

WELFARE OF CHILDREN (CHILDREN'S RESIDENTIAL HOME) REGULATIONS, 2018

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WELFARE OF CHILDREN ORDINANCE, 2008

*WELFARE OF CHILDREN (CHILDREN'S RESIDENTIAL HOME) REGULATIONS,
2018*

In exercise of the powers conferred by section 35 and 166 of the Welfare of Children, 2008, the Governor in Council makes the following Regulations:

**PART I
PRELIMINARY**

Citation and commencement

1. These Regulations may be cited as the Welfare of Children (Children's Residential Home) Regulations, 2018, and come into force on the date of publication.

Interpretation

2. In these Regulations—
“**Children's Residential Home**” means a facility managed by the Government, which provides or usually provides or is intended to provide, long term or temporary overnight care and accommodation for children who are in the care of the Department;
“**placement plan**” means a plan referred to in regulation 7;
“**statement of purpose**” means the written statement referred to in regulation 10(1).

**PART II
PLACING OF CHILDREN IN CHILDREN'S RESIDENTIAL HOME**

Management of Children's Residential Home

3. Any Children's Residential Home managed by the Government, through the Department or otherwise, must comply with these Regulations.

Placing of children

4. (1) Before placing a child in the Children's Residential Home, the Department must, so far as is reasonably practicable, make immediate and long-term arrangements for that placement, and for promoting the welfare of the child who is to be placed.

(2) If it is not practicable to make arrangements under sub-regulation (1) before the

placement, the Department must make them as soon as reasonably practicable thereafter.

(3) In the case of a child who is in care of the Department, the Department must ascertain the wishes and feelings of the child in relation to the arrangements as far as reasonably practicable. In the event that this cannot be done before the placement is made, then it must be undertaken as soon as reasonably practicable thereafter.

(4) In any other case in which a child is to be placed in the Children's Residential Home but is not in the care of the Department, the arrangements must, before a placement is made, and if that is not practicable as soon as reasonably practicable thereafter and so far as reasonably practicable, be agreed by the Department with—

- (a) a person with parental responsibility for the child; or
- (b) if there is no such person, the person who is caring for the child.

(5) Any arrangements made by the Department under this regulation must be recorded in writing.

Considerations on making placement and contents of arrangements

5. (1) In considering a placement of a child in the Children's Residential Home, the Department must, as far as is reasonably practicable, have regard to—

- (a) in the case of a child who is in care, whether an application should be made to discharge the care order;
- (b) the child's state of health including his or her physical, emotional and mental health;
- (c) the child's health history including, so far as is practicable, his or her family health history and the effect of the child's health and health history on his or her development;
- (d) any need the child has for mental health services;
- (e) whether the child's health needs will be met in the Children's Residential Home taking into account the information under paragraphs (b) to (d);
- (f) the child's educational history;
- (g) the need to achieve continuity in the child's education and to promote the child's educational achievement;
- (h) the need to identify any educational need which the child may have and to take action to meet that need;
- (i) whether the child's educational needs will be met in the Children's Residential Home, taking into account the information available under paragraphs (f) to (h).
- (j) *The wishes and feelings of the child.*

(2) The arrangements referred to in regulation 4 must include, where practicable and appropriate—

- (a) the name of any person who will be responsible for the child at the Children's Residential Home;
- (b) details of any services to be provided for the child;
- (c) the respective responsibilities of the Department and—
 - (i) the child;
 - (ii) any parent of the child; and
 - (iii) any person who is not a parent of the child but who has parental responsibility for him or her;
- (d) what delegation there has been by the persons referred to in paragraph (c)(ii) and

- (iii) to the Department of parental responsibility for the child's day to day care;
- (e) the arrangements for involving those persons and the child in decision-making with respect to the child;
- (f) the arrangements for contact between the child and—
 - (i) his or her parents;
 - (ii) any person who is not a parent of the child but who has parental responsibility for him or her; and
 - (iii) any relative, friend or other person connected with him or her, and, if appropriate, the reasons why contact with any such person would not be reasonably practicable or would be inconsistent with the child's welfare;
- (g) the arrangements for notifying changes in arrangements for contact to any of the persons referred to in paragraph (f);
- (h) the expected duration of arrangements and the steps which should apply to bring the arrangements to an end, including arrangements for rehabilitation of the child with the person with whom he or she was living before the arrangements were made or some other suitable person;
- (i) the Department's immediate and long term arrangements for the child, previous arrangements in respect of the child, and whether a change in those arrangements is needed, and consideration of alternative courses of action; and
- (j) whether arrangements need to be made for the time when the child will no longer be looked after by the Department.

Notification of arrangements

6. (1) The Department must, so far as is reasonably practicable and consistent with the child's welfare, notify the following persons in writing of the arrangements to place a child, before the placement is made:

- (a) any person who is caring for the child immediately before the arrangements are made;
- (b) except in the case of a child in the care of the Department, any person in whose favour a contact order is in force with respect to the child; and
- (c) in the case of a child in the care of the Department, any person who has contact with the child pursuant to section 44 of the Ordinance or to an order under that section.

(2) If it is not practicable to give the notification before the placement, it must be given as soon as reasonably practicable thereafter and in any event no later than 10 working days from the date the placement is made.

(3) The Department must send a copy of the arrangements referred to in regulation 15 or such part of the arrangements as they consider will not prejudice the welfare of the child, with the notification referred to in sub-regulation (1).

(4) Subject to sub-regulation (3), the Department must in the notification to the persons specified in sub-regulation (1)(a) and (b) provide copies of any relevant report or assessment available at the time the placement is made or obtained subsequently during the placement.

Health care and assessment

7. (1) Subject to sub-regulations (3) and (4), the Department must—

- (a) before making a placement or, if that is not reasonably practicable, not later than 14 working days after the placement is made, make arrangements for a medical practitioner or a nurse to conduct an assessment, which may include a physical examination, of the child's state of health;
- (b) require any person specified in paragraph (a) who conducts an assessment to prepare a written report of the assessment, which addresses the matters listed in sub-regulation 5(1)(b) to (e), with particular reference to the child's state of mental health;
- (c) ensure that a copy of any report prepared in accordance with paragraph (b) and any subsequent assessment report prepared under this regulation during the placement, is forwarded to the Senior Medical Officer; and
- (d) having regard to the matters listed in regulation 5(1)(b) to (e) and, unless sub-regulation (4) applies, to any assessment reports, prepare a plan for the future health care of the child if one is not already in existence.

(2) The Department must ensure that each child is provided during the placement with—

- (a) health care services, including medical, dental and mental health care and treatment; and
- (b) advice and guidance on health, personal care and health promotion matters in accordance with the child's needs.

(3) Sub-regulation (1) does not apply if within the period of 3 months immediately preceding the placement, the child's health has been assessed and a report of the assessment prepared in accordance with that paragraph.

(4) Sub-regulations (1)(a) and (b) do not apply if the child, being of sufficient understanding to do so, refuses to consent to the assessment.

Child's placement plan

8. (1) Before a child is accommodated in the Children's Residential Home, or if that is not reasonably practicable, as soon as possible thereafter, the Department must prepare a written plan for the child, setting out in particular—

- (a) how, on a day to day basis, the child will be cared for and his or her welfare safeguarded and promoted by the Children's Residential Home;
- (b) the arrangements made for his or her health care and education; and
- (c) any arrangements made for contact with his or her parents, relatives and friends.

(2) The Department must keep under review and revise the placement plan as necessary.

(3) In preparing or reviewing the placement plan the Department must, so far as practicable, having regard to the child's age and understanding, seek and take account of the child's views.

Establishment of records

9. (1) The Department must establish, and maintain a written record in respect of each child whom it places in the Children's Residential Home.

- (2) The record must include, but not exclusively—
- (a) copies of the following documents:
 - (i) the arrangements referred to in regulation 5;
 - (ii) any written report in the Department's possession concerning the welfare of the child;
 - (iii) any document considered or record established in the course of or as a result of a review of the child's case;
 - (b) the following details:
 - (i) arrangements for contact, of contact orders and of other court orders relating to the child;
 - (ii) written reasons provided in accordance with regulation 5(2)(f);
 - (iii) the name (and any other name by which the child has previously been known), gender and date of birth of the child;
 - (iv) the name, address and telephone number of the child's parents or other person not being a parent of the child who has parental responsibility for him or her;
 - (v) the name of the member of the Children's Residential Home with particular responsibility for protecting and promoting the health and educational welfare of the child and for liaison with education and health care providers on that child's behalf;
 - (vi) the date on which each placement of the child began and terminated and the reason for each termination;
 - (c) confirmation as to whether the child:
 - (i) is at risk of being abused;
 - (ii) is a disabled child;
 - (iii) is in the care of the Department;
 - (d) the placement plan in accordance with regulation 7;
 - (e) the child's religious persuasion and the parent's religious persuasion (if any);
 - (f) the child's cultural and linguistic background;
 - (g) the date and circumstances of all absences of the child from the Children's Residential Home, including whether the absence was authorised and any information relating to the child's whereabouts during the period of absence;
 - (h) the date of, and reason for, any visit to the child whilst in the Children's Residential Home;
 - (i) details of any special educational needs of the child;
 - (j) the date and circumstances of any measures of control, restraint or discipline used on the child;
 - (k) any special dietary or health needs of the child;
 - (l) details of the school attended by the child, and of any employer of the child;
 - (m) every school report received in respect of the child while accommodated in the Children's Residential Home;
 - (n) arrangements for, including any restrictions on, contact between the child, his or her parents, and any other person;
 - (o) details of any accident or serious illness involving the child while accommodated in the Children's Residential Home;
 - (p) details of any immunisation, allergy or medical examination of the child and of any medical or dental need or treatment of the child;
 - (q) details of any health examination or developmental test conducted with respect to the child at or in connection with his or her school;
 - (r) details of any medicines kept for the child in the Children's Residential Home, including any medicines which the child is permitted to administer to himself or

- herself, and details of the administration of any medicine to the child;
- (s) the dates on which any money or valuables are deposited by or on behalf of a child for safekeeping, and the dates on which any money is withdrawn, and any valuables are returned; and
- (t) the address, and type of establishment or accommodation, to which the child goes when he or she ceases to be accommodated in the Children's Residential Home.

Retention and confidentiality of records

10. (1) A record under regulation 9 relating to a child who is placed must be retained by the Department until the 75th anniversary of the date of birth of the child to whom it relates.

(2) The records may be retained under sub-regulation (1) either by retaining the original written record, or a copy of it, or by keeping all of the information from such record in some other accessible form (including electronic form).

(3) The Department must secure the safe keeping of the records and must take all necessary steps to ensure that information contained in them is treated as confidential, subject only to—

- (a) any provision of, or made under or by virtue of, an Ordinance or Regulations under which access to such records or information may be obtained or given;
- (b) any court order under which access to such records or information may be obtained or given.

**PART III
MANAGEMENT OF CHILDREN'S RESIDENTIAL HOME**

General

Statement of purpose and children's guide

11. (1) The Department must compile and retain a written statement in relation to the Children's Residential Home which must include—

- (a) a statement of—
 - (i) the overall aims of the Children's Residential Home, and the objectives to be attained with regard to children accommodated; and
 - (ii) the facilities and services to be provided for the children accommodated;
- (b) the name and address of the manager;
- (c) the relevant qualifications and experience of the manager;
- (d) the number, relevant qualifications and experience of persons working at the Children's Residential Home, and if all of one gender, a description of the means whereby the Children's Residential Home will promote appropriate role models of both genders;
- (e) the arrangements for the supervision, training and development of persons working at the Children's Residential Home;
- (f) the organisational structure of the Children's Residential Home;
- (g) the following particulars—
 - (i) the age-range, gender and numbers of children for whom it is intended that accommodation should be provided;
 - (ii) whether it is intended to accommodate children who are disabled, have

- special needs or any other special characteristics; and
- (iii) the range of needs (other than those mentioned in paragraph (ii)) that the home is intended to meet.
- (h) any criteria used for admission, including the policy and procedures for emergency admissions;
- (i) if the Children's Residential Home provides or is intended to provide accommodation for more than 6 children in each building, a description of the positive outcomes intended for children in a Children's Residential Home of such a size, and of the Children's Residential Home's strategy for counteracting any adverse effects arising from its size, on the children accommodated there;
- (j) a description of the Children's Residential Home's underlying ethos and philosophy, and if this is based on any theoretical or therapeutic model, a description of that model;
- (k) the arrangements made to protect and promote the health of the children accommodated;
- (l) the arrangements for the promotion of the education of the children accommodated, including the facilities for private study;
- (m) the arrangements to promote children's participation in recreational, sporting and cultural activities;
- (n) the arrangements made for consultation with the children accommodated about the operation of the Children's Residential Home;
- (o) the arrangements made for the control, restraint and discipline of children;
- (p) the arrangements made for child protection and to counter bullying;
- (q) the procedure for dealing with any unauthorised absence of a child from the Children's Residential Home;
- (r) a description of any electronic or mechanical means of surveillance of children which are available to be used;
- (s) the fire precautions and associated emergency procedures;
- (t) the arrangements for the children's religious instruction and observance;
- (u) the arrangements for contact between a child and his or her parents, relatives and friends;
- (v) the arrangements for dealing with complaints;
- (w) the arrangements for dealing with reviews of placement plans;
- (x) the type of accommodation, including the sleeping accommodation, provided, and, where applicable, how children are to be grouped, and in what circumstances they are to share bedrooms;
- (y) details of any specific therapeutic techniques used, and arrangements for their supervision;
- (z) a description of the policy in relation to anti-discriminatory practice as respects children and children's rights.

(2) The Department must make a copy of the statement of purpose available upon request for inspection by—

- (a) any person who works at the Children's Residential Home;
- (b) any child accommodated in the Children's Residential Home; and
- (c) the parent or guardian of any child accommodated in the Children's Residential Home; and
- (d) any child and the parent or guardian of any child and any other person with parental responsibility for any child in respect of whom accommodation in the Children's Residential Home is being considered.

(3) The Department must produce a guide to the Children's Residential Home ("the children's guide") which must include—

- (a) a summary of the Children's Residential Home's statement of purpose; and
- (b) a summary of the complaints procedure established under regulation 27.

(4) The children's guide must be produced in a form appropriate to the age, understanding and communication needs of the children to be accommodated in the Children's Residential Home.

(5) The Department must supply a copy of the children's guide on admission to each child accommodated in the Children's Residential Home.

(6) Subject to sub-regulation (7), the Department must ensure that the Children's Residential Home is at all times conducted in a manner which is consistent with its statement of purpose.

(7) Nothing in sub-regulation (6) requires or authorises the Department to contravene or not comply with any other provision of these Regulations.

(8) The Department must—

- (a) keep under review and, where appropriate, revise the statement of purpose and the children's guide;
- (b) if the children's guide is revised, supply a copy to each child accommodated in the Children's Residential Home; and
- (c) if the statement of purpose is revised, make each child accommodated and parent or guardian of a child accommodated aware of the revision.

Manager

Appointment of manager

12. (1) The Department must appoint an individual to manage the Children's Residential Home.

(2) A person must not manage the Children's Residential Home unless he or she is fit to do so.

(3) A person is not fit to manage the Children's Residential Home unless—

- (a) he or she is of integrity and good character;
- (b) having regard to the size of the Children's Residential Home, its statement of purpose and the number and needs (including any needs arising from any disability) of the children accommodated there, the manager—
 - (i) has the qualifications, skills and experience necessary for managing the Children's Residential Home; and
 - (ii) is physically and mentally fit to manage the Children's Residential Home; and
- (c) full and satisfactory information is available in relation to him or her in respect of the following matters:
 - (i) proof of identity including a recent photograph;
 - (ii) a full criminal record certificate from every country in which the person had resided for more than 6 months;

- (iii) 2 written references, including a reference from the person's most recent employer, if any;
- (iv) if the person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as is reasonably practicable, verification of the reason why the employment or position ended;
- (v) documentary evidence of any relevant qualifications;
- (vi) a full employment history, together with a satisfactory written explanation of any gaps in employment.

Training requirements of manager

13. (1) The manager must, having regard to the size of the Children's Residential Home, its statement of purpose and the number and needs (including any needs arising from any disability) of the children accommodated there, carry on or manage the Children's Residential Home (as the case may be) with sufficient care, competence and skill.

(2) The manager must undertake such training as is appropriate to ensure that he or she has the experience and skills necessary for managing the Children's Residential Home.

Notification of offences

14. (1) If the manager is convicted of any criminal offence, whether in St Helena or elsewhere, he or she must give notice in writing to the Department of—

- (a) the date and place of the conviction;
- (b) the offence of which he or she was convicted; and
- (c) the penalty imposed on him or her in respect of the offence.

(2) Failure by the manager to comply with subregulation (1) amounts to gross misconduct.

Conduct of Children's Residential Home

Promotion of welfare

15. The Department must ensure that the Children's Residential Home is conducted so as to—

- (a) promote and make proper provision for the welfare of children accommodated;
- (b) make proper provision for the care, education, supervision and, where appropriate, treatment, of children accommodated;
- (c) respect the privacy and dignity of children accommodated; and
- (d) have due regard to the sex, religious persuasion, racial origin, cultural and linguistic background and any disability of any children accommodated there.

Food provided for children

16. (1) The Department must ensure that children accommodated in the Children's Residential Home are provided with—

- (a) food which is—
 - (i) served in adequate quantities and at appropriate intervals;
 - (ii) properly prepared, wholesome and nutritious;
 - (iii) suitable for their needs and that meets their reasonable preferences; and

- (iv) sufficiently varied; and
- (b) access to fresh drinking water at all times.

(2) The Department must ensure that any special dietary needs of a child accommodated in the Children's Residential Home, which is due to his or her health, religious persuasion, racial origin or cultural background, are met.

Provision of clothing, pocket money and personal necessities

17. (1) The Department must ensure that the needs and reasonable preferences of each child accommodated in the Children's Residential Home for clothing, including footwear and personal necessities, are met.

(2) The Department must provide children accommodated in the Children's Residential Home with such sums of money in respect of their occasional personal expenses as is appropriate to their age and understanding.

Contact and access to communications

18. (1) The Department must—
- (a) subject to sub-regulations (5) and (7), promote the contact of each child with his or her parents, relatives and friends in accordance with the arrangements set out in his or her placement plan; and
 - (b) subject to sub-regulation (3), ensure that suitable facilities are provided within the Children's Residential Home for any child accommodated there to meet privately at any reasonable time with his or her parents, relatives and friends, and the persons listed in sub-regulation (2).

- (2) The persons are—
- (a) any advocate instructed to represent the child under section 159 of the Ordinance;
 - (b) any officer for the time being assigned to the child by the Department;
 - (c) any person appointed as a visitor for the child in accordance with Schedule 2 paragraph 3 of the Ordinance;
 - (d) any person authorised by the Department.

(3) Subject to sub-regulations (5) and (7), the Department must ensure that children accommodated in the Children's Residential Home are provided, at all reasonable times, with access to the following facilities which they may use without reference to persons working in the Children's Residential Home —

- (a) a telephone on which to make and receive telephone calls; and
- (b) facilities to send and receive post and, if the necessary facilities are provided for the use of children accommodated in the Children's Residential Home, electronic mail.

(4) The Department must ensure that any disabled child accommodated in the Children's Residential Home is provided with access to any aids and equipment that the child requires as a result of the disability in order to facilitate his or her communication with others.

- (5) The Department may (subject to sub-regulations (6) and (7)) impose any

restriction, prohibition or condition upon a child's contact with any person under sub-regulation (1) or access to communications under sub-regulation (3) that the Department is satisfied is necessary for the purpose of safeguarding or promoting the welfare of the child in question.

(6) No measure may be imposed by the Department in accordance with sub-regulation (5) unless the measure is imposed in an emergency, and full details are given to the Elected Member who has been appointed as Children's Champion within 24 hours of its imposition.

(7) This regulation is subject to any relevant order of the court relating to contact between the child and any person and subject to any provision contained within the Ordinance.

Arrangements for the protection of children

- 19. (1)** The Department must prepare and implement a written policy which—
- (a) is intended to safeguard children accommodated in the Children's Residential Home from abuse or neglect; and
 - (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

(2) The procedure under sub-regulation (1)(b) must in particular, but not exclusively, provide for—

- (a) liaison and co-operation between the manager and the Department in the case of any child protection enquiries in relation to any child accommodated in the Children's Residential Home;
- (b) the prompt referral by the manager to the Department of any allegation of abuse or neglect affecting any child accommodated in the Children's Residential Home;
- (c) written records to be kept of any allegation of abuse or neglect, and of the action taken in response;
- (d) consideration to be given to the measures which may be necessary to protect children in the Children's Residential Home following an allegation of abuse or neglect;
- (e) a requirement for persons working at the Children's Residential Home to report any concerns about the welfare or safety of a child accommodated there to one of the following immediately or no later than 24 hours after being made aware of the concern:
 - (i) the manager;
 - (ii) a police officer; or
 - (iii) the Department;
- (f) arrangements to be made for persons working at the Children's Residential Home and children accommodated there, to have access at all times and in an appropriate form, to information which would enable them to contact the Department concerning the welfare or safety of children accommodated in the Children's Residential Home.

- (3) The Department must prepare and ensure implementation as required—
- (a) a written policy for the prevention of bullying in the Children's Residential Home, which must in particular set out the procedure for dealing with an

- allegation of bullying; and
- (b) a procedure to be followed when any child accommodated in the Children's Residential Home is absent without permission.

Behaviour management, discipline and restraint

20. (1) No measure of control, restraint or discipline which is excessive, unreasonable or contrary to sub-regulation (5) is to be used at any time on children accommodated in the Children's Residential Home.

(2) The Department must prepare and ensure implementation of a written policy which sets out—

- (a) the measures of control, restraint and discipline which may be used in the Children's Residential Home; and
- (b) the means whereby appropriate behaviour is to be promoted in the Children's Residential Home.

(3) The Department must keep under review and, if appropriate, revise the behaviour management policy referred to in sub-regulation (2).

(4) The manager must ensure that within 24 hours of the use of any measure of control, restraint or discipline in the Children's Residential Home, a written record is made in a volume kept for the purpose which must include—

- (a) the name of the child concerned;
- (b) details of the child's behaviour leading to the use of the measure;
- (c) a description of the measure used;
- (d) the date, time and location of the use of the measure and, in the case of any form of restraint, the duration of the restraint;
- (e) the name of the person using the measure, and of any other person present;
- (f) the effectiveness and any consequences of the use of the measure; and
- (g) the signature of a person authorised by the manager to make the record.

(5) Subject to sub-regulation (6), the following must not be used as disciplinary measures on children accommodated in the Children's Residential Home —

- (a) any form of corporal punishment;
- (b) any punishment relating to the consumption or deprivation of food or drink;
- (c) any restriction, other than one imposed by a court or in accordance with regulation 34, on—
 - (i) a child's contact with his or her parents, relatives or friends;
 - (ii) visits to the child by his or her parents, relatives or friends;
 - (iii) a child's communications with any of the persons listed in regulation 18(2); or
 - (iv) the child's access to any telephone helpline providing counselling for children;
- (d) any requirement that a child wear distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment;
- (f) the intentional deprivation of sleep;
- (g) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
- (h) any intimate physical examination of the child;
- (i) the withholding of any aids or equipment needed by a disabled child;

- (j) any measure which involves—
 - (i) any child in the imposition of any measure against any other child; or
 - (ii) the punishment of a group of children for the behaviour of an individual child.

(6) This regulation does not prohibit—

- (a) the taking of any action by, or in accordance with the instructions of, a medical practitioner or a registered dental practitioner which is necessary to protect the health of a child;
- (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property; or
- (c) the imposition of a requirement that a child wear distinctive clothing for sporting purposes, or for purposes connected with his or her education or with any organisation whose members customarily wear uniform in connection with its activities.

(7) Within 24 hours where possible and no later than 48 hours following measures of control, restraint or discipline being used, there must be a meeting between those present and the manager to discuss what occurred. In the event that the manager was involved in the control, restraint or discipline, the Department must convene the aforesaid meeting.

Education, employment and leisure activity

21. (1) The Department must promote the educational attainment of children accommodated in the Children's Residential Home, in particular by ensuring that—

- (a) the children make use of educational facilities appropriate to their age, aptitude, needs, interests and potential;
- (b) the routine of the Children's Residential Home is organised so as to further children's participation in education, including private study; and
- (c) effective links are maintained with any schools attended by children accommodated in the Children's Residential Home.

(2) The Department must ensure that children accommodated in the Children's Residential Home are—

- (a) encouraged to develop and pursue appropriate leisure interests; and
- (b) provided with appropriate leisure facilities and activities.

(3) If any child in the Children's Residential Home has attained the age where he or she is no longer required to receive compulsory full-time education, the Department must assist with the making of, and give effect to, the arrangements made for the child's education, training and employment.

Religious observance

22. The Department must ensure that each child accommodated in the Children's Residential Home is enabled, so far as practicable—

- (a) to attend the services of;
- (b) to receive instruction in; and
- (c) to observe any requirement (whether as to dress, diet or otherwise) of, the religious persuasion to which he or she belongs.

Health needs of children

23. (1) The Department must promote and protect the health of the children accommodated in the Children's Residential Home.

- (2)** In particular the Department must ensure that—
- (a)* each child has access to any medical, dental, nursing, psychological and psychiatric advice, treatment and other services he or she requires;
 - (b)* each child is provided with any individual support, aids and equipment he or she requires as a result of any particular health needs or disability he or she has;
 - (c)* each child is provided with guidance, support and advice on health and personal care issues appropriate to his or her needs and wishes;
 - (d)* at all times, at least one person on duty at the Children's Residential Home has a suitable first aid qualification;

Medicines

24. (1) The Department must make suitable arrangements for the recording, handling, safekeeping, safe administration and disposal of any medicines received into the Children's Residential Home.

- (2)** In particular the Department must ensure, subject to paragraph (3), that—
- (a)* any medicine which is kept in the Children's Residential Home is stored in a secure place so as to prevent any child accommodated there having unsupervised access to it;
 - (b)* any medicine which is prescribed for a child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
 - (c)* a written record is kept of the administration of any medicine to any child.
- (3)** Sub-regulation (2) does not apply to a medicine which—
- (a)* is stored by the child for whom it is provided in such a way that others are prevented from using it; and
 - (b)* may be safely self-administered by that child.

Use of surveillance

25. Subject to any requirements for electronic monitoring imposed by a court under any enactment, the Department must ensure that electronic or mechanical monitoring devices for the surveillance of children are not used in the Children's Residential Home, except for the purpose of safeguarding and promoting the welfare of the child concerned, or other children accommodated in the Children's Residential Home, and that the following conditions are met:

- (a)* it is provided for in the child's placement plan;
- (b)* so far as practicable in the light of the child's age and understanding, the child in question is informed in advance of the intention to use the measure; and
- (c)* the measure is no more restrictive than necessary, having regard to the child's need for privacy.

Hazards and safety

26. The Department must ensure that—

- (a) all parts of the Children’s Residential Home to which children have access are so far as reasonably practicable free from hazards to their safety;
- (b) any activities in which children participate are so far as reasonably practicable free from avoidable risks;
- (c) unnecessary risks to the health or safety of children accommodated in the Children’s Residential Home are identified and so far as possible eliminated;
- (d) all persons working at the Children’s Residential Home are trained in first aid.

Complaints and representations

27. (1) The Department must establish a written procedure for considering complaints made by or on behalf of children accommodated in the Children’s Residential Home.

- (2) The procedure must, in particular but not exclusively, provide—
 - (a) for an opportunity for informal resolution of the complaint at an early stage;
 - (b) that no person who is the subject of a complaint takes any part in its consideration other than, if the Department considers it appropriate, at the informal resolution stage only;
 - (c) for dealing with complaints about the Department;
 - (d) for complaints to be made by a person acting on behalf of a child;
 - (e) for arrangements for the procedure to be made known to—
 - (i) children accommodated in the Children’s Residential Home;
 - (ii) their parents or guardians; and
 - (iii) persons working in the Children’s Residential Home.

(3) A copy of the procedure must be supplied on request to any of the persons mentioned in sub-regulation (2)(e).

(4) The Department must ensure that a written record is made of any complaint, the action taken in response, and the outcome of the investigation.

- (5) The Department must ensure that—
 - (a) children accommodated in the Children’s Residential Home are enabled to make a complaint or representation; and
 - (b) no child is subject to any reprisal for making a complaint or representation.

Staffing

Staffing of Children’s Residential Home

28. (1) The Department must ensure that there is at all times a sufficient number of suitably qualified, competent and experienced persons working at the Children’s Residential Home, having regard to—

- (a) the size of the Children’s Residential Home, the statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there; and
- (b) the need to safeguard and promote the health and welfare of the children accommodated.

(2) The Department must ensure that the employment of any persons on a temporary

basis at the Children's Residential Home will not prevent children from receiving such continuity of care as is reasonable to meet their needs.

Fitness of workers

29. (1) The Department must not—

- (a) employ a person to work at the Children's Residential Home unless that person is fit to work at the Children's Residential Home; or
- (b) allow a person to whom sub-regulation (2) applies to work at the Children's Residential Home unless that person is fit to work at the Children's Residential Home.

(2) This sub-regulation applies to any person who is employed by a person other than the Department to work at the Children's Residential Home in a position in which he or she may in the course of his or her duties have regular contact with children accommodated there.

(3) For the purposes of sub-regulation (1), a person is not fit to work at the Children's Residential Home unless—

- (a) he or she is of integrity and good character;
- (b) he or she has the qualifications, skills and experience necessary for the work he or she is to perform;
- (c) he or she is physically and mentally fit for the purposes of the work he or she is to perform; and
- (d) full and satisfactory information is available in relation to him or her in respect of each of the following matters:
 - (i) proof of identity including a recent photograph;
 - (ii) a full criminal record certificate from every country in which the person has resided for more than 6 months;
 - (iii) 2 written references, including a reference from the person's most recent employer, if any;
 - (iv) if the person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended;
 - (v) documentary evidence of any relevant qualifications;
 - (vi) a full employment history, together with a satisfactory written explanation of any gaps in employment.

(4) The Department must ensure that—

- (a) any offer of employment to a person is subject to sub-regulation (3)(d) being complied with in relation to that person; and
- (b) unless sub-regulation (5) applies, no person starts work at the Children's Residential Home until sub-regulation (3)(d) has been complied with in relation to the person.

(5) If the following conditions apply, the Department may permit a person to start work at the Children's Residential Home regardless of sub-regulation (4)(b)—

- (a) the Department has taken all reasonable steps to obtain full information in respect of each of the matters listed in sub-regulation (3)(d) in respect of that person, but the enquiries in relation to any of the matters listed in sub-regulations (3)(d)(iii) to (vi) are incomplete;

- (b) full and satisfactory information in respect of that person has been obtained in relation to the matters specified in sub-regulations 3(d)(i) and (ii);
- (c) the Department considers that the circumstances are exceptional; and
- (d) pending receipt of, and satisfying itself with regard to any outstanding information, the Department ensures that the person is appropriately supervised while carrying out his or her duties.

(6) The Department must take reasonable steps to ensure that any person working at the Children's Residential Home who is not employed by it and to whom sub-regulation (2) does not apply, is appropriately supervised while carrying out his or her duties.

Employment of staff

30. (1) The Department must—

- (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
- (b) provide all employees with a job description outlining their responsibilities.

(2) The Department must operate a disciplinary procedure which, in particular,—

- (a) provides for the suspension of an employee where necessary in the interests of the safety or welfare of children accommodated in the Children's Residential Home; and
- (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse, of a child accommodated in the Children's Residential Home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(3) For the purposes of sub-regulation (2)(b), an appropriate person is the manager, an officer of the Department or a police officer.

(4) The Department must ensure that all persons employed in the Children's Residential Home—

- (a) receive appropriate training, supervision and appraisal; and
- (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

Records

Other records

31. (1) The Department must ensure that the following records are maintained in the Children's Residential Home and are kept up to date—

- (a) a record in the form of a register showing in respect of each child accommodated in the Children's Residential Home —
 - (i) the date of the child's admission;
 - (ii) the date on which he or she ceased to be accommodated there;
 - (iii) his or her address prior to being accommodated;
 - (iv) his or her address on leaving the Children's Residential Home;
- (b) a record showing in respect of each person working at the Children's Residential Home —
 - (i) his or her full name, date of birth, gender and home address;

- (ii) his or her qualifications relevant to, and experience of, work involving children;
- (iii) whether he or she works at the Children's Residential Home full-time or part-time (whether paid or not), and if part-time, the average number of hours worked per week; and
- (iv) whether he or she resides at the Children's Residential Home;
- (c) a record of any persons who reside or work at any time at the Children's Residential Home, who are not mentioned in the records kept in accordance with sub-regulations (a) or (b);
- (d) a record of all accidents occurring in the Children's Residential Home, or to children whilst accommodated;
- (e) a record of the receipt, disposal and administration of any medicine to any child;
- (f) a record of every fire drill or fire alarm test conducted, with details of any deficiency in either the procedure or the equipment concerned, together with details of the steps taken to remedy that deficiency;
- (g) a record of all money deposited by a child for safekeeping, together with the date on which that money was withdrawn, or the date of its return;
- (h) a record of all valuables deposited by a child and the date of their return;
- (i) records of all accounts kept in the Children's Residential Home;
- (j) a record of menus served;
- (k) a copy of the staff duty roster of persons working at the Children's Residential Home, and a record of the actual rosters worked;
- (l) a daily log of events occurring in the Children's Residential Home;
- (m) a record of all visitors to the Children's Residential Home and to children accommodated in the Children's Residential Home, including the names of visitors and the reasons for the visit.

(2) The records referred to in sub-regulation (1) must be retained for at least 15 years from the date of the last entry, except for records of menus, which need be kept only for one year.

Notifiable events

32. (1) The Department must without delay notify the parent or guardian of any child accommodated in the Children's Residential Home of any significant incident affecting the child's welfare unless to do so is not reasonably practicable or would place the child's welfare at risk.

(2) Any notification made in accordance with this regulation which is given orally must be confirmed in writing.

Premises

Fitness of premises

33. (1) The Department must not use premises for the purposes of the Children's Residential Home unless they are in a location, and of a physical design and layout, which are suitable for the purpose of achieving the aims and objectives set out in the Children's Residential Home's statement of purpose.

(2) The Department must ensure that all parts of the Children's Residential Home

used by children are—

- (a) adequately lit, heated and ventilated;
- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;
- (d) of sound construction and kept in good structural repair externally and internally;
- (e) kept clean and reasonably decorated and maintained; and
- (f) equipped with what is reasonably necessary, and adapted as necessary, in order to meet the needs arising from the disability of any disabled child accommodated in the Children's Residential Home so as to enable him or her to live as normal a life as possible.

(3) The Department must ensure that the Children's Residential Home is kept free from offensive odours and make suitable arrangements for the disposal of general and clinical waste.

(4) The Department must ensure that there are within the Children's Residential Home for use by children accommodated there in conditions of appropriate privacy for the number and gender of children accommodated—

- (a) a sufficient number of wash basins, baths and showers supplied with hot and cold running water; and
- (b) a sufficient number of lavatories.

(5) The Department must provide for the number and needs of children accommodated in the Children's Residential Home —

- (a) sufficient and suitable kitchen equipment, crockery, cutlery and utensils;
- (b) adequate facilities for the preparation and storage of food; and
- (c) so far as is practicable, adequate facilities for children to prepare their own food if they so wish, and are of an age and ability, to do so.

(6) The Department must ensure that there are within the Children's Residential Home adequate facilities for laundering linen and clothing, and, for children wishing to do so, to wash, dry and iron their own clothes.

(7) The Department must ensure that there is provided within the Children's Residential Home —

- (a) adequate communal space for sitting, recreation and dining; and
- (b) facilities for private study appropriate to the age and educational needs of the children accommodated.

(8) The Department must ensure that each child is provided with sleeping accommodation which is—

- (a) suitable to his or her needs including his or her need for privacy; and
- (b) equipped with furniture, storage facilities, lighting, bedding and other furnishings including window and floor coverings suitable to his or her needs.

(9) The Department must ensure that no child shares a bedroom with an adult, nor (except in the case of siblings) a child who is of the opposite gender or of a significantly different age to him or her.

(10) The Department must provide for persons working at the Children's Residential Home—

- (a) suitable facilities and accommodation, other than sleeping accommodation, including—
 - (i) facilities for the purpose of changing; and
 - (ii) storage facilities; and
- (b) sleeping accommodation if the provision of such accommodation is needed in connection with their work at the Children’s Residential Home.

Fire precautions

- 34.** The Department must after consultation with the fire and rescue service—
- (a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment;
 - (b) provide adequate means of escape;
 - (c) make adequate arrangements—
 - (i) for detecting, containing and extinguishing fires;
 - (ii) for giving warnings of fires;
 - (iii) for evacuation in the event of fire;
 - (iv) for the maintenance of all fire equipment; and
 - (v) for reviewing fire precautions, and testing fire equipment, at suitable intervals;
 - (d) make arrangements for persons working at the Children’s Residential Home to receive suitable training in fire prevention; and
 - (e) ensure, by means of fire drills and practices at suitable intervals, that the persons working at the Children’s Residential Home and, so far as practicable, children accommodated there, are aware of the procedure to be followed in case of fire.

Department Review of Children’s Residential Home

Visits by Department

35. (1) The Children’s Residential Home must be visited in accordance with this regulation by an employee of the Department who is not directly concerned with the conduct of the Children’s Residential Home or by one or more members of the Children’s Safeguarding Board.

(2) Visits under sub-regulations (1) must take place at least once every three months and may be unannounced.

- (3)** The person carrying out the visit must—
- (a) interview, with their consent and in private, such of the children accommodated there, their parents, relatives and persons working at the Children’s Residential Home as appears necessary in order to form an opinion of the standard of care provided in the Children’s Residential Home;
 - (b) inspect the premises of the Children’s Residential Home, its daily log of events and records of any complaints; and
 - (c) prepare a written report on the conduct of the Children’s Residential Home.

Review of quality of care

- 36. (1)** The Department must establish and maintain a system for—
- (a) monitoring the matters set out in sub-regulation (2) at appropriate intervals; and

- (b) improving the quality of care provided in the Children’s Residential Home.
- (2) The following matters must be monitored under sub-regulation (1)(a):
- (a) in respect of each child accommodated in the Children’s Residential Home, compliance with the Department’s plan for the care of the child (where applicable) and the placement plan;
 - (b) the deposit and issue of money and other valuables handed in for safekeeping;
 - (c) daily menus;
 - (d) all accidents and injuries sustained in the Children’s Residential Home or by children accommodated there;
 - (e) any illnesses of children accommodated in the Children’s Residential Home;
 - (f) complaints in relation to children accommodated in the Children’s Residential Home and their outcomes;
 - (g) any allegations or suspicions of abuse in respect of children accommodated in the Children’s Residential Home and the outcome of any investigation;
 - (h) staff recruitment records and conduct of required checks for new workers in the Children’s Residential Home;
 - (i) visitors to the Children’s Residential Home and to children in the Children’s Residential Home;
 - (j) any unauthorised absence from the Children’s Residential Home of a child accommodated there;
 - (k) the use of measures of control, restraint and discipline in respect of children accommodated in the Children’s Residential Home;
 - (l) risk assessments for health and safety purposes and subsequent action taken;
 - (m) medicines, medical treatment and first aid administered to any child accommodated in the Children’s Residential Home;
 - (n) duty rosters of persons working at the Children’s Residential Home, and the rosters actually worked;
 - (o) the Children’s Residential Home’s daily log of events;
 - (p) fire drills and tests of alarms and of fire equipment;
 - (q) records of appraisals of employees;
 - (r) minutes of staff meetings.

(3) The system referred to in sub-regulation (1) must provide for consultation with children accommodated in the Children’s Residential Home and their parents or guardian.

Regulations and guidance

37. The Department must ensure that a copy of these Regulations (and of any amendments to them) are kept in the Children’s Residential Home and made available on request to—

- (a) any person working in the Children’s Residential Home;
- (b) any child accommodated in the Children’s Residential Home; and
- (c) the parent or guardian of any child accommodated in the Children’s Residential Home.

Financial position

38. (1) The Department must carry on the Children’s Residential Home in a manner likely to ensure that the Children’s Residential Home will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose.

(2) The Department must ensure that adequate accounts are maintained and kept up to date in respect of the Children’s Residential Home.

(3) The Department must ensure that the Children’s Residential Home and its employees have the appropriate insurance in relation to the Children’s Residential Home in respect of death, injury, public liability, damage or other loss.

Made by the Governor in Council this day of 2018.

Lydia Buchanan
Clerk of Councils

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedures relating to the placement of children in a Children’s Residential Home and regulate the management, conduct and staffing of a Children’s Residential Home. The Regulations also prescribe the requirements for record keeping and departmental review of the quality of care provided at a Children’s Residential Home.