Unregistered, Unregulated & Crisis Placement Procedure

This procedure defines what both a crisis and an unregistered placement are in relation to Children’s Services placements. It outlines the processes that are undertaken when considering such placements and the risk mitigations in place.

**This guidance and forms should be used for ALL placements in UNREGISTERED provision.**

**This procedure should also be used for unregulated Connected Persons (Reg. 24) Placements**

Contents

[1 What type of placement is deemed a crisis placement? 3](#_Toc124503230)

[2 What type of placement is deemed an unregistered placement? 3](#_Toc124503231)

[3 CQC registered homes 3](#_Toc124503232)

[4 Process at point of placement 4](#_Toc124503233)

[Authorisation 4](#_Toc124503234)

[Request for placement 4](#_Toc124503235)

[Identification of placement 4](#_Toc124503236)

[Provider checks 5](#_Toc124503237)

[Risk assessment 5](#_Toc124503238)

[Consultation with relevant parties 6](#_Toc124503239)

[SW Visits to placement and Placement meeting 6](#_Toc124503240)

[5 Reviewing the placement 6](#_Toc124503241)

[6 Child subject to a DoLS and placed in unregistered provision 8](#_Toc124503242)

[7 Reporting 8](#_Toc124503243)

[8 Other unregulated/ unlawful placements 9](#_Toc124503244)

[9 Appendices 10](#_Toc124503245)

[APPENDIX A Authorisation Request for a same day urgent Placement Decision/ unregistered/ unregulated placement and Unregistered Placement Risk Assessment 10](#_Toc124503246)

[APPENDIX B Ofsted Supported Accommodation Check List 16](#_Toc124503247)

[APPENDIX C Notification to Ofsted of placement of a child subject to inherent jurisdiction and DoLS 18](#_Toc124503248)

[APPENDIX D checklist for documents on file 19](#_Toc124503249)

# 1 What type of placement is deemed a crisis placement?

For the purposes of this procedure, a crisis placement relates to a placement that is available for a child/young person immediately for a set period of time.

These can be activity based placements, outward bound placements or placements in a children’s home for a limited time period.

The duration of the placement will vary and is usually set by the provider at 28 days.

Places where children (other than disabled children) are accommodated while on holiday or taking part in leisure, sporting, cultural or educational activities where each individual child stays there for less than 28 days in any 12-month period, do not require registration with Ofsted and are unregulated. The child would however require a main placement, that should be registered with Ofsted.

# 2 What type of placement is deemed an unregistered placement?

THE CARE PLANNING, PLACEMENT & CARE REVIEW (ENGLAND) (AMENDMENT) REGULATIONS 2021 came into force on 9 September 2021 and prohibit placement of children in care under 16 in unregulated accommodation.

Where a service is **providing care for a child under the age of 18** in a static placement, this service must be registered by Ofsted. Failure to do so results in the placement being unregistered and therefore illegal. It is NCT policy that we do not place in an unregistered setting.

Supported accommodation is not Ofsted registered and is therefore deemed an unregulated setting. (Annexe B provides Ofsted guidance on when a setting is supported accommodation and not care). All independent and semi- independent provision for children in care and care leavers aged 16-17 will be required to register with Ofsted and subject to mandatory national standards from April 2023 and inspections from April 2024.

# 3 CQC registered homes

There are circumstances when it may be appropriate for a care home to be registered with CQC (Care Quality Commission) rather than as a children's home with Ofsted.

If a child over the age of 16 is placed in accommodation because of their need for nursing care or personal care, the CQC provider would be suitable if registered to provide residential care and the child’s plan indicates that would be the young person’s permanent home beyond the age of 18.

If the primary reason for placing a child in the accommodation is care that is not nursing care or personal care, it is likely this will be a children’s home that should register with Ofsted.

# 4 Process at point of placement

## Authorisation

It is our expectation that services will do everything they reasonably can to find a suitable registered provider for a child, with all due attention to the welfare and care of the young person. If we are in the situation of having no choice but to allow a child to be placed in an unregistered setting, we need to demonstrate we have done everything we could to comply with the regulations and are assured that the unregistered placement is safe.

If approval is sought for an unregulated / unregistered placement for a child under 16 or for a child 16-17, a request will be completed jointly by the social worker and the Brokerage Team Manager- Authorisation Request for a same day urgent Placement Decision (Appendix A)

This will require agreement from the Service or Strategic Manager who will seek approval from the Assistant Director/ Director. The Assistant Director/ Director will record decision and rationale in the child’s file in the observation section at the time of the approval being given. The approved Authorisation Request for a same day urgent placement decision form will also be uploaded to the child’s file.

## Request for placement

* Referral made to Placement Management Service (PMS) following approval by Assistant Director/ Director or gateway panel. Child’s profile and current risk assessment to be included.

## Identification of placement

* PMS works to identify a placement in line with child’s plan
* PMS will explore all options. Whilst unregistered providers could be explored as contingency, all regulated options have to be exhausted prior to considering an unregistered or crisis placement.
* Any unregistered or crisis placement offer received will be scrutinised by the PMS Service Manager in line with existing guidance as to what is unregistered and to avoid any use of unregistered service.
* Approval for placement sought from Assistant Director/ Director for any new crisis / unregistered placement, following agreement from social care Service or Strategic Manager.

## Provider checks

Checks are made against the provider offering the placement, including:

* Insurances
* Review Manager's experience and qualifications
* Request Host Authority Reference
* Request Local Authority References
* Check all staff DBS checks and skill sets
* Property checks (gas, electricity, fire equipment, PAT testing, visual check of condition)
* Policies & procedures: Safeguarding, Behaviour Management, Safer Recruitment, Statement of Purpose, Location risk assessment, Child Exploitation, Missing from Home, Information Governance
* Staff Training Matrix
* Companies House registration
* Financial resilience check
* Regulatory body rating (if applicable)
* Quality and Outcomes team (QOT) maintain a log of business checks.

## Risk assessment

* QOT and PMS complete the risk assessment based on the provider checks and high level information on the child. (Appendix A- PMS and QOT section)
* The social worker completes the risk assessment (Appendix A- social worker section) outlining how the needs and risks of the young person will be managed, as well as the regular reviews of the placement.
* Factors to be considered before place a child in accommodation in an unregulated setting under S22C(6)(d):
  + Facilities and service provided
  + Safety and location
  + Support
  + Tenancy status
  + Child’s views about the accommodation
  + Child’s understanding of the accommodation (rights and responsibilities)
  + Funding.
  + **The social worker must also request information from the provider in relation to any other young people who are placed in the provision and use this information to determine whether the placement being put forward is suitable.**
* For 16-17 years old checklist to be completed by PMS in consultation with social worker to identify whether the proposed placement will provide support or care (Appendix B)
* The timescales for the child's placement and funding consideration and request sent to the relevant Service or Strategic manager
* The child’s social worker will ensure the unregistered placement risk assessment is reviewed within appropriate timescales according to the needs of the child, and at least one month after the placement starts.

## Consultation with relevant parties

* Social worker to seek views of the young person, parents or person with parental responsibility, IRO, virtual school, and YOS and CAFCASS if involved in relation to the identified placement

## SW Visits to placement and Placement meeting

* It is good practice for the child’s social worker to take the child to their placement. Where this is not possible, the social worker will visit within 24 hours of the placement being made. Weekly visits will be completed initially until the Child in Care review. Subsequent timescales to be reviewed and agreed with managers in line with risk. SW to review how the placement is meeting the needs and highlight any concerns if they arise.
* The Team Manager is responsible for ensuring that visits take place within the required and agreed timescales
* The child must have a Placement Plan at the time of the placement (this includes the parent's consent to the placement (if applicable) and the child's medical treatment). It should be completed as far as possible before the child is placed or, if not reasonably practicable, within 5 working days of the start of the placement. The first Placement Planning Meeting in relation to a placement should be held before the placement or, where this is not possible because of the urgency of the situation, within 72 hours of the placement.

# 5 Reviewing the placement

If a child is placed in an unregistered setting, senior manager oversight and regular monitoring will take place as follows:

* Weekly unregistered meetings attended by Service/ Strategic managers, PMS and Assistant Director where each individual child in unregistered setting is discussed, to ensure the needs of the young person are met in those arrangements, that risk is mitigated/managed, visits have taken place in accordance with this procedure, and efforts to secure a regulated placement are continuing and are effective
* IRO to arrange a Child in Care review and visit the child/young person in placement within 20 working days.
* Quality and Outcomes Team (QOT) visit within the first 7 days of placement being made to review safer recruitment practices, child’s file, record keeping, speak to staff and child. Subsequent visits to take place weekly, fortnightly or monthly depending on any concerns identified and needs of child.
* Service manager will ensure relevant documents are on file and up to date (Appendix E Checklist for documents on file)
* Legal advice to be sought in relation to any new unregistered arrangements, to consider implications in relation to deprivation of liberty and the need of a legal order. High Court’s inherent jurisdiction could be used in very specific and exceptional circumstances, permitting a child in care to be placed in an unregistered placement in cases where it is in the child’s best interests for them to be deprived of their liberty (DOLS). The provider will be required to apply for registration within 7 days and the court order will require the Local Authority to inform OFSTED.
* Discussion with the provider about Ofsted registration.
* PMS maintain a log of all crisis and/or unregistered placement, including details of move on plans: Unregistered & Unregulated Placement Tracking
* The relevant Assistant Director/ Director are to be notified of the move on plan one week in advance of an unregistered placement ending.

# 6 Child subject to a DoLS and placed in unregistered provision

Where an order has been made under the inherent jurisdiction of the High Court to authorise the deprivation of a child's liberty in an unregistered placement, NCT MUST notify OFSTED.

Service / Strategic manager to inform Assistant Director/ Director who should email Ofsted at EYRegulatoryandSocialCare@ofsted.gov.uk using the template provided in Appendix D and providing the following information:

* Notification that an order has been made.
* A copy of the order.
* A copy of the judgment.

(President of the Family Divisions guidance issued December 2020)

The Department for Education (DfE) has also confirmed (11 October 2021) that information received by the Secure Welfare Coordination Unit in regard to individual children placed in unregistered provision will be shared with Ofsted. This can be at the point of referral for a secure bed or at the point of discharge from secure provision. The DfE recognised that local authorities would already be notifying OFSTED for some children, those where DoLS have been sought.

# 7 Reporting

The following reporting mechanisms are in place:

* The Director of Children’s Services in North and West Northamptonshire are informed of any new crisis or unregistered placements or changes in existing unregistered/ unregulated
* Ofsted will be informed of any new unregistered placements and regular updates will be provided on existing unregistered placements.
* Update on position on unregistered will be included in the Operational Commissioning group reporting
* The Director of Children Social Care will be informed of any changes in relation to unregistered placements which are discussed at the weekly unregistered meetings
* SW visits are monitored on a weekly basis for all unregistered placements
* PMS provide monthly statistics within the current activity report which will include unregistered and crisis placements.
* Monthly reporting on compliance and quality assurance with regards to Unregistered, Unregulated and Crisis placements to the QA Board
* Analysis of the use of unregistered provision to be taken into account for service developments and sufficiency strategy

# 8 Other unregulated/ unlawful placements

* If a child is placed with a connected person who is not approved under Regulation 24, or with a foster carer where the placement is not in accordance with their terms of approval, the placement is unlawful.

Possible examples are:

* A child is placed with a connected person under Regulation 24 whose assessment cannot be completed and presented to a fostering panel (perhaps because of the absence of a health report). Regulation 25 requires that if that carer has not been approved fully as a foster carer after 24 weeks (16 weeks and 8 weeks possible extension), the placement must be terminated, and other arrangements made for the child’s accommodation. Failure to comply with the regulations makes the placement unlawful.
* A child needs a foster placement that meets their specific needs, but there are no available vacancies. A carer is willing to take the child, but the placement of the child would exceed their approved number of placements. Regulation 23 of the Care Planning, Placement and Review (England) Regulations 2010 allows such a placement for a maximum of six working days, after which the placement must be terminated unless the foster carer’s terms of approval have been amended and agreed.
* A foster carer has resigned which will automatically end their approval after 28 days. If any placements with the foster carer are not terminated and other arrangements made for the child’s accommodation, the placement becomes unlawful after 28 days
* If the placement continues to be the most appropriate placement for the child there should be an effort to attain that the child could remain there lawfully
* The social worker of the Independent Fostering Agency and Child Social Worker complete the risk assessment (Appendix A- social worker section) outlining how the needs and risks of the young person will be managed, as well as the regular reviews of the placement.
* The Strategic manager of the Independent Fostering Agency and the Child’s Social Worker Strategic Manager, will consider justification of the continuation of the foster placement despite it having become unlawful, and actions that are to be taken with clear timescales
* Assistant Director/ Director within NCT to accept that the unlawful placement should continue pending the regulatory requirements be met or alternative action be taken
* The Assistant Director / Director should be informed of any new unregistered/ unlawful placements

# 9 Appendices

# 

## APPENDIX A Authorisation Request for a same day urgent Placement Decision/ unregistered/ unregulated placement and Unregistered Placement Risk Assessment

|  |  |
| --- | --- |
| **PART ONE – AUTHORISATION REQUEST** | |
| **Name of Child** |  |
| **Age** |  |
| **DOB** |  |
| **CF number** |  |
| **Legal status** |  |
| **Start date of proposed placement** |  |
| **Why does the child need a placement?**  Ie Breakdown, Police protected, Safeguarding, Hospital discharge  *If the child is in placement, please state why the child cannot stay in placement, all efforts to support the placement and consequences if the child stays in placement.*  *Have all family networks been approached for potential support and/or placement? Outcome?* |  |
| **What type of placement was requested for the child?**  *(ie children’s home, foster care)* |  |
| **How long are you requesting the placement for?** |  |
| **What is the same day urgent placement being requested**?  *Include: Provider name, Placement type, regulatory body (include rating), address, staffing ratio, framework, quality visited or planned date, used before and cost?* |  |
| **Outline how the identified needs the young person will be met in this placement:**  Guidance:  Provider to state how they will work to meet the young person’s needs, such as health, education, self-care skills, based on the placement referral. What activities can the provider complete with the young person, and how will they engage. |  |
| **Have in house service fostering and residential been explored?**  *If inhouse are unable to offer, please confirm reason for this* |  |
| **Have all external providers been contacted including framework, off framework, children’s home and IFA handbooks and google searches** |  |
| **Has every effort been made to call providers to discuss the child’s referral? One-page Child Profiles, Positive achievements & Aspirations, Placement Support Packages etc?** |  |
| **Please outline the issues/ challenges to find a placement offer for the child** |  |
| **When was the referral submitted and have any there been any planning meetings to date?** |  |
| **What support packages can be offered to encourage Providers to offer a placement and who has been tasked to put this support in place?** |  |
| **Are there any potential placement expressions of interest that are being explored?** |  |
| **What is the plan to identify a placement and how regularly will this be completed?** |  |
| **Completed by (name and post)**  **Date** |  |
| **Approved by (name and post)**  **Date**  **Rationale for approval** |  |

***Send Part 1 to AD for approval before the placement is made***

**PART TWO – UNREGISTERED PLACEMENT RISK ASSESSMENT**

This risk assessment is to be used when consideration is given to place a young person in an unregistered placement.

This risk assessment evidences the quality assurance checks taken when placing with an unregulated provider.

It is recognised it may not be possible to fully complete the risk assessment prior to the placement being made. It should be completed as soon as possible.

|  |  |
| --- | --- |
| Companies House Registration No: |  |
| Statement of Purpose  Must be obtained Y/N |  |
| Matching considerations |  |
| If young person is 16 or over  Has the care vs. support checklist been completed? Y/N/To be completed |  |
| Provide detail of how the risks to/from the young person will be managed within this placement  Guidance:  Based on the risks identified in the referral form how will the provider assess those risks and mitigate them?  (e.g. High level of absconding behaviour – Staffing ratio is 1:1 24/7 therefore any absconding will be known immediately. If this happens the provider will update police and social worker/out of hours when young person is missing.) |  |
| What training/experience staff have to address these  Guidance:  Do staff have relevant training/experience to meet the young person’s needs and mitigate any risks? |  |
| What is the tenancy status and is any mitigation required around this |  |
| Provider Quality checks considerations.  This section to be completed by Q&O Team |  |
| Providers’ insurances  Must be obtained Y/N | [Delete as appropriate] Residential / 16+ |
| Financial resilience check and financial stability risk score (only for non-framework providers) |  |
| Providers’ Policies & Procedures:  Safeguarding (including Child Exploitation), Safer Recruitment, Missing from Home  Guidance: The provider’s Policies & Procedures to be reviewed ensure they meet NCT minimum standards. |  |
| Location risk assessment  Must be obtained Y/N  Any known concerns: |  |
| Has the provider evidenced a gas safety certificate dated within the last year?  Property checks (gas, electricity, fire equipment, PAT testing, visual check of condition) | Yes / No |
| Has the provider evidenced a electricity safety certificate dated within the last year? | Yes / No |
| Check staff DBS and skill sets  Check staff training matrix  Review Manager's experience and qualifications  Guidance: if not received at point of placement, state when it is expected to be received. |  |
| Request Host Authority Reference (LADO) |  |
| Request Local Authority References |  |
| **Social Worker’s comments** |  |
| Views of the social worker  Guidance: include young person’s voice about the proposed placement, views of parent, IRO and any other relevant views if known |  |
| Confirm the child has an understanding of the accommodation status, their rights and responsibilities |  |
| State what the move on plan for the young person is: |  |
| **Monitoring of the placement** |  |
| Allocated Social Worker and/or Personal Advisor | Social Worker or PA will undertake statutory visits to the young person in the placement. As part of these visits, they will regularly review the support and accommodation offered to the young person. |
| Will the child’s SW take the child to the placement? If not confirm the SW visit will take place within 24 hours of the child moving in |  |
| What is the frequency of Social Worker or PA Visits? | SW visits will be weekly until child in care review  The frequency of SW visits following the child in care review will be: (SW to complete) |
| Quality & Outcomes Team | Q&O Team will visit regularly to review any outstanding actions and ensure provider is following the care and support plan. First visit to happen within first 7 days of team being notified and following visits weekly, fortnightly or monthly depending on any concerns identified and needs of child. |
| When will a review of this risk assessment take place and how will views of child, parent/s, carer/s, IROs, advocate etc inform this  (Social Worker to complete) |  |

Signed……………………………….. Date

Social Worker

Signed………………………………… Date

Team/ Service Manager

## APPENDIX B Ofsted Supported Accommodation Check List

* This table sets out criteria to help identify whether the service being proposed or provided is ‘supported accommodation’.
* The table below sets out each criteria in the form of a question, and suggests whether a ‘yes’ or ‘no’ answer means care is provided, or supported accommodation.
* Where care is provided, this service meets the definition of a children’s home and will usually need to register with Ofsted.

|  |  |  |
| --- | --- | --- |
| **Criteria** | **Yes?** | **No?** |
| Can young people go out of the establishment without staff permission? | Supported accommodation | Care |
| Do young people have full control of their own finances? | Supported accommodation | Care |
| Do young people have control over what they wear and of the resources to buy clothes? | Supported accommodation | Care |
| Are young people in charge of meeting all of their health needs, including such things as arranging GP or specialist health care appointments? Are young people in full control of their medication? | Supported accommodation  (note that young people may ask for advice and help on their health, but if the decisions rest with the young person, the establishment is not providing care) | Care |
| Does staff have any access to any medical records? | Care | Supported accommodation |
| Can young people choose to stay away overnight? | Supported accommodation  (note that being expected to tell someone if they are going to be away overnight does not indicate providing care, but needing to ask someone’s permission does) | Care |
| Is there a sanctions police that goes beyond house rules and legal sanctions that would be imposed on any adult? | Care | Supported accommodation |
| If the establishment accommodates both adults and young people, do these under 18 have any different supervision, support, facilities or restrictions? | Care | Supported accommodation |
| Are there regularly significant periods of time when young people are on the premises with no direct staff supervision? | Supported accommodation | Care |
| Do staff have any responsibility for aftercare once a young person has left? | Care  (note that some supported accommodation services will off some support to help young people get established in their | Supported accommodation |

## APPENDIX C Notification to Ofsted of placement of a child subject to inherent jurisdiction and DoLS

I write to notify Ofsted of a child aged …… years who has been placed in an unregistered setting by the Court subject to inherent jurisdiction and DoLS.

This is in compliance with the President of the Family Division, Sir Andrew McFarlane P, requiring local authorities to notify Ofsted where an order has been made under the inherent jurisdiction of the High Court to authorise the deprivation of a child's liberty in an unregistered placement.

Please find attached to this email a copy of the DoLS order and judgement in respect of the child in the care of West/ North Northamptonshire Council. The child’s details are provided within the attached and the information sent securely in compliance with data protection requirements.

I understand that the provider named in the order intends / does not intend to make an application to be registered with Ofsted. The providers full details are as follows

Name of organisation:

Name of Assistant Director/ Director

Contact details:

If you require any further information, please let me know by return

Yours sincerely

## APPENDIX D checklist for documents on file

|  |  |
| --- | --- |
| **Document/ Record** | Yes/ No and action if required |
|  |  |
| Authorisation Request for a same day urgent Placement/ AD approval and rationale for unregistered/ unregulated and Unregistered Placement Risk Assessment (Appendix A) |  |
| Ofsted Supported Accommodation checklist if applicable (Appendix B) |  |
| Child’s Care Plan |  |
| Placement search chronology |  |
| Latest court order and/ or DOLs if applicable |  |
| Legal advice |  |
| Ofsted notification if child subject to inherent jurisdiction and DoLS ( Appendix C) |  |