

GUIDE 2: SUPPORTING FAMILY

AND OTHER IMPORTANT RELATIONSHIPS

Background

One of the fundamental principles of the Children Act 1989 is supporting families to stay together. Children's relationships and bonds with their parents are recognised as uniquely precious, to be nurtured and protected wherever possible.¹ Where action is necessary in order to safeguard the child's welfare, local authorities are expected to work in partnership with families.² The central importance of family relationships is also recognised in statutory guidance which stresses that "[family] attachments should be respected, sustained and developed", whether children live with or away from their families.³ It is now widely accepted that a wide range of social relationships help children living away from home by increasing a sense of stability and belonging, enhancing resilience and nurturing self-worth.⁴ Children's happiness and development are inextricably connected to them being loved, valued and respected. Ensuring they can maintain important relationships with their parents, sisters and brothers, and/or others who mean a lot to them, is central to looking after them well.

Relationships between brothers and sisters are usually incredibly important to children in care.⁵

It is not uncommon for older children to have had responsibility for caring for younger siblings prior to coming into care and going through very difficult experiences together can strengthen children's bonds enormously. However, family relationships can also be very damaging and painful for children, which is why it is essential that each child's needs, wishes and feelings are understood, and that they receive appropriate care and support. Decisions made at one point in time should not be assumed to apply throughout a child's period in care. Advocates may find children have fundamental questions about their family origins and past relationships and wish to explore the feasibility of regaining and rebuilding connections.

The Children Act 1989 places a statutory duty on local authorities to support children in care to see and spend time with their families, including siblings. When decisions about this are being made, the child's wishes, and feelings must be considered.⁶ **Every child's right to a family life is also protected by the European Convention on Human Rights (ECHR)** and the Human Rights Act 1998 requires public authorities to act compatibly with the ECHR.⁷

* A note on the language:

Legal language can be very technical and cold. While necessary for the sake of legal precision, routine use of words such as 'contact' or 'placement' can contribute to the discrimination and social stigma experienced by care experienced children and young people. In some cases, such language has contributed to the dehumanisation of children and young people, and their life experiences. We therefore use language preferred by children and young people⁸, except for when we quote a legal provision word for word.

In this guide we use the term 'children in care' to mean children who are the subject of a care order (where the local authority shares parental responsibility with the child's parents) and children who are accommodated (with the consent of parents and/or the child). Both groups of children are described as 'looked after children' in the Children Act 1989.

Duty to support children to see and spend time with their family

[Section 34\(1\) of the Children Act 1989](#) places a duty on local authorities to “allow reasonable contact” between children in care and:

- their parents,
- guardians,
- other persons with parental responsibility, and
- any persons named in the child arrangements or other court order (where this is in place).

[Schedule 2, paragraph 15 of the Children Act 1989](#) expands this duty to include other family members and ‘connected persons’. It places a duty on local authorities to “endeavour to promote contact” between children in care and:

- their parents,
- any person who has parental responsibility for the child, and
- any relative, friend or other person connected to the child,

unless this would not be reasonably practicable or consistent with the child’s welfare.

Relatives include (this is not an exhaustive list): grandparents, brothers, sisters, aunts, uncles and step-parents.⁹

Local authorities also have a duty to keep the child’s parents informed about where the child lives (whether they are in care under Section 31 or accommodated under Section 20 of the Children Act 1989) unless this would put the child in danger.

While local authorities are not under an express duty to provide financial assistance to facilitate visits between children living away from home and their families, [Schedule 2, paragraph 16](#) of the Children Act 1989 gives them **the power to offer financial assistance** to the child or their family. Two conditions must be met for this (discretionary) assistance to be made available: the local authority believes that without financial help the visit would cause financial hardship; and the circumstances justify financial assistance.

Additional relevant provisions:

▪ Fostering services

Fostering services are also bound by the duty to support children to see and spend time with their family. [Regulations](#) require fostering services to “promote contact” between children in foster care and their parents, relatives, and friends unless this would not be reasonably practicable or not consistent with the child’s welfare.¹⁰ [National Minimum Standards](#) (Standard 9) elaborate on the “duty to promote contact” and affirm that “children [should] have, where appropriate, constructive contact with their parents, grandparents, siblings, half-siblings, wider family, friends and other people who play a significant role in their lives”.¹¹ Where there is a risk that siblings who live together in foster care may be separated when one of them turns 18, statutory guidance ([Volume 2](#)) states that the local authority “should consider whether staying put arrangements may be beneficial for all the children involved”.¹²

▪ Children’s homes

[Regulations](#) require the registered person (home manager) to “ensure [that] contact between each child and the child’s parents, relatives and friends is promoted in accordance with the child’s relevant plans”.¹³ The registered person is also required to ensure that “suitable facilities are provided within the children’s home for any child accommodated there to meet privately at any reasonable time with the child’s parents, friends, relatives” (note, however, that this duty is qualified).¹⁴

▪ Children accommodated under Section 20

Because being accommodated under Section 20 requires an agreement between the parent/s of the child and the local authority, as well as the agreement of the child who is aged 16 or 17, seeing and spending time with family is not regulated in the same way as it is for children who are the subject of a care order. Where difficulties or disagreements arise, resolution and remedy can be sought via the statutory representations (complaints) procedure.¹⁵

▪ Children who are adopted from care

An adoption order has the effect of the adoptive family becoming the child's family as if by birth and their 'former' (birth) family ceasing to be considered family in law. The family court can authorise contact between the child and their birth family, including siblings, before the adoption order is finalised, as well as after.¹⁶ This, however, is governed by the Adoption and Children Act 2002, not the Children Act 1989.

▪ Children in need living away from home

Local authorities must take reasonably practicable steps to promote contact between children who are in need and live away from home and their families if this is necessary to safeguard or promote the child's welfare (see [Schedule 2, Paragraph 10\(b\)](#)).

Valuing relationships between brothers and sisters

[Section 22C\(8\)\(c\) of the Children Act 1989](#) requires local authorities to ensure that when decisions are made about where a child lives, if that child has a sibling for whom the local authority are also providing accommodation, so far as is reasonably practicable in all the circumstances, **the children must be supported ("enabled") to live together**. This is an incredibly important duty.

[The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review](#) affirms duties connected to supporting siblings to maintain relationships. Subject to a best interests assessment (which must always include children's wishes and feelings), siblings should be supported to live together.¹⁷ Where this is not possible, at the present time or for the foreseeable future, children should be helped to understand why they cannot live together, and sibling relationships and time together "should be promoted and maintained irrelevant of the distance of placement".¹⁸ Plans for supporting relationships between sisters and brothers should be "robust" and take into account children's wishes and feelings, and "contact must be meaningful and take place where children feel safe and supported".¹⁹

[Schedule 1, Paragraph 3 of The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) sets out what information should be included in the child's care plan **specifically in respect of seeing their sisters and brothers**.²⁰ The child's care plan must include:

- In line with the child's wishes and feelings, arrangements for contact between siblings who are not placed together.²¹
- Arrangements for contact with "any other connected persons".²²

Where time together cannot take place or is cancelled, children should be "fully supported to understand the reasons" for this.²³ Regulations require that 'arrangements for contact' be reviewed during care review meetings.²⁴ It is also important to remember that, firstly, the IRO must meet the child in private to hear about the issues they want to be considered during their statutory review²⁵ and, secondly, that children can, at any time, request a review outside of the planned review timescales.²⁶

Care and pathway plans: protecting family relationships

[Schedule 1, Paragraph 3 of The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) sets out what information should be included in the child's care plan regarding seeing and spending time with their family:

- Arrangements to enable brothers and sisters who do not live together to keep in touch.
- Details of any child arrangements order (see [Section 8](#), Children Act 1989) for a child who is accommodated under Section 20).
- Details of parental contact (under Section 34, Children Act 1989) for a child who is the subject of a care order.
- Arrangements for contact with the child's parents, any persons with parental responsibility and any other connected persons.

[The Children Act 1989 guidance and regulations Volume 2](#) also remind us that throughout the child's time in care, it is the social workers responsibility to **identify and record the details of "all the people who are significant in a child's life"** in the care and placement plan.²⁷ There are no specific legal criteria for determining who should be deemed 'significant' to the child. The child or young person will be able to indicate who they love, who they enjoy spending time with and who was very important to them in the past. Significant people could include half-siblings, step-siblings, former carers and children with whom the child previously lived (in foster or residential care). Former teachers or other adults who were once extremely important to a child may also be significant.

Older children

For 16 and 17-year-olds (relevant children²⁸), [Schedule 1 of The Care Leavers \(England\) Regulations 2010](#) requires the **inclusion in the pathway plan of support** that will be provided to them **"to develop and sustain appropriate family and social relationships"** (Paragraph 6). [Statutory guidance \(Volume 3: planning transition to adulthood for care leavers\)](#) also requires the inclusion in pathway plans of arrangements for "contact with the young person's parents, wider family including siblings and friends and the capacity of this network to encourage the young person and enable them to make a positive transition to adulthood".²⁹ It recognises the importance of family and social relationships in assisting young people with "integration into the community that they identify with".³⁰ Established good practice cited in statutory guidance recognises that "close personal relationships" are vital to children's overall health and well-being.³¹ Finally, as part of the support offered to care leavers who are getting ready for, or starting, further and higher education, local authorities may need to "consider additional funding so that young people can visit previous foster carers, family and friends and enable foster carers to visit them".³²

Refusing and stopping time together

Children's wishes and feelings are of central importance when decisions are made about them seeing and spending time with their families. [Section 22\(4\) of the Children Act 1989](#) requires local authorities to ascertain the wishes and feelings of children who are in care and to give due consideration to their wishes and feelings before making any decision affecting the child.

[Section 34\(4\) of the Children Act 1989](#) gives the family courts the power make an order authorising a local authority to refuse to allow contact between the child and their parents, guardians, other persons with parental responsibility or other persons named in previous court orders. Such an application can be made by the child or the local authority.

Independent reviewing officers (IROs) have a range of specific duties towards children. These include: ensuring children are informed about their right to make a complaint under the statutory representations procedure and the right to apply for permission ("leave") to seek a Section 8 order or to have their care order discharged; and referring the child's case to the Children and Family Court Advisory and Support Service if the local authority has failed to plan and review the child's plan in line with The Care Planning, Placement and Case Review (England) Regulations 2010.³³ IROs must also consider referring any other significant breach of the child's rights (which includes the Human Rights Act – see below) to Cafcass.³⁴

A local authority can refuse to allow contact without court authorisation only if it is considered necessary to safeguard the child's welfare and the decision to refuse contact is urgent. In such circumstances, contact can be stopped for no more than seven days ([Section 34\(6\)](#)). After seven days, unless refusal to allow contact is authorised by a court, the duty to support children to see and spend time with their family resumes.

The Care Planning, Placement and Case Review (England) Regulations 2010 require local authorities to take a number of steps if contact is stopped without prior court authorisation (see [Regulation 8](#)). The local authority must immediately communicate the decision in writing to the child (unless it would be inappropriate to do so), their parents, the IRO and any other person whose wishes and feelings are considered relevant. This notification should explain the reason for the decision to refuse to allow contact, how long this will last and how the decision can be challenged. It must also be recorded in the child's care plan.

Wider human rights protections

The right to family life is a fundamental human right, for children and adults.

[Article 8 of the European Convention on Human Rights](#) (ECHR) guarantees respect for private and family life. Article 8 protects all children and young people (and adults) against arbitrary interference with private and family life (including correspondence) by public authorities. It also places a positive obligation (duty) on public bodies to ensure that Article 8 rights are respected. This duty is binding on local authorities because [Section 6\(1\)](#) of the Human Rights Act 1998 requires all public bodies to act compatibly with Convention Rights.

[The United Nations Convention on the Rights of the Child](#) protects every child's (aged under 18) right to preserve their identity, including their family relations (Article 8(1)). It also guarantees children who are separated from one or both parents the right to maintain a relationship and direct, regular contact with both parents, unless this would be against their best interests (Article 9(3)). As ever, the child's wishes and feelings (Article 12 protects children's right to be heard and to have their views given due weight) must be central to any assessment of their best interests. (Despite not been fully incorporated into our domestic law, this treaty's provisions should still be implemented and can be used in legal proceedings concerned with children's rights)

Case studies

Independent advocates can draw on case law (court decisions) and the decisions of bodies like the Local Government and Social Care Ombudsman to strengthen their advocacy. Some recent relevant decisions are set out below.

Case law

- [Children in foster care enjoy the same right to family life as children cared for by their birth families](#)

In March 2020, the Court of Appeal considered whether a young person aged 20 who was not a UK national had the right to stay in the UK on the basis of the relationship with his foster family and his rights under Article 8 of the European Convention on Human Rights. The Court found that there is no legal basis when considering Article 8 rights to treat children who are placed with and cared for by foster carers differently from children who are cared for by their birth families. For a child to have a 'family life' under Article 8 it must be shown that they receive "effective, real or committed support". The Court also said that family life does not suddenly come to an end when a child turns 18.³⁵

- [Duty to support children to see and spend time with their family continues to apply during the COVID-19 pandemic](#)

In August 2020, the Court of Appeal considered the duties of local authorities under the Children Act 1989 when making decisions about contact between children in care and their parents during the pandemic. The Court said that the principles set out in the Children Act 1989 continue to apply during the COVID-19 pandemic, even if some of the decisions might be affected by the practical challenges arising from the pandemic. The principles that must be followed include the duty to allow reasonable contact (Section 34(1)), duty to promote contact (Schedule 2 para. 15 (1)) and the paramountcy of the child's welfare in decision-making (Section 1(1)).³⁶

Local Government and Social Care Ombudsman decisions

Family courts make decisions about how often and on what terms care experienced children see and spend time with their families, and these matters are outside the jurisdiction of the Ombudsman. However, the Ombudsman can identify and remedy injustice if there are faults in how councils fulfil their statutory duties.

- [Telford & Wrekin Council \(19 017 225\)](#)

An independent advocate complained to the Ombudsman on behalf of S, an 11-year-old boy looked after under a full care order and living with his grandfather, about the frequency of his time with his parents and two sisters. While the Ombudsman concluded that the council had considered S's wish to see his family more often, there were faults in how it had made its decisions and that these faults caused injustice to S. The Ombudsman found that the local authority had arranged some care review meetings during school hours, making them impossible for S to attend. Further, where it had been known he would not be attending, S's IRO had failed to hear from him before the meetings to understand his wishes and feelings. The Ombudsman found this was likely to have caused S uncertainty about whether his views were heard and considered, and it would have also made it harder for S to understand the reasons why he would not be able to see his family more often. As a remedy, the local authority agreed to, firstly, explain to S why he would not be able to see his family more often and, secondly, to remind social workers how and when care reviews should be planned and organised, and how children should be supported to be heard and participate.

- [Cumbria County Council \(17 014 300\)](#)

Miss X complained to Ombudsman that the council stopped travel funding for her to see her daughter, Y, who lived with her father. A court order which was in place during the period covered by the complaint said that supervised contact between

Miss X and Y should take place and that the council would pay travel costs for Miss X to see her daughter. An IRO had been allocated to monitor Y's care plan and ensure it met her needs, and Y had made it clear she wanted supervised contact with her mother. Miss X said that travel funding had been stopped without an explanation and that this had caused her financial hardship. The Ombudsman's investigation found that the break in payments was due to a change in Miss X's social workers, miscommunication and the local authority's failure to address these matters appropriately during its investigation as part of the statutory Children Act 1989 complaints procedure. The council agreed to apologise, to calculate what it owed Miss X and to pay her £100 for the distress caused.

- [Norfolk County Council \(19 017 680\)](#)

Mr X complained that the council failed to facilitate contact with his three children, B, C and D, over a period of three years and that it failed in its duty under the Children Act 1989 to promote contact. Under their care orders, the children and their parents were supposed to spend time together once a month. During the period when contact was not taking place, Mr X and his children missed a total of 26 periods of time together. Records from stage 2 of the statutory complaints procedure showed that C, one of the three children, had consistently asked to see and spend time with their father but the local authority failed to facilitate this. The Ombudsman found the council was at fault for not arranging visits and for not keeping Mr X involved in his children's care. The council agreed to apologise, pay Mr X £650 and take action to improve its services. The Ombudsman also said a copy of the decision should be sent to C's IRO for them to share it with C. The Ombudsman did not find fault in the council's failure to promote contact between Mr X and B and D because both had said they did not want contact with their parents and there was evidence of this being discussed with their social workers.

Seeing and spending time with family: a visual map to legislation and statutory guidance

**Children Act
1989**

The Care Planning, Placement and Case Review (England) Regulations 2010

The Children Act 1989 guidance and regulations Vol 2: care planning, placement and case review 2015

A). Children looked after under a care order

The right to see and spend time with family
Section 34(1)
(Parental contact etc. with children in care)
Schedule 2, Paragraph 15
(Promotion and maintenance of contact between child and family)

Schedule 1, Paragraph 3
(Care plans, family and social relationships)

See the following parts of the guidance in particular:
▪ Arrangements for contact (pp.42-46)
▪ Placement with siblings (p.55)

Schedule 7, Paragraph 4
(Considerations to which the responsible authority must have regard when reviewing C's case)

IRO Handbook: Statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children.

Stopping time with family
Section 34(4)
(Authorised by a court)
Section 34(6)
(Without a court authorisation)
(see also Regulation 8)

Regulation 8
(Contact with a child in care)

B). Children accommodated under Section 20

The Care Leavers (England) Regulations 2010
The Fostering Services (England) Regulations 2011
The Children's Homes (England) Regulations 2015

Human rights protections
Human Rights Act 1998 /
European Convention on
Human Rights (Article 8)

Contact is agreed between the local authority, the child and other persons wishing to maintain relationships. Child arrangements order can be applied for (Section 8)

United Nations Convention
on the
Rights of the Child

Children's wishes and feelings
Section 22(4)-(5)
(Duty to ascertain children's wishes and feelings and give them due consideration)

Endnotes

- ¹ [Working Together to Safeguard Children A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, Page 9.
- ² [The Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review](#), June 2015, para. 1.7.
- ³ [The Children Act 1989 guidance and regulations Volume 2](#), para 1.6.
- ⁴ [The Children Act 1989 guidance and regulations Volume 2](#), Annex 3, para 13.
- ⁵ [The Children Act 1989 guidance and regulations Volume 2](#), para 2.85.
- ⁶ [Section 22\(4\)](#) of the Children Act 1989 places a duty on local authorities to ascertain the wishes and feelings of the child when making any decisions about them. [Section 22\(3\)\(a\)](#) places a general duty on local authorities to safeguard and promote the welfare of the children they are looking after.
- ⁷ Article 8 of the European Convention on Human Rights protects the right to private and family life and prohibits arbitrary or unjustified interference with this right by public authorities. [Section 6\(1\)](#) of the Human Rights Act 1998 says: “It is unlawful for a public authority to act in a way which is incompatible with a Convention right.”
- ⁸ See for instance: TACT (2019) [Language that cares Changing the way professionals talk about Children in Care](#).
- ⁹ [Section 105](#) of the Children Act 1989 defines a ‘relative’ as: “relative, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by marriage or civil partnership) or step-parent”.
- ¹⁰ [Regulation 14](#) of The Fostering Services (England) Regulations 2011.
- ¹¹ [Fostering Services: National Minimum Standards](#), 2011, p.21.
- ¹² [The Children Act 1989 guidance and regulations Volume 2](#), June 2015, para 3.23.
- ¹³ [Regulation 14](#) of The Children’s Homes (England) Regulations 2015.
- ¹⁴ [Regulation 22](#) of The Children’s Homes (England) Regulations 2015.
- ¹⁵ [The Children Act 1989 guidance and regulations Volume 2](#), June 2015, para 2.99 -2.100.
- ¹⁶ [Adoption and Children Act 2002](#), Sections 26 and 51A.
- ¹⁷ [The Children Act 1989 guidance and regulations Volume 2](#), June 2015, para 3.23
- ¹⁸ [The Children Act 1989 guidance and regulations Volume 2](#), June 2015, para 3.24.
- ¹⁹ [The Children Act 1989 guidance and regulations Volume 2](#), June 2015, para 2.87.
- ²⁰ In January 2021, in answer to a [parliamentary question](#) about plans to amend the Care Planning, Placement and Case Review (England) Regulations (2020) to make explicit reference to the importance of children living in care having contact with all their siblings, the Minister for Children and Families “reaffirmed” the government’s commitment to do so.
- ²¹ [Schedule 1](#), Paragraph 3(1) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ²² [Schedule 1](#), Paragraph 3(4)(b) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ²³ [The Children Act 1989 guidance and regulations Volume 2](#), June 2015, para 2.88.
- ²⁴ [Schedule 7](#), Paragraph 4 of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ²⁵ [Regulation 36\(b\)](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.
- ²⁶ Regulation 33(3)(ac) of The Care Planning, Placement and Case Review (England) Regulations 2010 (as amended by The Children’s Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013 ([see Regulation 20](#)) although this request can be turned down if the IRO believes that a review outside of the planned (statutory) timescales is “not justified” (see Regulation 33(4) of the 2010 Regulations, as amended by [Regulation 20](#) of the 2013 Regulations).
- ²⁷ [The Children Act 1989 guidance and regulations Volume 2](#), Annex 3, para 15.
- ²⁸ For a definition of ‘relevant children’ (and other categories of care leavers) see the [explanatory notes to the Children \(Leaving Care\) Act 2000](#).

²⁹ [The Children Act 1989 guidance and regulations Volume 3: planning transition to adulthood for care leavers](#), January 2015, para 3.7.

³⁰ [The Children Act 1989 guidance and regulations Volume 3](#), p.22.

³¹ [The Children Act 1989 guidance and regulations Volume 3](#), Appendix D, p.22.

³² [The Children Act 1989 guidance and regulations Volume 3](#), Appendix b, para B8, p.95.

³³ [Regulation 45](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.

³⁴ [Regulation 45\(3\)](#) of The Care Planning, Placement and Case Review (England) Regulations 2010.

³⁵ [Uddin v The Secretary of State for the Home Department \[2020\] EWCA Civ 338 \(12 March 2020\)](#)

³⁶ [D-S \(Contact With Children In Care: Covid-19\) \[2020\] EWCA Civ 1031 \(04 August 2020\)](#)