

## Guidance for Placements in Unregistered Settings

### 1. Purpose

#### 1.1 This exceptions guidance outlines:

- Circumstances under which the placement of a child in an unregistered setting may be considered, despite such placements falling outside statutory regulatory frameworks.
- The authorisation required before such a placement can be made.
- Steps to ensure any unregistered setting gains registered status as soon as possible thereafter.

#### 1.2 Scope

This guidance covers unregistered settings that provide care to children but are not registered with Ofsted, in breach of statutory regulations.

#### 1.3 Prohibitions

- No child or Young Person under 18 years may be placed in an unregistered setting.

#### 1.4 Types of Placements Covered

1. Placements unregistered due to lapsed assessment timelines or "family arrangements" under court orders for placement with parents.
2. Placements made under Deprivation of Liberty (DoL) authorisations in unregistered settings due to lack of suitable registered placements. *\*Article 5 of the Human Rights Act states that 'everyone has the right to liberty and security of person and no one shall be deprived of his or her liberty unless in accordance with a procedure prescribed in law'.*
3. Placements in unregistered settings because registered placements are unavailable, including those undergoing registration.

#### 1.5 Context

Due to a shortage of specialist and secure registered settings, there may be occasions when a child's best interests can only be met through placement in an unregistered setting. This procedure ensures such placements are thoroughly planned, authorised, and overseen to uphold the child's interests and safety while minimising legal challenges.

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## 2. Placements Unregistered Due to Lapsed Assessment Timelines or Court Orders

### 2.1 Examples Include:

- **Family and Friends Arrangements:**
  - Child placed with relatives without a completed viability assessment signed by the agency decision maker (ADM).
  - Child living with a family member in a "family arrangement" with significant local authority involvement.
- **Temporary Foster Care Approval Lapses:**
  - Approval under Regulation 24 lapses after 16 weeks without an extension (Regulation 25).
  - Regulation 25 lapses after 24 weeks without a completed fostering assessment presented to the panel.
- **Court-Ordered Placement:**
  - Interim Care Orders (ICO) placing children with unapproved carers.
- **Placement with Parents under a Care Order:**
  - Child subject to a Care Order/ Interim Care Order and placed with parents with no assessment completed and signed off by Director of Children's Social Work in accordance with the Scheme of Delegations.

## 2.2 Actions Required:

- Report instances as exceptions through line management.
  - Use case management to bring care or support within statutory frameworks as soon as possible.
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## 3. Authorising Unregistered Placements and Informing Ofsted

### 3.1 Applicability:

- Children under 16 placed in unregistered settings.
- Young people aged 16-17 requiring care in unregistered settings.

### 3.2 Authorisation Requirements to utilise an unregistered setting:

1. Approval from a Senior Manager to request permission to Director of Children's Services as per the Scheme of Delegations.
2. Written permission to be gained from the Corporate Director, in the Corporate Director's absence permission is required from the Chief Executive.
3. Decision rationale documented on the child's file.
4. IRO's views recorded on the child's file.

### 3.3 Deprivation of Liberty Applications:

- Approval by the Service Manager, Legal Team, and Director of Children's Services.
  - Legal opinion sought and documented before placement.
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## 4. Legal Context: Statute and Guidance

### 4.1 Relevant Legislation:

- **Human Rights Act 1998:** Article 5 protects the right to liberty and security.
- **Mental Capacity Act 2005:** Detention of minors for educational supervision requires court authorisation.

### 4.2 Deprivation of Liberty occurs when:

1. A Child is confined.
2. The Child/ Young Person lacks capacity or competence to consent to being confined.
3. Their confinement is 'imputable to the state' (that is, a public authority is responsible for the child's confinement)

### 4.3 Practice Guidance:

- Unregistered settings housing children under DoL must seek Ofsted registration promptly.
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## 5. Conditions for Unregistered Placements Under DoL

### 5.1 Conditions for Consideration:

- Clear evidence placement is in the child's best interests.
  - Least restrictive, practical option.
  - Exploration of all registered options.
  - Provider willing to register as a children's home promptly.
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## 6. Procedure for Unregistered Placements Under DoL

### 6.1 Documentation Requirements:

- Need to Know Report overseen by Service Manager to be provided to Corporate Director.
- Supporting materials provided to Corporate Director.

### 6.2 Court Applications:

- Clearly outline the necessity of the placement and registration status.

### **6.3 Ongoing Monitoring:**

1. Weekly social work visits documented.
  2. Multi-agency risk assessments updated weekly.
  3. Daily Keep in Touch (KIT) meetings with Service Manager Oversight.
  4. Permanency Planning Meetings within 72 hours of placement.
  5. Corporate Director receives relevant daily updates.
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## **7. Non-DoL Placements in Unregistered Settings**

### **7.1 Requirements for Placement:**

- Clear evidence placement is in the child's best interests.
- Exploration of all registered placement options.
- Continuation of search for registered home.

### **7.2 Ongoing Oversight:**

- Permanency Planning Meetings within 72 hours of placement.
  - Daily updates and 'Keep in Touch' meetings.
  - Enhanced supervision by Swindon Borough Council.
  - Notifications to Ofsted and monitoring of any registration progress.
  - Corporate Director receives relevant daily updates.
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