



## **FALKLAND ISLANDS**

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### **Children (Care Planning, Placement and Case Review) Regulations 2019**

**(No. 6 OF 2019)**

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## FALKLAND ISLANDS

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### Children (Care Planning, Placement and Case Review) Regulations 2019

*Made: ..... 7 March 2019*  
*Published: ..... 10 April 2019*  
*Coming into force: on publication*

IN EXERCISE of my powers under section 28(10) as read with sections 28(6), 32(3) and (4), 33(1)(a), 38(2), 39(1), (3) and (6), 44(1) and (2), 49(3) and 52(8) of the Children Ordinance 2014, and paragraphs 10 to 13, 14(1)(a), 15, 22(3), (7) and (8) of Schedule 2 to the Children Ordinance 2014, and on the advice of Executive Council I make the following regulations —

### PART 1 — Introductory

#### 1. Title and commencement

These regulations are the Children (Care Planning, Placement and Case Review) Regulations 2019 and come into force on publication in the *Gazette*.

#### 2. Interpretation

(1) In these regulations —

“**appropriate person**” means —

- (a) a parent;
- (b) a person who is not the child’s parent but has parental responsibility for the child;
- (c) a foster carer, where the child is to be placed, or is placed with the foster carer; and
- (d) where the child is to be placed, or is placed, in accordance with other arrangements under section 28(6)(c) of the Ordinance, the person who will be responsible for the child under such arrangements;

“**care plan**” means the plan for the future care of the child prepared in accordance with Part 2;

**“child’s case record”** means a record referred to in regulation 45(1);

**“child’s social worker”** means the social worker allocated to a particular child’s case;

**“connected person”** means a relative, friend or other person connected with the child;

**“Director”** means the person for the time being appointed as the Director of Health and Social Services;

**“eligible child”** has the meaning given in paragraph 22(2) of Schedule 2 to the Ordinance;

**“full assessment process”** means the process set out in regulation 24(2);

**“health plan”** means the plan referred to in regulation 5(b)(i);

**“independent visitor”** means the person appointed to be the child’s visitor under section 33 of the Ordinance;

**“pathway plan”** has the meaning given in section 39(1) of the Ordinance;

**“personal adviser”** means the personal adviser arranged for the child under paragraph 23 of Schedule 2 to the Ordinance;

**“personal education plan”** means the plan referred to in regulation 5(b)(ii);

**“placement”** means —

- (a) arrangements made by the Crown for the child in accordance with section 28(2) of the Ordinance, where the child is in the care of the Crown; or
- (b) arrangements made by the Crown to provide for the child’s accommodation and maintenance by any of the means specified in section 28(6) of the Ordinance;

**“placement plan”** means the plan referred to in regulation 9(1)(a);

**“representative”** means the representative of the Crown who is appointed to visit the child in accordance with arrangements made under section 32(2) of the Ordinance;

**“responsible person”** means —

- (a) the child’s parent;
- (b) a person who is not the child’s parent but who has parental responsibility for the child; or
- (c) where the child is in the care of the Crown and there was a residence order or special guardianship order in force with respect to the child immediately before the care order was made, a person in whose favour the residence order or special guardianship order was made;

“**special educational needs**” has the meaning given in section 31 of the Education Ordinance 1989 and “special educational provision” must be construed accordingly;

“**team leader**” means the head of the social services team appointed under regulation 4 of the Children (Fostering) Regulations 2019;

“**temporary approval**” means the approval given under regulation 24(1);

“**the Ordinance**” means the Children Ordinance 2014; and

“**working day**” means any day other than —

- (a) a Saturday or a Sunday; or
- (b) a public holiday.

(2) In these regulations —

- (a) any reference to a document or other record includes a document or record that is kept or provided in a readily accessible form and includes copies of original documents and electronic methods of recording information; and
- (b) any function conferred on the Crown will be exercised by the Director or officers subordinate to the Director.

### **3. Application**

These regulations do not apply in relation to any child who is looked after by the Crown and who has been freed for adoption under the Adoption Act 1976 (as it applies to the Falklands Islands) or any legislation providing for adoption.

## **PART 2 — Arrangements for looking after a child**

### **4. Care planning**

(1) On considering whether a child becomes looked after by the Crown, the Crown must —

- (a) assess the child’s needs for services to achieve or maintain a reasonable standard of health or development for the child; and
- (b) where a care plan for the child has not already been prepared, prepare such a plan.

(2) Except in the case of a child to whom section 49 of the Ordinance (*care orders: care plans*) applies, the care plan must be prepared before the child is first placed by the Crown or, if it is not practicable to do so, within 10 working days of the start of the first placement.

(3) When assessing the child’s needs under sub-regulation (1), the Crown must consider whether the child’s placement meets the requirements of Parts 3 and 4 of the Ordinance.

(4) Unless sub-regulation (5) applies, the care plan should, so far as is reasonably practicable, be agreed by the Crown with —

- (a) any parent of the child and any person who is not the child's parent but who has parental responsibility for the child; or
- (b) if there is no such person, the person who was caring for the child immediately before the Crown arranged a placement for the child.

(5) Where the child is aged 16 or over and the child agrees to be provided with accommodation under section 23 of the Ordinance the care plan should be agreed with the child by the Crown.

## **5. Preparation and content of the care plan**

The care plan must include a record of the following information —

- (a) the long term plan for the child's upbringing;
- (b) the arrangements made by the Crown to meet the child's needs in relation to —
  - (i) health, including the information set out in paragraph 1 of Schedule 1 ("the health plan");
  - (ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 ("the personal education plan");
  - (iii) emotional and behavioural development;
  - (iv) identity, with particular regard to the child's religious persuasion, racial origin and cultural and linguistic background;
  - (v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1;
  - (vi) social presentation; and
  - (vii) self-care skills;
- (c) except in a case where the child is in the care of the Crown but is not provided with accommodation by the Crown by any of the means specified in section 28 of the Ordinance, the placement plan; and
- (d) details of the wishes and feelings of the persons listed in section 25(5) of the Ordinance about the arrangements referred to in paragraph (b) and the placement plan that have been ascertained and considered in accordance with section 25(5) and (6) of the Ordinance and the wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

## **6. Review of care plan**

(1) The Crown must keep the child's care plan under review in accordance with Part 6 and, if the Crown is of the opinion some change is required, it must revise the care plan or prepare a new care plan accordingly.

(2) Save as otherwise provided in these regulations, the Crown must not make any significant change to the care plan unless the proposed change has first been considered at a review of the child's case.

(3) Subject to sub-regulation (4), the Crown must give a copy of the care plan —

- (a) to the child, unless it would not be appropriate to do so having regard to the child's age and understanding;
- (b) to each responsible person;
- (c) where the child is to be placed, or is placed, with a foster carer, to the foster carer; and
- (d) where the child is to be placed, or is placed, in accordance with other arrangements under section 28(6)(c) of the Ordinance, to the person who will be responsible for the child under such arrangements.

(4) The Crown may decide not to give a copy of the care plan, or a full copy of the care plan, to one or more responsible persons if to do so would not be in the child's best interests.

## **7. Health care**

(1) Before the child is first placed by the Crown or, if that is not reasonably practicable, before the first review of the child's case, the Crown must make arrangements for a registered medical practitioner to —

- (a) carry out an assessment of the child's state of health; and
- (b) provide a written report of the assessment, addressing the matters specified in paragraph 1 of Schedule 1;

as soon as reasonably practicable.

(2) Sub-regulation (1) does not apply if, within a period of three months immediately preceding the placement, an assessment of the child's state of health has been carried out and the Crown has obtained a written report that meets the requirements of that sub-regulation.

(3) The Crown must make arrangements for a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner to review the child's state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 1 —

- (a) at least once in every period of six months before the child's fifth birthday; and
- (b) at least once in every period of 12 months after the child's fifth birthday.



(4) Sub-regulations (1) and (3) do not apply if the child refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The Crown must take all reasonable steps to ensure that the child is provided with appropriate health care services, in accordance with the health plan, including —

- (a) medical and dental care and treatment; and
- (b) advice and guidance on health, personal care and health promotion issues.

## **8. Contact with a child in care**

(1) This regulation applies if the child is in the care of the Crown and the Crown has decided under section 52(6) of the Ordinance to refuse to allow contact that would otherwise be required by virtue of section 52(1) of the Ordinance or an order under section 52 of the Ordinance.

(2) The Crown must immediately give written notification to the following persons of the information specified in sub-regulation (3) (“the specified information”) —

- (a) the child, unless it is not in the child’s best interests or it would not be appropriate to do so having regard to the child’s age and understanding;
- (b) the child’s parent or a person who is not the child’s parent but who has parental responsibility for the child;
- (c) where, immediately before the care order was made, a person had care of the child by virtue of an order made in exercise of the Supreme Court’s inherent jurisdiction with respect to children, that person; and
- (d) any other person whose wishes and feelings the Crown considers to be relevant.

(3) The specified information is —

- (a) the Crown’s decision;
- (b) the date of the decision;
- (c) the reasons for the decision;
- (d) the duration of the decision (if applicable); and
- (e) remedies available in case of dissatisfaction.

(4) The Crown may depart from the terms of any order made under section 52 of the Ordinance by agreement with the person in relation to whom the order is made, provided that —

- (a) the child, being of sufficient age and understanding, also agrees; and
- (b) written notification of the specified information is given within five working days to the persons listed in sub-regulation (2).

(5) Where the Crown has decided to vary or suspend any arrangements made (otherwise than under an order under section 52 of the Ordinance) with a view to affording any person contact with the child, the Crown must immediately give written notification containing the specified information to the persons listed in sub-regulation (2).

(6) The Crown must record any decision made under this regulation in the child's care plan.

### **PART 3 — Placements – general provisions**

#### **9. Placement plan**

(1) Subject to sub-regulations (2) and (4), before making arrangements in accordance with section 28 of the Ordinance for the child's placement, the Crown must —

(a) prepare a plan for the placement ("the placement plan") which —

(i) sets out how the placement will contribute to meeting the child's needs; and

(ii) includes all the matters specified in Schedule 2 as are applicable, having regard to the type of the placement; and

(b) ensure that the child's wishes and feelings have been ascertained so far as possible and given due consideration.

(2) If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared within five working days of the start of the placement.

(3) The placement plan must be agreed with, and signed by, the appropriate person.

#### **10. Avoidance of disruption in education**

(1) Subject to sub-regulations (2) and (3), if the child is currently enrolled at a school in the fourth key stage, a decision to make any change to the child's placement that would have the effect of disrupting the arrangements made for the child's education must not be put into effect unless it is in the child's best interests and it has been approved by a nominated officer.

(2) Before approving a decision under sub-regulation (1), the nominated officer must be satisfied that —

(a) the requirements of regulation 9(1)(b) have been complied with; and

(b) the educational provision made for the child at the new placement will promote the child's educational achievement and is consistent with the child's personal education plan.

(3) Sub-regulation (1) does not apply in any case where —

(a) the Crown terminates the child's placement in accordance with regulation 14(3); or

- (b) it is necessary for any other reason to change the child's placement in an emergency, and in such a case the Crown must make appropriate arrangements to promote the child's educational achievement as soon as reasonably practicable.

(4) In any case (not falling within sub-regulation (1)) where the Crown proposes making any change to the child's placement that would have the effect of disrupting the arrangements made for the child's education or training, the Crown must as far as reasonably practicable ensure that other arrangements are made for the child's education or training that meet the child's needs and are consistent with the child's personal education plan.

(5) In this regulation —

**“nominated officer”** means an officer nominated in writing by the Director to make approvals for purposes of this regulation; and

**“school”** has the meaning given in section 2 of the Education Ordinance 1989.

## **11. Placement outside the Falkland Islands – child looked after by the Crown**

(1) This regulation applies in relation to a child who is looked after by the Crown (as described in section 25 of the Ordinance).

(2) Subject to sub-regulation (3), a decision to place a child outside the Falkland Islands must not be put into effect until it has been approved by the Crown or by the court depending on whether the child is looked after by the Crown by consent or by an order of the court.

(3) Before approving a decision under sub-regulation (1), the Crown must be satisfied that —

- (a) the requirements of regulation 9(1)(b) have been complied with;
- (b) the placement is the most appropriate placement available for the child and consistent with the child's care plan;
- (c) where the child is looked after by the Crown by consent, each responsible person has given consent;
- (d) the child's relatives have been consulted, where appropriate; and
- (e) where possible, the relevant authority in the receiving country or territory has been notified in order to register any existing order in respect of that child.

(4) The Crown must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these regulations had the child been placed in the Falkland Islands, are complied with.

## **12. Placement outside the Falkland Islands – child in Crown care**

(1) This regulation applies if —

- (a) a child is in the care of the Crown; and

- (b) the Crown makes arrangements to place the child outside the Falkland Islands in accordance with the provisions of section 51(7)(b) of, and paragraph 20(2) of Schedule 2 to the Ordinance.

(2) The Crown must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these regulations had the child been placed in the Falkland Islands, are complied with.

(3) The Crown must include in the care plan details of the arrangements it has made to supervise the child's placement

### **13. Notification of placement**

(1) Subject to sub-regulation (3), the Crown must give written notification to the persons listed in sub-regulation (2) of the arrangements for the child's placement before the placement is made or, if the placement is made in an emergency, within five working days of the start of the placement, unless it is not reasonably practicable to do so.

(2) The persons referred to in sub-regulation (1) are —

- (a) the child, unless it would not be appropriate to do so having regard to the child's age and understanding;
- (b) each responsible person;
- (c) if the child is in the care of the Crown, any person who is allowed contact with the child under section 52(1) of the Ordinance and any person who has contact with the child by virtue of an order under section 52 of the Ordinance;
- (d) if the child is looked after but is not in the care of the Crown, any person who has contact with the child pursuant to an order made under section 12 of the Ordinance (*residence, contact and other orders with respect to children*);
- (e) any person who was caring for the child immediately before the arrangements were made;
- (f) the child's registered medical practitioner and, where applicable, the registered medical practitioner with whom the child is to be registered during the placement; and
- (g) any educational institution attended by, or person providing education or training for, the child.

(3) The Crown may decide not to give notification to any of the persons listed in paragraphs (b) to (e) if to do so would put the child at risk of significant harm.

### **14. Termination of placement by the Crown**

(1) Subject to sub-regulations (3) and (5), the Crown may only terminate the child's placement following a review of the child's case in accordance with Part 6.

(2) Subject to sub-regulations (3) and (4), before terminating the child's placement, the Crown must —

- (a) make other arrangements for the child's accommodation, in accordance with section 28 of the Ordinance;
- (b) so far as is reasonably practicable, give written notification of their intention to terminate the placement to —
  - (i) all the persons to whom notification of the placement was given under regulation 13;
  - (ii) the person with whom the child is placed; and
  - (iii) where the child is placed outside the Falkland Islands, the relevant authority in that place.

(3) Where there is an immediate risk of significant harm to the child, or to protect others from serious injury, the Crown must terminate the child's placement, and in those circumstances —

- (a) sub-regulation (1) does not apply; and
- (b) the Crown must comply with sub-regulation (2) as soon as reasonably practicable.

(4) If it is not reasonably practicable to notify any person in accordance with sub-regulation (2)(b), then the Crown must give written notification to that person through email or any other appropriate means within ten working days of the date on which the placement is terminated, of the fact that the placement has been terminated.

(5) This regulation does not apply where the child's placement is terminated under the following or where any of the following applies —

- (a) regulation 19(1)(c);
- (b) regulation 23(2);
- (c) regulation 25(6); or
- (d) section 29 of the Ordinance (*review of child's case before making alternative arrangements for accommodation*).

## **PART 4 — Provision for different types of placement**

### **Chapter 1 - Placement of a child in care with a responsible person**

#### **15. Application**

(1) This Chapter applies if the child is in the care of the Crown and the Crown, acting in accordance with section 28(2) of the Ordinance, proposes to place the child with any responsible person.

(2) Nothing in this Chapter requires the Crown to remove the child from the care of any responsible person if the child was already living with such responsible person before a placement decision is made about the child.

#### **16. Effect of contact order**

The Crown must not place the child with any responsible person if to do so would be incompatible with any order made by the court under section 52 of the Ordinance.

#### **17. Assessment of responsible person's suitability to care for a child**

The Crown must, before deciding to place the child with any responsible person, do the following —

- (a) assess the suitability of the responsible person to care for the child, including the suitability of —
  - (i) the proposed accommodation; and
  - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that the child will live;
- (b) take into account all the matters set out in Schedule 3 in making its assessment;
- (c) consider whether, in all the circumstances and taking into account the services to be provided by the Crown, the placement will safeguard and promote the child's welfare and meet the child's needs set out in the care plan; and
- (d) review the child's case in accordance with Part 6.

#### **18. Decision to place a child under this Chapter**

(1) The decision to place the child with a responsible person must not be put into effect until it has been approved by the Crown, and the child's social worker has prepared a placement plan for the child.

(2) Before approving a decision under sub-regulation (1), the Crown must be satisfied that —

- (a) the requirements of regulation 9(1)(b) have been complied with;
- (b) the requirements of regulation 17 have been complied with; and

- (c) the placement will safeguard and promote the child's welfare.

## **19. Circumstances in which a child may be placed before assessment is completed**

(1) Sub-regulation (2) applies if the Crown does the following —

- (a) arrange an interview with any responsible person in order to obtain as much of the information specified in Schedule 3 about the responsible person and the other persons living in the responsible person's household who are aged 18 and over as can be readily ascertained at that interview;
- (b) ensure that the assessment and the review of the child's case are completed in accordance with regulation 17 within 15 working days of the child being placed with any responsible person; and
- (c) ensure that a decision in accordance with regulation 18 is made and approved within 15 working days after the assessment is completed, and —
  - (i) if the decision is to confirm the placement, review the placement plan and, if appropriate amend it; and
  - (ii) if the decision is not to confirm the placement, terminate the placement.

(2) Where the Crown considers it to be necessary and consistent with the child's welfare, before the assessment under regulation 17 is completed the Crown may place the child with any responsible person.

## **20. Support for responsible person**

Where the child is placed, or is to be placed, with any responsible person, the Crown must provide such services and support to the person with whom the child is placed as appear to it to be necessary to safeguard and promote the child's welfare and must record details of those services and support in the child's care plan.

## **Chapter 2 - Placement with foster carers**

### **21. Meaning of "foster carer"**

Where the child is placed jointly with two persons each of whom is approved as a foster carer, any reference in these regulations to a foster carer is to be interpreted as referring equally to both those persons and any requirement to be satisfied by or relating to a particular foster carer must be satisfied by, or treated as relating to, both of them.

### **22. Conditions to be complied with before placing a child with a foster carer**

(1) This regulation applies where the Crown proposes to place a child with a foster carer.

(2) The Crown may only place the child with the foster carer if —

- (a) the foster carer is approved by the Crown under the Children (Fostering) Regulations 2019;

- (b) the terms of the foster carer's approval are consistent with the proposed placement; and
- (c) the foster carer has entered into a foster care agreement with the Crown.

### **23. Emergency placement with a foster carer**

(1) Where it is necessary to place the child in an emergency, the Crown may place the child with any foster carer who has been approved in accordance with the Children (Fostering) Regulations 2019, even if the terms of that approval are not consistent with the placement, provided that the placement is for no longer than 15 working days.

(2) When the period of 15 working days referred to in sub-regulation (1) expires, the Director must terminate the placement unless the terms of that person's approval have been amended to be consistent with the placement.

### **24. Temporary approval of relative, friend or other person connected with the child**

(1) Where the Crown is satisfied that —

- (a) the most appropriate placement for the child is with a connected person, notwithstanding that the connected person is not approved as a foster carer; and
- (b) it is necessary for the child to be placed with the connected person before the connected person's suitability to be a foster carer has been assessed,

the Crown may approve that person as a foster carer for a temporary period not exceeding 16 weeks ("temporary approval") provided that the Crown first complies with the requirements of sub-regulation (2).

(2) Before making a placement under sub-regulation (1), the Crown must —

- (a) assess the suitability of the connected person to care for the child, including the suitability of —
  - (i) the proposed accommodation; and
  - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that the child will live, taking into account all the matters set out in Schedule 4;
- (b) consider whether, in all the circumstances and taking into account the services to be provided by the Crown, the proposed arrangements will safeguard and promote the child's welfare and meet the child's needs as set out in the care plan; and
- (c) make immediate arrangements for the suitability of the connected person to be a foster carer to be assessed in accordance with the Children (Fostering) Regulations 2019 ("the full assessment process") before the temporary approval expires.



## **25. Expiry of temporary approval**

(1) Subject to sub-regulation (4), the Crown may extend the temporary approval of a connected person if —

- (a) it is likely to expire before the full assessment process is completed; or
- (b) the connected person, having undergone the full assessment process, is not approved and seeks a review of the decision in accordance with regulation 16(7) of the Children (Fostering) Regulations 2019.

(2) In a case falling within sub-regulation (1)(a), the Crown may extend the temporary approval once for a further period of up to eight weeks.

(3) In a case falling within sub-regulation (1)(b), the Crown may extend the temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out in sub-regulation (1), the Crown must first —

- (a) consider whether the placement with the connected person is still the most appropriate placement available; and
- (b) seek the views of the fostering panel constituted under regulation 12 of the Children (Fostering) Regulations 2019.

(5) A decision to extend temporary approval must be approved by the Director.

(6) At the end of any temporary approval or at the end of an extension to that period if the connected person has not been approved as a foster carer in accordance with the Children (Fostering) Regulations 2019, the Crown must terminate the placement after first making other arrangements for the child's accommodation.

## **Chapter 3 - Other arrangements**

### **26. General duties of the Crown when placing a child in other arrangements**

Before placing the child in other accommodation, the Crown must —

- (a) be satisfied that the accommodation is suitable for the child, having regard to the matters set out in Schedule 5; and
- (b) arrange for the child to visit the accommodation unless it is not reasonably practicable.

## **PART 5 — Visits by the Crown's representative**

### **27. Frequency of visits**

(1) As part of their arrangements for supervising the child's welfare, the Crown must ensure that a representative, who may also be the child's social worker, visits the child in accordance with this regulation, wherever the child is living.

(2) Subject to sub-regulations (3) to (6), the Crown must ensure that the representative visits the child —

(a) within two weeks of the start of any placement;

(b) at intervals of not more than eight weeks for the first year of any placement; and

(c) after that —

(i) where the placement is intended to last until the child is aged 18, at intervals of not more than three months;

(ii) and in any other case, at intervals of not more than eight weeks.

(3) Where regulation 19 applies, the Crown must ensure that the representative visits the child—

(a) at least once a fortnight until the first review carried out in accordance with Part 6; and

(b) after that at intervals of not more than eight weeks.

(4) Where regulation 24 applies, or where an interim care order has been made in relation to the child under section 56 of the Ordinance and the child is living with a responsible person, the Crown must ensure that the representative visits the child —

(a) at least once a fortnight until the first review carried out in accordance with Part 6; and

(b) after that at intervals of not more than six weeks.

(5) Where a care order has been made in relation to the child under section 48 of the Ordinance and the child is living with a responsible person, the Crown must ensure that the representative visits the child —

(a) within two weeks of the making of the care order; and

(b) after that at intervals of not more than eight weeks.

(6) In addition to visits in accordance with sub-regulations (2) to (5), the Crown must ensure that the representative visits the child whenever reasonably requested to do so by —

(a) the child;

(b) where sub-regulations (2), (3) or (4) apply, the appropriate person; or

- (c) where sub-regulation (5) applies, the person responsible for the child's living arrangements.

## **28. Conduct of visits**

On each visit, the representative must speak to the child in private unless —

- (a) the child, being of sufficient age and understanding to do so, refuses;
- (b) the representative considers it inappropriate to do so, having regard to the child's age and understanding; or
- (c) the representative is unable to do so.

## **29. Consequences of visits**

Where, as the result of a visit carried out in accordance with this Part, the representative's assessment is that the child's welfare is not adequately safeguarded and promoted by the placement, the Crown must review the child's case in accordance with Part 6.

## **30. Advice, support and assistance for the child**

When making arrangements in accordance with section 32(2)(b) of the Ordinance for advice, support and assistance to be available to the child between the representative's visits, the Crown must ensure that —

- (a) the arrangements —
  - (i) are appropriate having regard to the child's age and understanding; and
  - (ii) give due consideration to the child's religious persuasion, racial origin, cultural and linguistic background and to any disability the child may have; and
- (b) so far as is reasonably practicable having regard to the child's age and understanding, the child knows how to seek appropriate advice, support and assistance from the Crown.

# **PART 6 — Reviews of the child's case**

## **31. General duty of the Crown to review the child's case**

- (1) The Crown must review the child's case in accordance with this Part.
- (2) The Crown must not make any significant change to the child's care plan unless the proposed change has first been considered at a review of the child's case, unless this is not reasonably practicable.
- (3) Nothing in this Part prevents any review of the child's case being carried out at the same time as any other review, assessment or consideration of the child's case under any other provision.

### **32. Timing of reviews**

- (1) The Crown must first review the child's case within 25 working days of the date on which the child becomes looked after.
- (2) The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.
- (3) The Crown must carry out a review before the time specified in sub-regulation (1) or (2) if—
  - (a) regulation 29 applies;
  - (b) the Crown considers that the child is, or has been, persistently absent from a placement; or
  - (c) the child is looked after but is not in the care of the Crown; and —
    - (i) the Crown proposes to cease to provide accommodation for the child; and
    - (ii) accommodation will not subsequently be provided for the child by the child's parents (or one of them) or any person who is not the child's parent but who has parental responsibility for the child.

### **33. Conduct of reviews — Crown's policy on reviews**

- (1) The Crown must prepare and implement a written policy regarding the manner in which it will review cases in accordance with this Part.
- (2) The Crown must provide a copy of its policy to —
  - (a) the child, unless it would not be appropriate to do so having regard to the child's age and understanding;
  - (b) the child's parents, or any person who is not the child's parent but who has parental responsibility for the child; and
  - (c) any other person whose views the Crown consider to be relevant.

### **34. Considerations to which the Crown must have regard**

The considerations to which the Crown must have regard in reviewing each case are set out in Schedule 6.

### **35. Arrangements for implementing decisions arising out of reviews**

The child's social worker must —

- (a) make arrangements to implement decisions made in the course, or as a result, of the review, and

- (b) inform the team leader of any significant failure to make such arrangements, or any significant change of circumstances occurring after the review that affects those arrangements.

### **36. Records of reviews**

The Crown must ensure that a written record of the review is prepared, and that the information obtained in the course of the review, details of proceedings at the review meeting, and any decisions made in the course, or as a result, of the review are included in the child's case record.

## **PART 7 — Arrangements made by the Crown for ceasing to look after a child**

### **37. Arrangements for ceasing to look after a child who is not an eligible child**

- (1) This regulation applies where the Crown considers ceasing to look after a child.
- (2) Before deciding to cease to look after a child the Crown must —
  - (a) carry out an assessment of the suitability of the proposed arrangements for the child's accommodation and maintenance when the child ceases to be looked after;
  - (b) carry out an assessment of the services and support that the child and, where applicable a responsible person, might need when the Crown ceases to look after the child;
  - (c) ensure that the child's wishes, and feelings have been ascertained and given due consideration; and
  - (d) consider whether, in all the circumstances and taking into account any services or support the Crown intends to provide, ceasing to look after the child will safeguard and promote the child's welfare.
- (3) The Crown must include in the child's care plan details of the advice, assistance and support that the Crown intends to provide for the child when the child ceases to be looked after.
- (4) Subject to sub-regulation (5), where the child has been a looked after child for at least 20 working days, any decision to cease to look after the child must not be put into effect until it has been approved by the Director.
- (5) In any case where a child is aged 16 or 17 and is not in the care of the Crown, the decision to cease to look after the child must not be put into effect until it has been approved by the Director.
- (6) Before approving a decision under sub-regulation (4) or (5), the Director must be satisfied that —
  - (a) the requirements of regulation 9(1)(b) have been complied with;
  - (b) ceasing to look after the child will safeguard and promote the child's welfare;
  - (c) the support the Crown intends to provide will safeguard and promote the child's welfare;

- (d) the child's relatives have been consulted, where appropriate; and
- (e) where appropriate, regulations 38 to 41 have been complied with.

### **38. Eligible child**

For the purposes of paragraph 22(3)(b) of Schedule 2 to the Ordinance, if the child is a child to whom regulation 44 applies (short breaks), the child is not an eligible child despite falling within paragraph 22(2) of that Schedule.

### **39. General duties**

If the child is an eligible child, the Crown must —

- (a) assess the child's needs in accordance with regulation 40; and
- (b) prepare the child's pathway plan in accordance with regulation 41.

### **40. Assessment of needs**

(1) The Crown must complete the assessment of the child's needs in accordance with paragraph 22(4) of Schedule 2 to the Ordinance not more than three months after the date on which the child reaches the age of 16 or becomes an eligible child after that age.

(2) In carrying out its assessment of the child's likely needs when the child ceases to be looked after, the Crown must take account of the following considerations —

- (a) the child's state of health (including physical, emotional and mental health) and development;
- (b) the child's continuing need for education, training or employment;
- (c) the support that will be available to the child from the child's parents and other connected persons;
- (d) the child's actual and anticipated financial resources and capacity to manage his or her personal finances independently;
- (e) the extent to which the child possesses the practical and other skills necessary for independent living;
- (f) the child's need for continuing care, support and accommodation;
- (g) the wishes and feelings of —
  - (i) the child;
  - (ii) any parent of the child or any person who is not the child's parent but who has parental responsibility for the child;
  - (iii) the appropriate person; and

(h) the views of —

- (i) any person or educational institution that provides the child with education or training;
- (ii) any person providing health (whether physical, emotional or mental health) or dental care or treatment to the child;
- (iii) the personal adviser appointed for the child; and
- (iv) any other person whose views the Crown, or the child, consider may be relevant.

#### **41. The pathway plan**

(1) The pathway plan is the responsibility of the team leader and must be prepared as soon as possible after the assessment of the child's needs and must include, in particular —

- (a) the child's care plan; and
- (b) the information referred to in Schedule 7.

(2) The pathway plan must, in relation to each of the matters referred to in paragraphs 2 to 10 of Schedule 7, set out —

- (a) the manner in which the Crown proposes to meet the child's needs; and
- (b) the date by which, and by whom, any action required to implement any aspect of the pathway plan will be carried out.

#### **42. Functions of the personal adviser**

The personal adviser's functions in relation to the child are to —

- (a) provide advice (including practical advice) and support;
- (b) participate in reviews of the child's case carried out under Part 6;
- (c) co-ordinate the provision of services and take reasonable steps to ensure the child makes use of such services;
- (d) remain informed about the child's progress and wellbeing; and
- (e) maintain a written record of their contacts with the child.

#### **43. Independent visitors**

A person appointed by the Crown as an independent visitor under section 33(1) of the Ordinance is to be regarded as independent of the Crown where the person appointed is not connected with the Crown by virtue of being —

- (a) a member of the Crown's committees or sub-committees, whether elected or co-opted;

- (b) any officer of the Crown employed in relation to the exercise of the functions referred to in section 25 of the Ordinance; or
- (c) a spouse, civil partner or other person (whether of different sex or the same sex) living in the same household as a person falling within paragraph (a) or (b) as the partner of such a person.

## **PART 8 — Miscellaneous**

### **44. Application of these regulations with modifications to short breaks**

(1) The circumstances set out in sub-regulation (2) of these regulations apply with the modifications set out in sub-regulation (3).

(2) The circumstances are that —

- (a) the child is not in the care of the Crown;
- (b) the Crown has arranged to place the child in a series of short-term placements with the same person or in the same accommodation (“short breaks”); and
- (c) the arrangement is such that —
  - (i) no single placement is intended to last for longer than 17 days;
  - (ii) at the end of each placement, the child returns to the care of its parent or a person who is not the child’s parent but who has parental responsibility for the child; and
  - (iii) the short breaks do not exceed 75 days in total in any period of 12 months.

(3) The modifications are that —

- (a) regulation 5 does not apply, but instead the care plan must set out the arrangements made to meet the child’s needs with particular regard to —
  - (i) the child’s health and emotional and behavioural development, in particular in relation to any disability the child may have;
  - (ii) promoting contact between the child and the child’s parents or any other person who is not the child’s parent but who has parental responsibility for the child, during any period when the child is placed;
  - (iii) the child’s leisure interests; and
  - (iv) promoting the child’s educational achievement;

and must include the name and address of the child’s registered medical practitioner, and the information set out in paragraph 3 of Schedule 2, where appropriate;

- (b) regulations 7, 9, 13 and 45(2)(b) do not apply;



- (c) regulation 27(2) does not apply, but instead the Crown must ensure that a representative visits the child on days when the child is in fact placed, at regular intervals to be agreed with the team leader and the child's parents (or any person who is not the child's parent but who has parental responsibility for the child) and recorded in the care plan before the start of the first placement, and in any event —
  - (i) the first visit must take place within three months of the start of the first placement, or as soon as practicable after that; and
  - (ii) subsequent visits must take place at intervals of not more than six months, for as long as the short breaks continue;
- (d) regulation 32 does not apply, but instead —
  - (i) the Crown must review the child's case within six months of the start of the first placement; and
  - (ii) the second and subsequent reviews must be carried out at intervals of not more than twelve months.

#### **45. Records — establishment of records**

- (1) The Crown must establish and maintain a written case record for the child ("the child's case record"), if one is not already in existence.
- (2) The child's case record must include —
  - (a) the child's care plan, including any changes made to the care plan and any subsequent plans;
  - (b) reports obtained under regulation 7;
  - (c) any other document created or considered as part of any assessment of the child's needs, or of any review of the child's case;
  - (d) any court order relating to the child; and
  - (e) details of any arrangements that have been made by the Crown under which any of the Crown's functions in relation to the child are discharged by a different organisation.

#### **46. Retention and confidentiality of records**

- (1) The Crown must retain the child's case record either —
  - (a) until the seventy-fifth anniversary of the child's birth; or
  - (b) if the child dies before attaining the age of 18, for fifteen years beginning with the date of the child's death.
- (2) The Crown must secure the safe keeping of the child's case record and take any necessary steps to ensure that information contained in it is treated as confidential subject only to —

- (a) any provision of, or made under or by virtue of, a statute under which access to such a record or information may be obtained or given;
- (b) any court order under which access to such a record or information may be obtained or given; and
- (c) any policy that the Governor may make on information sharing.

## **SCHEDULE 1**

### **Care plans**

*(regulation 5)*

#### **1. Information to be included in the health plan**

- (1) The child's state of health including the child's physical, emotional and mental health.
- (2) The child's health history including, so far as practicable, the child's family's health history.
- (3) The effect of the child's health and health history on the child's development.
- (4) Existing arrangements for the child's medical and dental care including —
  - (a) routine checks of the child's general state of health, including dental health;
  - (b) treatment for, and monitoring of, identified health (including physical, emotional and mental health) or dental care needs;
  - (c) preventive measures such as vaccination and immunisation;
  - (d) screening for defects of vision or hearing; and
  - (e) advice and guidance on promoting health and effective personal care.
- (5) Any planned changes to existing medical and dental care arrangements.
- (6) The role of the appropriate person, and of any other person who cares for the child, in promoting the child's health.

#### **2. Information to be included in the personal education plan**

- (1) The child's educational and training history, including information about educational institutions attended and the child's attendance and conduct record, the child's academic and other achievements, and the child's special educational needs, if any.
- (2) Existing arrangements for the child's education and training, including details of any special educational provision and any other provision made to meet the child's particular educational or training needs, and to promote the child's educational achievement.
- (3) Any planned changes to existing arrangements for the child's education or training and, where any changes to the arrangements are necessary, provision made to minimise disruption to that education or training.
- (4) The child's leisure interests.
- (5) The role of the appropriate person, and of any other person who cares for the child, in promoting the child's educational achievements and leisure interests.

### **3. Family and social relationships**

(1) If the child has a sibling for whom the Crown or another authority is providing accommodation, and the children have not been placed together, the arrangements made to promote contact between them, so far as is consistent with each child's welfare.

(2) If the child is looked after by, but is not in the care of, the Crown, details of any order relating to the child made under section 12 of the Ordinance.

(3) If the child is in the care of the Crown, details of any order relating to the child made under section 52 of the Ordinance (*parental contact etc with children in care*).

(4) Any other arrangements made to promote and maintain contact in accordance with paragraph 16 of Schedule 2 to the Ordinance, so far as is reasonably practicable and consistent with the child's welfare, between the child and —

(a) any parent of the child or any person who is not the child's parent but who has parental responsibility for the child; and

(b) any other connected person.

(5) Where section 33(1) of the Ordinance applies, the arrangements made to appoint an independent visitor for the child or, if appropriate, the fact that section 33(6) of the Ordinance applies, that fact.

**SCHEDULE 2**  
**Matters to be dealt with in the placement plan**

*(regulation 9)*

**1. Interpretation**

In this Schedule, “parent” or “parents” includes any person who is not the child’s parent but who has parental responsibility for the child.

**2. Information to be included in the child’s placement plan**

(1) How on a day to day basis, the child will be cared for and the child’s welfare will be safeguarded and promoted by the appropriate person.

(2) Any arrangements made for contact between the child and any parent, and between the child and any other connected person including, if appropriate —

- (a) the reasons why contact with any such person would not be reasonably practicable or would not be consistent with the child’s welfare;
- (b) if the child is not in the care of the Crown, details of any order made under section 12 of the Ordinance;
- (c) if the child is in the care of the Crown, details of any order relating to the child made under section 52 of the Ordinance; and
- (d) the arrangements for notifying any changes in the contact arrangements.

(3) The arrangements made for the child’s health (including physical, emotional and mental health) and dental care including —

- (a) the name and address of the child’s registered medical and dental practitioners and, where applicable, any registered medical or dental practitioner with whom the child is to be registered following the placement; and
- (b) any arrangements for the giving or withholding of consent to medical or dental examination or treatment for the child.

(4) The arrangements made for the child’s education and training including —

- (a) the name and address of any school at which the child is a registered pupil;
- (b) the name of the designated teacher at the school (if applicable); and
- (c) the name and address of any other educational institution that the child attends, or of any other person who provides the child with education or training.

(5) The arrangements made for the representative to visit the child in accordance with Part 5, the frequency of visits and the arrangements made for advice, support and assistance to be available to the child between visits in accordance with regulation 27.

(6) If an independent visitor is appointed, the arrangements made for the independent visitor to visit the child.

(7) The circumstances in which the placement may be terminated and the child removed from the appropriate person's care in accordance with regulation 14.

(8) The name and contact details of —

(a) the child's independent visitor (if one is appointed);

(b) the representative; and

(c) if the child is an eligible child, the personal adviser appointed for the child.

### **3. Additional information to be included where the child is placed with a parent**

(1) Details of support and services to be provided to a parent during the placement.

(2) The obligation on a parent to notify the Crown of any relevant change in circumstances, including any intention to change address, any changes in the household in which the child lives, and of any serious incident involving the child.

(3) The obligation on the parent to ensure that any information relating to the child or the child's family or any other person given in confidence to the parent in connection with the placement is kept confidential, and that such information is not disclosed to any person without the consent of the Crown and is in accordance with any information sharing policy made by the Governor.

(4) The arrangements for requesting a change to the placement plan.

(5) The circumstances in which the placement will be terminated in accordance with regulation 19(1)(c)(ii).

### **4. Additional information to be included where the child is placed with a foster carer or in other arrangements**

(1) The type of accommodation to be provided and the address.

(2) Where —

(a) the Crown has, or is notified of, child protection concerns relating to the child; or

(b) the child has gone missing from the placement or from any previous placement,

the day to day arrangements put in place by the appropriate person to keep the child safe or to prevent the child from going missing.

(3) The child's personal history, religious persuasion, cultural and linguistic background, and racial origin.

(4) Where the child is not in the care of the Crown —

- (a) the respective responsibilities of the Crown and the child's parents;
- (b) any delegation of responsibility to the Crown for the child's day to day care there has been by the child's parents;
- (c) the expected duration of the arrangements and the steps which should be taken to bring the arrangements to an end, including arrangements for the child to return to live with the child's parents; and
- (d) where the child is aged 16 or over and agrees to being provided with accommodation under section 23 of the Ordinance, that fact.

(5) The Crown's arrangements for the financial support of the child during the placement.

(6) Where the child is placed with a foster carer, the obligation on the foster carer to comply with the terms of the foster care agreement made under the Children (Fostering) Regulations 2019.

**SCHEDULE 3**  
**Matters to be taken into account when assessing the suitability of a responsible person to care for the child**

*(regulation 17(b))*

1. In respect of a responsible person —

- (a) the responsible person's capacity to care for children and in particular in relation to the child to —
  - (i) provide for the child's physical needs and appropriate medical and dental care;
  - (ii) protect the child adequately from harm or danger, including from any person who presents a risk of harm to the child;
  - (iii) ensure that the home environment is safe for the child;
  - (iv) ensure that the child's emotional needs are met and the child is provided with a positive sense of self, including any particular needs arising from the child's religious persuasion, racial origin and cultural and linguistic background, and any disability the child may have;
  - (v) promote the child's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities;
  - (vi) enable the child to regulate the child's emotions and behaviour, including by modelling appropriate behaviour and interactions with others; and
  - (vii) provide a stable family environment to enable the child to develop and maintain secure attachments to the responsible person and other persons who provide care for the child;
- (b) the responsible person's state of health including that responsible person's physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems;
- (c) the responsible person's family relationships and the composition of the responsible person's household, including particulars of —
  - (i) the identity of all other members of the household, including their age and the nature of their relationship with the responsible person and with each other, including any sexual relationship;
  - (ii) any relationship with any person who is a parent of the child;
  - (iii) other adults not being members of the household who are likely to have regular contact with the child; and



- (iv) any current or previous domestic violence between members of the household, including the responsible person;
  - (d) the responsible person's family history, including —
    - (i) particulars of the responsible person's childhood and upbringing including the strengths and difficulties of the responsible person's parents or other persons who cared for the responsible person;
    - (ii) the responsible person's relationships with the responsible person's parents and siblings, and their relationships with each other;
    - (iii) the responsible person's educational achievement and any specific learning difficulty or disability;
    - (iv) a chronology of significant life events; and
    - (v) particulars of other relatives and their relationships with the child and the responsible person;
  - (e) particulars of any criminal offences of which the responsible person has been convicted or in respect of which the responsible person has been cautioned;
  - (f) the responsible person's past and present employment and other sources of income; and
  - (g) the nature of the neighbourhood in which the responsible person's home is situated and the resources available in the community to support the child and the responsible person.
2. In respect of members of the responsible person's household aged 18 and over, so far as is practicable, all the particulars specified in paragraph 1 except sub-paragraphs (d), (f) and (g).

**SCHEDULE 4**  
**Matters to be taken into account when assessing the suitability of a connected person to care for the child**

*(regulation 24(2)(a))*

1. In respect of the connected person —

- (a) the nature and quality of any existing relationship with the child;
- (b) their capacity to care for children and in particular in relation to the child to —
  - (i) provide for the child's physical needs and appropriate medical and dental care;
  - (ii) protect the child adequately from harm or danger including from any person who presents a risk of harm to the child;
  - (iii) ensure that the accommodation and home environment is suitable with regard to the age and developmental stage of the child;
  - (iv) promote the child's learning and development; and
  - (v) provide a stable family environment which will promote secure attachments for the child, including promoting positive contact with the parent (or a person who is not the child's parent but has parental responsibility for the child) and other connected persons, unless to do this is not consistent with the duty to safeguard and promote the child's welfare;
- (c) their state of health including their physical, emotional and mental health and medical history and any current or past issues of domestic violence, substance misuse or mental health problems;
- (d) their family relationships and the composition of their household, including particulars of—
  - (i) the identity of all other members of the household, including their age and the nature of their relationship with the connected person and with each other, including any sexual relationship;
  - (ii) any relationship with any person who is a parent of the child;
  - (iii) any relationship between the child and other members of the household;
  - (iv) other adults not being members of the household who are likely to have regular contact with the child; and
  - (v) any current or previous domestic violence between members of the household, including the connected person;

- (e) their family history, including —
  - (i) particulars of their childhood and upbringing including the strengths and difficulties of their parents or other persons who cared for them;
  - (ii) their relationships with their parents and siblings, and their relationships with each other;
  - (iii) their educational achievement and any specific learning difficulty or disability;
  - (iv) a chronology of significant life events; and
  - (v) particulars of other relatives and their relationships with the child and the connected person;
- (f) particulars of any criminal offences of which they have been convicted or in respect of which they have been cautioned;
- (g) their past and present employment and other sources of income; and
- (h) the nature of the neighbourhood in which their home is situated and resources available in the community to support the child and the connected person.

**SCHEDULE 5**  
**Other placement accommodation arrangements**

*(regulation 26(a))*

Matters to be considered before placing a child in accommodation in an unregulated setting as provided for under section 28(6) of the Ordinance —

1. In respect of the accommodation, the —

- (a) facilities and services provided;
- (b) state of repair;
- (c) safety;
- (d) suitability of staff;
- (e) location;
- (f) support;
- (g) tenancy status; and
- (h) the financial commitments involved for the child and their affordability.

2. In respect of the child, the child's —

- (a) views about the accommodation;
- (b) understanding of their rights and responsibilities in relation to the accommodation; and
- (c) understanding of funding arrangements.

## **SCHEDULE 6**

### **Considerations to which the Crown must have regard when reviewing the child's case**

*(regulation 34)*

1. The effect of any change in the child's circumstances since the last review, in particular of any change made by the Crown to the child's care plan, whether decisions taken at the last review have been successfully implemented, and if not, the reasons for that.
2. Whether the Crown should seek any change in the child's legal status.
3. Whether there is a long term plan for the child's upbringing within regulation 5(a).
4. The arrangements for contact and whether there is any need for changes to the arrangements in order to promote contact between the child and the parent or a person who is not the child's parent but has parental responsibility for the child, or between the child and other connected persons.
5. Whether the child's placement continues to be the most appropriate available, and whether any change to the placement plan or any other aspects of the arrangements made to provide the child with accommodation is, or is likely to become, necessary or desirable before the next review of the child's case.
6. The child's educational needs, progress and development and whether any change to the arrangements for the child's education or training is, or is likely to become, necessary or desirable to meet the child's particular needs and to promote the child's educational achievement before the next review of the child's case, having regard to the advice of any person who provides the child with education or training, (in particular the designated teacher of any school at which the child is a registered pupil).
7. The child's leisure interests.
8. The report of the most recent assessment of the child's state of health obtained in accordance with regulation 7 and whether any change to the arrangements for the child's health care is, or is likely to become, necessary or desirable before the next review of the child's case, having regard to the advice of any health care professional received since the date of that report, (in particular the child's registered medical practitioner).
9. Whether the child's needs related to the child's identity are being met and whether any particular change is required, having regard to the child's religious persuasion, racial origin and cultural background.
10. Whether the arrangements made in accordance with regulation 30 continue to be appropriate and understood by the child.
11. Whether any arrangements need to be made for the time when the child will no longer be looked after by the Crown.

12. The child's wishes and feelings about any aspect of the case and in particular about any changes the Crown has made since the last review or proposes to make to the child's care plan.
13. Where regulation 27(3) applies, the frequency of the representative's visits.

**SCHEDULE 7**  
**Matters to be dealt with in the pathway plan**

*(regulation 41(2))*

1. The name of the child's personal adviser.
2. The nature and level of contact and personal support to be provided to the child, and by whom.
3. Details of the accommodation the child is to occupy when the child ceases to be looked after.
4. The plan for the child's continuing education or training when the child ceases to be looked after.
5. How the Crown will assist the child in obtaining employment or other purposeful activity or occupation.
- 6 Whether the child's placement safeguards and promotes the child's welfare, and whether any safeguarding concerns have been raised.
7. The support to be provided to enable the child to develop and sustain appropriate family and social relationships.
8. A programme to develop the practical and other skills the child needs to live independently.
9. The financial support to be provided to enable the child to meet accommodation and maintenance costs.
10. The child's health care needs, including any physical, emotional or mental health needs and how they are to be met when the child ceases to be looked after.
11. The Crown's contingency plans for action to be taken in the event that the pathway plan ceases to be effective for any reason.