social Worker or the fostering service might use an Independent Reviewing Officer (different to the person who chairs a child's review).

A review meeting will normally take place between the foster carer and their supervising social worker (and reviewing officer, if using one). This is where discussions take place, for example, in the case of your annual review, reflections of the last year – what has gone well, what has been challenging, any developmental/training needs etc.

## **What rights do I have when being taken back to the fostering panel?**

When a foster carer is taken to a fostering panel they:

- have a right to see all information being sent to panel in good time before the date of the panel - The Fostering Network considers it good practice for this to be at least two weeks before the panel date
- have a right to make their own written submissions to panel – find out the deadline to get this to the fostering service
- have a right to attend and be heard at panel
- have a right to take a supporter with them. This can be anyone, but it is our understanding their role is to provide a form of moral support not to advocate or speak on the foster carer's behalf

## **Can I write anything myself to submit as part of my review?**

Most fostering services ask their foster carers to complete a form for their review, but foster carers are free to write their own report in addition to that, especially when wanting to respond to specific or make extra points.

Writing something yourself to submit as part of your review can be a really useful exercise. It's a great opportunity to highlight positive aspects of your fostering and what's gone well.

Certainly, if concerns are being raised it is advisable for a foster carer to submit their own written submissions as this provides them an opportunity to put their case forward; respond and provide evidence to any concerns being raised; respond and provide evidence to any reasons why a fostering service wants to terminate or change terms of approval (where applicable), provide positive examples to show they are suitable to be foster carers and meet the needs of children placed in their care.

## **How should I write my written submissions?**

Every foster carer is going to have their own individual style as to how they do this. However, we would strongly advise a foster carer to keep their points as concise as possible and clearly set out. If

the review is going to the fostering panel, panel will have a lot of information to read through so it is vital important points don't get lost. See 'tips for written submissions'.

## **What are the functions of the fostering panel?**

A fostering panel has many important functions:

- consider applications for approval and to recommend whether or not a person is suitable to act as a foster carer, and if so the terms on which they should be approved (e.g. number and age of children to be placed);
- consider the first review of newly approved foster carers, and any subsequent reviews referred to it by the fostering service, and recommend whether or not the foster carers remain suitable to act as such, and if the terms of their approval remain appropriate;
- to oversee the conduct of assessments carried out by the fostering service;
- advise on, and monitor the effectiveness of, the procedures for undertaking reviews of foster carers; and
- give advice and make recommendations on any other matters or cases referred to the panel by the fostering service
- consider recommendations for terminations of approval

## **What happens when I go to the fostering panel?**

The fostering panel are sent all the paperwork in advance from the fostering service, including any written submission from the foster carer. You should receive all the paperwork which the panel receives. This is normally sent a couple weeks before panel is due to meet. On the day, the foster carer will be invited into the room where panel is sitting in order for panel members to ask further questions and clarification.

If the panel are considering a recommendation to end your approval the meeting may be difficult and you may disagree with things which have been written or are said. Try to remain calm and to put your arguments over clearly, becoming angry and arguing will not help you or the situation.

## **Can I take someone with me to the fostering panel?**

Yes you can. Foster carers are entitled to take a supporter with them to panel as a form of moral support. The supporter is not there to advocate for the foster carer nor can they speak on the foster carer's behalf, unless asked to do so by panel (although quite rare). The supporter could be anyone, a friend, another foster carer, relative etc. Some foster carers want to take a solicitor with them. This is acceptable so long as the solicitor fully understands they would not be acting in a legal capacity but just as moral support. We would also advise you to check with your fostering service if they would be happy for a solicitor to be your supporter at panel.

If you have been subject to an investigation following an allegation your fostering service should provide you with an independent support worker. You will be able to have this worker attend panel with you. The supporter will not be able to speak on your behalf, but she or he could remind you of things which you wanted to say to the panel. Whether you have a supporter with you or not it might be helpful for you to make some notes before the meeting so that you do not forget to say anything which you want the panel to hear.

## **Who makes the decision about my approval and/or terms of approval as a foster carer?**

If your review has gone to the fostering panel they will make a recommendation – not a decision – about your approval and any terms of approval. The recommendation of the fostering panel, along with the final set of panel minutes will be sent to the agency decision maker (ADM) at the fostering service, who is a senior member of staff. If your review has not gone to the fostering panel the information will be sent straight to the ADM at your fostering service.

The ADM must make a considered decision that takes account of all the information available to them, including any recommendation made by the fostering panel, within **seven working days of receipt of the recommendation and final set of panel minutes**. The ADM will make a decision and issue a “**qualifying determination**” (QD) if they propose to terminate or change the terms of approval of the foster carer.

The foster carer must be informed orally of the decision maker’s decision and any Qualifying Determination within **two working days** and written confirmation must be sent to them within **five working days**. Where a Qualifying Determination has been issued the letter must give their reasons for the decision and a copy of any recommendation made by the fostering panel.

## **What does ‘qualifying determination’ mean?**

A qualifying determination is a determination (a proposed decision) made by a fostering service provider that it does not propose to approve a person as suitable to foster a child or proposes to terminate or change the terms of the approval of an existing foster carer.

## **What can I do if I am not happy with the decision?**

If the foster carer is not happy with the decision (the qualifying determination) they have the right to make ‘**representations**’ and **must do so within 28 days of the date of the letter**. They have one of two options to do this:

- submit any written representations back to their fostering service and it will be referred back to the fostering panel for consideration and a possible new recommendation made

or

- apply to the Independent Review Mechanism (IRM) for a review by an independent review panel where a recommendation will be made

A fostering service is legally required to inform the foster carer about their right to make representations if they are not happy with the decision. If the foster carer does not make 'representations' within 28 days of their decision letter the fostering service may proceed to make their decision.

## **Why do you call it 'representations' and not an 'appeal'?**

We are mindful to use the term 'representations' as is used in the fostering regulations because technically it is not an appeals process. An appeals process suggests that if it results in favour of the foster carer the outcome will change accordingly, in the favour of the foster carer. In this case, the fostering service continues to have the final decision, regardless of the outcome of making representations (either back to the fostering service or going to the IRM). So, a foster carer could take their case to the IRM, receive a positive recommendation that they are suitable to be approved but continue to have their approval terminated by their fostering service. However, we would advise a foster carer that the report produced by the IRM has strong weighting (particularly if the IRM is in favour of the foster carer) and could always be shown to a new fostering service if the foster carer decided to apply to a different service in the future.

## **What is the Independent Review Mechanism?**

The Independent Review Mechanism (IRM) is a review process that a prospective or an existing foster carer may use if you disagree with the decision of the fostering service in any of the following respects:

- If the fostering service has declined to approve an applicant as a foster carer, after stage 2 of their assessment of them
- If the fostering service proposes to terminate a foster carer's approval
- If the fostering service has changed the terms of approval of a foster carer without their agreement

The Independent Review Mechanism is a national and separate body from all fostering services, managed by the CoramBAAF on behalf of the Secretary of State for Education. Its remit is to review qualifying determinations made by a fostering service provider (or adoption agency) about a person's suitability to foster or adopt and to make recommendations to the provider or agency.

The IRM is not a higher appellant body, although, understandably having a case heard by a completely independent panel is a very popular choice by foster carers. The decision maker at the fostering service makes the final decision taking into consideration any new recommendation by the fostering panel or IRM. You can find out more information about the IRM process on their website at the following link [www.independentreviewmechanism.org.uk](http://www.independentreviewmechanism.org.uk)

## What happens after making 'representations'?

If you have taken your case to the IRM or back to your fostering service a recommendation will be made. This will be sent to the ADM at your fostering service who makes the final decision, taking into consideration full information including any new recommendation by the fostering panel or IRM. Once the final decision about your approval and any terms of approval has been made your fostering service must give written notice to you of their decision. If your fostering service has decided to terminate your approval the written notice must inform you of this, the reasons for your approval being terminated and the date when your approval terminates. **This is the end of the review process.** There is no further organisation or body which you can take your case to. No-one has the 'right' to be a foster carer, hence why there is a review process in place to determine if a foster carer continues to be suitable to be approved.

## What if I want to resign as a foster carer?

You may want to resign from fostering for one of many reasons – e.g. retirement, ill health, moving away or due to other caring responsibilities. A foster carer may at any point give written notice that they wish to resign from the role, in which case their approval is automatically terminated 28 days after receipt of the notice by the fostering service. Your fostering service does not have the power to decline a resignation. **Once a foster carer has resigned and it has been received by the fostering service the resignation cannot be retracted and automatically 28 days later the foster carer's approval will be terminated.**

Sometimes foster carers choose to resign if they are told by their fostering service that they intend to take them to the fostering panel and recommend termination of their approval. If this happens, whether you resign or the fostering service terminates your approval, both ways ultimately lead to your approval with that service being terminated. **We would advise a foster carer to seek advice from The Fostering Network's member helpline before submitting any resignation to make sure all options have been explored and the foster carer is aware of the implications.**

Even with a resignation the fostering service will retain details of any concerns they had on your file, which would be available to any fostering service that you might apply to in the future. Your fostering service may also formulate an opinion or recommendation had you have continued through the review process, which would sit on your fostering file. In exceptional cases, where there were serious concerns, the fostering service might also refer your name to the Disclosure and Barring Service, which could prevent you working with children in other roles. In the case of an allegation it does not prevent other investigations from continuing e.g. a child protection investigation or Police enquiries.

## Should I resign if I want to go to another fostering service?

If you are choosing to transfer to another fostering service, and when you are certain of approval by that other fostering service, you can time a resignation with the date of approval from the new service. See The Fostering Network's Transfer of Carers Protocol for more information.

If you have a child in placement, the placing local authority has to be consulted about any possible transfer, and may choose not to agree. If you don't have a child in placement you can time any resignation and transfer as you wish.

If your fostering service has concerns about you and are reviewing your approval we would advise you to see this process through to try and resolve it. It is unlikely a new fostering service will start an assessment of a foster carer if their current service has concerns about them and they have not been resolved.

## **Am I still approved as a foster carer if I make 'representations' back to my service or take my case to the IRM?**

Yes, legally you remain approved as a foster carer throughout the whole review process, including when making representations, right up until the decision maker has made the final decision. Once the final decision about your approval and any terms of approval has been made your fostering service must give written notice to you of their decision. If your fostering service has decided to terminate your approval the written notice must inform you of this, the reasons for your approval being terminated and the date when your approval terminates.

## **If my approval is terminated does it mean I can never foster again?**

No, although it clearly depends on the circumstances and reasons why your approval was terminated e.g. an allegation was substantiated or found proven. If a foster carer has been convicted or cautioned of a specified offence then this is an automatic bar to fostering (there are exceptions regarding family and friends assessment).

Where a foster carer has had their approval terminated they are entitled to explore other services and approach a new fostering service with the view of starting an assessment with them. It is the decision of the recruiting fostering service as to whether they start an assessment. Any new fostering service is required to undertake an assessment of you to reach a decision as to whether you and your household are suitable to be approved. It is useful to have an open and honest conversation with a new fostering service to explain what has happened with your previous service.

If the foster carer took their case to the IRM and had a positive recommendation from them but their fostering service continued to terminate their approval the report produced by the IRM can be helpful information to provide to a new fostering service.

## **The legal bit about reviewing your approval as a foster carer**

There is a legal process in place when a fostering service reviews a foster carer's approval which is set out in The Fostering Services (England) Regulations 2011 and there is accompanying statutory guidance and National Minimum Standards.



## **The Fostering Services (England) Regulations 2011**

<http://www.legislation.gov.uk/uksi/2011/581/contents/made>

Regulation 28 – Reviews and termination of approval. This explains the process a fostering service must follow when they wish to review a foster carer's approval and also if they wish to terminate their approval, including the right to make 'representations' at the IRM.

## **The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013**

<http://www.legislation.gov.uk/uksi/2013/984/contents/made>

Regulation 8 . This regulation makes amendments to Regulation 28 of The Fostering Services (England) Regulations 2011 (above). It enables the fostering service and the approved foster carer to agree a change in the foster carer's terms of approval without delay, to take immediate effect. The foster carer used to have to wait a period of 28 days in case they wanted to make 'representations', but given that they agree to the change, making representations is not necessary and the change can take immediate effect.

Fostering statutory guidance: '**Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Volume 4: Fostering Services**' (July 2013)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/275764/20130522statutory\\_guidanceassessment\\_and\\_approval\\_of\\_foster\\_carers\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275764/20130522statutory_guidanceassessment_and_approval_of_foster_carers_final.pdf)

Independent Review Mechanism (page 15) – this explains all about being able to go to the IRM

Review and terminations of approval of foster carers (page 18) – this explains more about the review process.

The decision maker (page 19) – this explains about the decision maker role and what the decision maker has to take into consideration when coming to a decision about suitability.

## **The Children Act 1989 Guidance and Regulations Volume 4: Fostering Services**

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/274220/Children\\_Act\\_1989\\_fostering\\_services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274220/Children_Act_1989_fostering_services.pdf)

Chapter 5:

Constituting fostering panels (page 38) – this gives more information about establishing a fostering panel, the functions of a fostering panel, appointing a chair of the panel and the qualities needed from the chair and reviewing each panel member's performance including that of the panel chair.

Conduct of fostering panels (page 42) – this gives more information about what a fostering panel should do when hearing a foster carer's case.

Fostering standards titled '**National Minimum Standards: Fostering Services**'

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192705/NMS\\_Fostering\\_Services.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192705/NMS_Fostering_Services.pdf)

Standard 13 – recruiting and assessing foster carers who can meet the needs of looked after children (page 28) – the outcome of this standard is that the fostering service recruits, assesses and supports a range of foster carers to meet the needs of children they provide care for and is proactive in assessing current and future needs of children. It specifically states reviews of foster carers' approval are sufficiently thorough to allow the fostering service to properly satisfy itself about their carers' ongoing suitability to foster.

Standard 14 – fostering panels and the fostering service's decision-maker (page 30) – the outcome of this standard is that the fostering panel and decision maker make timely, quality and appropriate recommendations/decisions in line with the overriding objective to promote the welfare of children in foster care.

## **TOP TIPS FOR WRITTEN SUBMISSIONS**

You may be happy with the report which has been written, which is great, or there may be a few minor corrections needed which can be dealt with quickly and efficiently via your Supervising Social Worker or the reviewing officer. It is often the more contentious issues which cause unhappiness with a review report, particularly if the fostering service is recommending termination of approval or changes to terms of approval.

### **What if I don't agree with the review report – do I still have to sign it?**

Foster carers regularly ask what to do if they are asked to sign their fostering service's review report but they do not agree with information within it. Our advice is to sign it, but underneath write 'read but do not agree', or words to that effect.

### **Am I allowed to make my own written submissions?**

Regardless of how the review is undertaken and whether the fostering panel is being used, as a foster carer you are entitled to see a copy of the review report and to write your own response. If panel is being used your response can be distributed to panel members along with all other

paperwork provided by your service. Your response is not a legal document and it does not have to be anything complicated. It is your opportunity to put your points forward, respond to concerns being raised and highlight positive examples of what you have achieved for children in your care.

Every foster carer has their own strengths and weaknesses and writing a report type document may not be one of them. Don't let this put you off. You can write it in a style and language you are comfortable with. Sometimes the simpler the better.

## Top tips

- Make sure you have been given a copy of the review report which your fostering service has written about you.
- Read through the report several times to absorb and digest the information.
- Make sure you know the deadline to get your response back to your fostering service. This will also help you focus on the task. If the fostering panel is being used, it will get sent, along with all other papers, to the panel members normally a couple of weeks in advance of panel.
- Make sure you have been given a reasonable time to respond to your fostering service's review report. We would consider it good practice for you to have at least two weeks to do this.
- Using a highlighter pen, read through the report again and highlight everything you are not happy about.
- If your fostering service is recommending terminating approval or changing terms of approval and you do not agree, make sure you focus very carefully on the reasons they have provided in the review report. Your response should concentrate on addressing these reasons, backed up by evidence.
- Looking at what you have highlighted – separate what is factually incorrect and what is expressed as an opinion but is not backed up by any evidence. Prioritise what you are not happy with - there may be some points you have highlighted which you are unhappy about but feel it is best to put to one side and concentrate on the bigger issues.
- Information which is factually incorrect – if there is time, bring it to the attention of your Supervising Social Worker (SSW) in an email. Let them know the correct information and ask for this to be changed within their review report. If there is not time to do this, make sure you note the inaccuracies in your response to panel.
- Where an opinion has been expressed which you do not agree with, respond to it. Make sure, where you can, to use evidence to support the points you are trying to make. Remember it is OK for someone to express an opinion so long as it is clear it is an opinion and the weight that an opinion is given depends on how it can be evidenced.
- (Don't forget) you can use supervision notes and past review reports as evidence when putting your points across.
- You may want to think about writing a couple of introductory sentences to help set the scene – e.g. fostered for 'X' years, cared for 'X' children ... this year had a placement...
- Don't forget to include positive examples of your fostering. You need to demonstrate you are suitable to foster and how children have thrived in your care.
- Be concise
- Provide context to a situation where appropriate.
- Try to put your emotional involvement to one side and think objectively about the situation. This is not to say you cannot express your emotion in your writing, but don't let your emotion cloud how effective your response can be.
- Make sure the points you are raising focuses on the 'best interests of the child'.

- Remember the fostering panel do not know the situation/case! When writing your response write it as if it were a stand-alone document and as if the panel do not know you.
- Make sure your response is balanced and is a rational approach.
- Make sure you reference what you are responding to in your fostering service's review report e.g. page three, paragraph two, lines four-seven. It is often useful to copy the sentence(s) from your fostering service's review report and then put your response underneath.
- Think about the best way to state your points – bullet points or numbering the points you are making can be very effective. Make sure the really important points are at the top.
- Don't forget to use your support network, friends, family and other foster carers to take a look at the response you are putting together. This can be particularly helpful if you have a disability or where English may not be your first language. It is also a 'fresh pair of eyes' taking a look at what you have written.
- Keep a copy of the response you have written and take it with you to panel.

### **What about if I haven't been given enough time to respond?**

We would advise you to contact your fostering service and ask if they would consider deferring the fostering panel until the next scheduled date. Make it clear that you have not been given enough time to read, digest and respond to their review report - we would consider it good practice for you to have at least two weeks to do this. If your fostering service refuses to defer the panel, you may have to make the best out of a bad situation. If there is no time at all to prepare, you may have to just bullet point the top five or ten points you want to make at panel. Make sure you tell panel about the little time you have had to prepare. Remember you can always take your case to the Independent Review Mechanism (IRM) if you are not happy with the decision following the review, if it is termination of approval or a change to your terms of approval.

**January 2018**