

Operational Procedure & Practice Guidance: Children and Young People in Unregulated Placements

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1. Purpose

1.1 This document sets out Swindon Borough Council’s operational procedure and practice guidance for situations where a child or young person is living in, or is being considered for, an unregulated (unregistered) placement.

1.2 The guidance is intended to support social workers, managers, commissioners and senior leaders to navigate the legal, practice and governance requirements in exceptional circumstances where registered provision is unavailable, ensuring:

- Children’s safety and welfare remain paramount
- Robust decision-making, authorisation and oversight
- Clear plans to move children into registered provision at the earliest opportunity

1.3 This document must be read alongside:

- Swindon Borough Council’s Placement, Care Planning and Sufficiency policies
 - The Scheme of Delegation
 - Relevant statutory guidance and legislation
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2. Core Principles

2.1 Unregulated placements are unlawful for children under 18 and must never be considered ‘business as usual’. Their use is exceptional, temporary and time limited.

2.2 Swindon Borough Council’s expectation is that all children live in Ofsted-registered provision unless:

- There is clear evidence that no registered placement is available despite an exhaustive search
- The arrangement is necessary to safeguard the child or others
- Director of Childrens Services (DCS) authorisation has been obtained

2.3 The child’s best interests, wishes and feelings, and human rights must underpin all decision-making.

2.4 Where a child is living in an unregulated setting:

- Enhanced management and senior oversight is mandatory
 - Risk is actively managed and reviewed daily
 - Planning to exit the arrangement begins immediately
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3. Scope and Definitions

3.1 This guidance applies to:

- Children under 16 in unregulated settings
- Young people aged 16–17 who require care or supervision in unregulated settings

3.2 Unregulated placements include:

- Settings providing care that are not registered with Ofsted
 - Placements where fostering approval has lapsed (*although unregulated this procedure is not required in this circumstance*)
 - Family or connected person arrangements without completed assessments (*although unregulated this procedure is not required in this circumstance*)
 - Placements authorised by the court under Deprivation of Liberty (DoL) where no registered provision is available
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4. Legal and Policy Context

4.1 Relevant legislation includes:

- Children Act 1989
- Care Planning, Placement and Case Review Regulations
- Human Rights Act 1998 (Article 5 – Right to Liberty)
- Mental Capacity Act 2005

4.2 A Deprivation of Liberty occurs where:

- The child is confined or closely supervised
- The child lacks capacity or competence to consent
- The arrangement is imputable to the state

4.3 Any DoL arrangement must be authorised by the court, supported by legal advice, and subject to rigorous monitoring.

5. Situations Where Unregulated Placements May Arise

5.1 Examples include:

- Exhausted placement searches with no registered provision available
- Emergency situations requiring immediate safeguarding
- Court-directed placements pending assessment
- Lapsed fostering approvals (Regulation 24 / 25)
- Placement with parents under a Care Order without completed assessment

5.2 These situations must always trigger:

- Immediate escalation through management to SBC DCS
- A clear plan to bring the arrangement back within regulatory compliance swiftly

6. Authorisation and Decision-Making

6.1 **No child may be placed in an unregulated setting without DCS authorisation.**

6.2 Authorisation pathway:

- Director of Childrens Services approval is required (but prior to requesting DCS approval the Social Worker needs to have checked with Homefinding, with their Team Manager and Head of Service that an unregistered placement is the only option).
- If DCS is not available to provide approval, Corporate Director / Chief Executive approval is required in line with the Scheme of Delegation

6.3 The following must be clearly recorded on the child's case record by the **Social worker**:

- Rationale for the placement
- Evidence of exhausted placement searches
- Child/Young Persons Views
- IRO views
- Legal advice (where applicable)

6.4 The following must be clearly recorded on the child's case record in the event of a non-DoL placement in an unregistered setting:

- Clear evidence that the placement is in the child's best interests
- Evidence of exploration of all registered placement options
- Evidence of the continuation of search for registered provision.

- Where relevant evidence that the care provider is willing to register the care arrangements with Ofsted
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7. Immediate Actions (Same Day / Next Working Day)

7.1 The following documents must be completed:

- Need to Know briefing – **completed by Service Manager (SM)**
- Child Risk Assessment and Safety Plan – **completed by Social Worker with SM oversight**
- Location Risk Assessment - **completed by Social worker and Homefinding**
- Health and Safety Property Checklist – **completed by Homefinding, this should be informed by a joint visit with Homefinding and the Social Worker**

7.2 The Social Worker must:

- Obtain and record the child's wishes and feelings
- Refer to Coram Voice Advocacy
- Record parental responsibility holders' views
- Ensure risks are analysed and mitigated

7.3 The Homefinding Team will:

- Quality Assure the provider and property
 - Complete Due Diligence if the provider is new
 - Confirm ongoing placement searches
-

8. Placement Planning and Early Oversight (Within 48 Hours)

8.1 A Placement Planning Meeting must be convened – this should be organised by the **Social Worker**

8.2 Required actions include:

- Statutory social work visit (joint SW/TM)
- Clear evidence of the Child/ Young Persons Voice
- IRO decision on early Looked After Review
- Legal Planning Meeting chaired by Head of Service

- Ofsted notification letter prepared by Homefinding

8.3 The Head of Service will agree monitoring frequency (see section below)

9. Ongoing Monitoring and Review

Weekly (as a minimum)

9.1 Risk Management / Care Team Meeting chaired by Service Manager, including:

- Child or young person
- Parents / carers
- Provider
- Commissioning and relevant partners: enhanced supervision by Swindon Borough Council should be evidenced.

9.2 Requirements:

- Weekly social work visits, appropriately documented
- Updated risk assessment with multi-agency input
- A Permanence Planning meeting must be held within 72 hours of placement
- Review of minimum standards and any registration process, with notifications to Ofsted where appropriate and necessary.
- Evidence of ongoing placement search
- Daily Keep in Touch (KIT) meetings with Service Manager Oversight, and updates to be shared with Director of Children Services/Corporate Director

9.3 The IRO must:

- Review records weekly
- Consider dispute resolution if concerns arise

9.4 Director oversight meetings take place weekly with Head of Service.

10. Extended Unregulated Placements (Over 4 Weeks)

10.1 Additional safeguards apply:

- Service Manger visits at least every 4 weeks
- Monthly senior-chaired Risk Management Meeting

- Escalation to DCS and Departmental Senior Management Team
- SBC will commission an independent (S44) visit to ensure safety and wellbeing

10.2 Continued use must be clearly justified and reviewed.

As per standard process 'Children We Care For' Reviews must continue to take place at intervals of no more than 3 months or more frequently when required. Advocates and Court Guardian should be invited to CWCFRs.

11. Roles and Responsibilities (Summary)

- Social Worker: Direct work, visits, recording, risk management
 - Homefinding: Identifying a provider and location (property), completing a Health and Safety Property Checklist, ongoing search to enable the child or young person to move to regulated provision
 - Team Manager: Oversight, chair risk meetings, QA documentation
 - Service Manager/Head of Service: Senior analysis, legal oversight, Ofsted notification
 - Director: Monitoring, reporting
 - Director of Children's Services: Permissions, Corporate accountability
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12. Recording and Quality Assurance

12.1 All decisions, visits, meetings and reviews must be recorded on the child's electronic file.

12.2 This procedure is subject to audit through Swindon Borough Council's QA and Performance framework.

13. Review

This procedure will be reviewed annually or sooner if legislation, statutory guidance or local policy changes.

14. Alignment with Swindon Borough Council Policy and Inspection Frameworks

14.1 This procedure aligns with the following Swindon Borough Council policies and frameworks:

- Placement and Sufficiency Strategy
- Care Planning and Looked After Children Procedures
- Corporate Parenting Strategy
- Quality Assurance and Audit Framework
- Scheme of Delegation and Decision-Making

14.2 Inspection and assurance alignment: This guidance is written to evidence strong practice against Ofsted ILACS inspection themes, including:

- Impact of leaders on social work practice – clear escalation, authorisation and senior oversight
- The experiences and progress of children – child-centred decision-making, wishes and feelings, timely review
- Safe and effective practice – risk management, legal compliance and monitoring
- Sufficiency and commissioning – evidence of exhaustive placement searches and exit planning

14.3 Records created through this procedure provide a clear audit trail demonstrating:

- Necessity and proportionality
- Least restrictive practice
- Active planning to secure registered provision

Appendix A – Swindon Unregulated Placement Decision Flowchart

Is an unregulated placement being considered?

→ Has placement at home or within family/network been explored and exhausted? → Have all registered fostering, residential and specialist options been fully explored and evidenced?

If NO → Do not proceed. Continue placement search.

If YES → Immediate escalation to Team Manager and Head of Service.

→ Complete Need to Know briefing, Child Risk Assessment and Property Checklist. → Placements Team quality assurance and reference checks.

→ Head of Service analysis and recommendation.

→ Director decision.

→ Director of Children's Services notified.

→ Corporate Director / Chief Executive approval where required.

→ Placement Planning Meeting within 48 hours. → Weekly review and senior oversight until exit to registered provision.

Appendix B – Quick Reference Workflow

Same Day / Next Working Day

- Escalate immediately to SM / HoS to gain correct permissions, DCS oversight
- Complete Need to Know
- Complete Risk Assessment & Safety Plan
- Complete Provider/Property Checklist (HF)
- Record child's wishes and parental views

Within 48 Hours

- Placement Planning Meeting
- Joint statutory visit (SW/TM)
- IRO consideration of early review
- Legal Planning Meeting
- Ofsted notification prepared and sent (Homefinding)

Weekly

- Social work visit
- Risk Management Meeting
- Updated risk assessment
- Evidence of ongoing placement search
- IRO weekly oversight

Over 4 Weeks

- SM/HoS visits minimum 4-weekly
 - Monthly SMT chaired review
 - Escalation to DCS
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Appendix C – Manager Checklist

Before Authorisation

- | | |
|--|--------------------------|
| Evidence of exhausted placement search | <input type="checkbox"/> |
| Child’s wishes and feelings recorded | <input type="checkbox"/> |
| Parent / PR views recorded | <input type="checkbox"/> |
| Risk assessment completed and analysed | <input type="checkbox"/> |
| Property checklist completed | <input type="checkbox"/> |
| Legal advice sought (where applicable) | <input type="checkbox"/> |
| IRO views obtained | <input type="checkbox"/> |

After Placement

- | | |
|---------------------------------|--------------------------|
| Placement Planning Meeting held | <input type="checkbox"/> |
| Statutory visits completed | <input type="checkbox"/> |
| Ofsted notification sent | <input type="checkbox"/> |
| Monitoring schedule agreed | <input type="checkbox"/> |

Ongoing

- | | |
|-------------------------------|--------------------------|
| Weekly reviews documented | <input type="checkbox"/> |
| Exit plan actively progressed | <input type="checkbox"/> |
| Senior oversight recorded | <input type="checkbox"/> |

Appendix D – Ofsted and Legal Robustness Sense Check

This procedure reflects:

- Clear acknowledgement that unregulated placements are unlawful
- Evidence of exceptional, time-limited use only
- Senior decision-making and corporate accountability
- Robust safeguarding, monitoring and review arrangements
- Strong alignment with human rights and least restrictive principles

The tone and content are suitable for:

- Ofsted inspection scrutiny

- Legal challenge and judicial review
- Internal audit and governance review

Appendix E – Ofsted Notification Template: Unregulated Placement Notification of a Child Living in an Unregulated Setting

1. Local Authority Details

Local Authority: Swindon Borough Council Department: Children’s Services

Address: [Insert Team and address]

Responsible Manager: [Name] Role: [HoS/Director/DCS]

Contact details: [email / telephone]

Date of notification: [dd/mm/yyyy]

2. Child / Young Person Details

Initials: [Child initials only] Age: [Age] Date of birth: [dd/mm/yyyy]

Legal status: [e.g. Interim Care Order / Care Order / Section 20/ EPO/PPO]

Allocated social worker: [Name]

Team / Service: [Team name]

3. Placement Details

Address of unregulated setting: [Full address]

Type of setting: [e.g. Solo provision / supported accommodation / family arrangement]

Provider name (if applicable): [Provider name]

Date placement commenced: [dd/mm/yyyy]

4. Reason for Unregulated Placement

Please outline clearly: *[Free text]* Why the placement is unregulated. Why no registered provision was available despite exhaustive search. Why this placement was considered necessary and proportionate in the child’s best interests

5. Safeguarding and Risk Management Arrangements

Summary of key risks identified: *[Brief summary]* Measures in place to manage and mitigate risk: Staffing / supervision arrangements. Environmental safeguards. Multi-agency involvement. Frequency of social work visits

6. Authorisation and Oversight

Date unregulated placement authorised: [dd/mm/yyyy]

Authorising Director: Name: [Name] Role: DCS/ Corporate Director

Confirmation that:

- Decision complies with Swindon Borough Council's Scheme of Delegation
- IRO views have been obtained and recorded
- Legal advice has been sought where required

7. Deprivation of Liberty (if applicable)

Is the child subject to a Deprivation of Liberty authorisation?

- Yes No

If yes: Court authorisation date: [dd/mm/yyyy] Court name: [Court] Summary of restrictions authorised:

8. Planning to Exit the Unregulated Placement

Current plan to move the child into registered provision: [Summary of placement search and intended next steps]

Anticipated timescales: [Timescales]

9. Monitoring and Review Arrangements

Oversight arrangements include: Weekly social work visits. Weekly risk management meetings. Senior management oversight. IRO ongoing review. Next planned review date: [dd/mm/yyyy]

Declaration

This placement has been made in exceptional circumstances. Swindon Borough Council confirms that robust safeguarding, monitoring and senior oversight arrangements are in place and that active steps are being taken to secure a registered placement as soon as possible.

Signed:

Name: [Name]

Role: Head of Service/Director, Children's Services

Date: [dd/mm/yyyy]

Appendix F - Ofsted Notification Template: Unregulated Placement Ending

Notification of a Child ceasing to Live in an Unregulated Setting

1. Local Authority Details

Local Authority: Swindon Borough Council Department: Children's Services

Address: [Insert Team and address]

Responsible Manager: [Name] Role: [HoS/Director/DCS]

Contact details: [email / telephone]

Date of notification: [dd/mm/yyyy]

2. Child / Young Person Details

Initials: [Child initials only] Age: [Age] Date of birth: [dd/mm/yyyy]

Legal status: [e.g. Interim Care Order / Care Order / Section 20/ EPO/PPO]

Allocated social worker: [Name]

Team / Service: [Team name]

3. Placement Details

Address of unregulated setting: [Full address]

Type of setting: [e.g. Solo provision / supported accommodation / family arrangement]

Provider name (if applicable): [Provider name]

Date placement ended: [dd/mm/yyyy]

Reason for ending placement:

- Planned move on
- Transition to regulated provision
- Return to family
- Young person reached 18
- Other: **[brief description]**

The Local Authority confirms that the placement has now ceased, the young person is no longer accommodated at this address.

Signed:

Name: [Name]

Role: Head of Service/Director, Children's Services

Date: [dd/mm/yyyy]

