

Guidance for the regulation of guardianship arrangements in boarding schools

Publication date: 08 August 2019

Publication code OPS-0313-225

Guidance for the regulation of guardianship arrangements in boarding schools

The purpose of this document is to set out the Care Inspectorate's approach to regulating guardianship arrangements which support children and young people who attend boarding schools.

When we refer to guardianship arrangements, the Care Inspectorate defines a guardian as a person to whom the parents of a boarding school pupil have delegated certain responsibilities. We recognise that young people who need guardians may have additional vulnerabilities (e.g. language barriers; cultural differences; distance from and frequency of direct contact with parents or family) which require a layer of protection. The guardian acts on behalf of the parents and shares responsibility for the pupil's welfare with the parents and the school.

This person should not be confused with the guardian named by parents under the Children (Scotland) Act 1995 as the person they wish to care for their child in the event of their death or any other person appointed with similar rights and responsibilities under any other law.

Guardianship arrangements are usually made by parents who are abroad, or who live some distance from the school. There are several ways by which guardianship arrangements are created. Our involvement in regulating the arrangement depends on how it has been set up and by whom.

1. Arrangements made by the school

In some cases, schools will make arrangements for boarders to stay with host families. If the school has made arrangements for a pupil to spend weekends or holidays in someone's home, on behalf of their parents, this is treated by law as being part of the service provided by the school (paragraph 3(2) of Schedule 12 to the 2010 Public Services Reform Act states that where such arrangements are made (i.e. the accommodation is being provided for the young people in domestic premises by a guardian), this is regarded as being part of the school care accommodation service itself).

In these instances we will regulate the arrangement as part of the school's registration as a School Care Accommodation Service. The individual who is the guardian does not have to be registered as well.

When schools make these arrangements they must be able to satisfy themselves and the Care Inspectorate that the school has appropriate procedures to ensure that:

- the guardian is a member of the PVG scheme and checks have been undertaken by the school
- Disclosure Scotland checks are carried out on everyone over 16 in the household
- the guardian's accommodation is safe, appropriate, and continues to be so for the duration of the young person's stay

- there is a system in place for pupils to raise concerns about the guardianship arrangement with their parents and the school and it is clear how concerns reported to the school are recorded and dealt with
- contact will be maintained between the school, the guardians, the pupil and the pupil's parents
- appropriate procedures adopted by the school are also adopted by the guardian, for example child protection, behaviour management and medication. Training for guardians to meet these expectations is also the school's responsibility

2. Arrangements made directly by the parents (or through an agency on their behalf).

Parents may approach an agency to find someone, or an individual directly, to be the guardian for their child. We do not have power to inspect such arrangements (through inspection of the School Care Accommodation Service), and the service itself has no remit to intervene.

In many cases, the guardians appointed directly by parents will require to register as childminding services prior to providing the care (unless any of the exemptions in section 3 below apply), as they will be providing a service which falls within the definition of childminding (as provided for by paragraph 12 of Schedule 12 to the 2010 Public Services Reform Act). If that is the case, then we have a scrutiny role in relation to the "guardian childminders", albeit that the childminding service being provided is separate from the school care accommodation service.

The names of registered childminders are available on www.careinspectorate.com or by contacting the Care Inspectorate on 0345 600 9527 or via our online information request service.

Schools should be aware that whilst it would be good practice for agencies to ensure that all individuals are registered as childminders, this is not always the case.

Schools should advise parents who are working with an agency to satisfy themselves that the agency has carried out sufficient checks and that the individual is appropriately registered with the Care Inspectorate (or other relevant inspection body if not located in Scotland).

It is a criminal offence for an individual to act as a childminder unless registered to do so. If a school is aware that an individual is, or may be, looking after a pupil for payment without being appropriately registered, the Care Inspectorate should be informed.

3. Guardian arrangements that are exempt from Care Inspectorate regulation

Not all guardians will be providing a service which constitutes childminding (as defined in the 2010 Public Services Reform Act). If parents set up guardianship arrangements which fall into one of the following categories, they are exempt from regulation by the Care Inspectorate:

- the guardian is a close relative of the boarder (e.g. parent in law; step parent; brother; sister; or the partner of any of these).

- the arrangement is not for reward other than reimbursement of any reasonable and necessary expenses that the guardian has incurred (e.g. travelling or mileage expenses to meet or transport the young person, or petty expenses for materials purchased to care for the young person such as food or activities).
- the boarder is over school leaving age (over 16 years).
- private fostering arrangements may apply where a child has been in a person's care for more than 28 days.
- other private arrangements apply (where a child has been in a person's care for less than 28 days and that person does not intend to undertake the care for any longer period).

In these cases the Care Inspectorate has no power to inspect such arrangements as no registerable care service is being provided. It would be good practice for School Care Accommodation Services to ensure parents are made aware that if they enter into private guardianship arrangements as outlined above, the Care Inspectorate has no power of scrutiny over these arrangements if the guardians are not registered childminders.

4. Communication about and with guardian

Services may wish to provide advice to parents around the selection and fitness of suitable guardians, where arrangements are made directly by the parents (or through an agency on their behalf) e.g. by highlighting:

- procedures on Disclosure Scotland checks and PVG membership for guardians;
- appropriateness of guardians' accommodation;
- communication between guardians and the school;
- expectations around child protection, behaviour management and medication for guardians (as outlined in section 1 above);
- the requirement for many guardians to be registered as childminders (as outlined in section 2 above).

School Care Accommodation Services are not obliged to provide this information or advice; however it would be good practice to do so. Should this information be provided, the expectation is that it will provide parents with guidance that allows them to make informed and safe choices about the registration requirements of guardians. Ultimately, however, it is up to the parents to determine who they choose to care for their child out with school terms.

Schools should also have robust communication agreements and arrangements in place with parents who are using non-school arranged guardians whilst their child is attending the service, taking into account suitable frequency and method of contact e.g. weekly email updates.

For further information about the law, please refer to the Public Services Reform (Scotland) Act 2010, in particular SCHEDULE 12 Care services: definitions, paragraphs 3, 12,14, 16,17 and 18. This is available on www.legislation.gov.uk

The Care Inspectorate is the independent regulator of social care and social work services across Scotland. We regulate, inspect and support improvement of care services across Scotland. We also inspect **services provided for children and young people in need of care and protection**. You can find out more about the Care Inspectorate at www.careinspectorate.com

Headquarters
Care Inspectorate
Compass House
11 Riverside Drive
Dundee
DD1 4NY

web: www.careinspectorate.com
email: enquiries@careinspectorate.com
telephone: 0345 600 9527



Other languages and formats

This publication is available in other formats and other languages on request.

Tha am foillseachadh seo ri fhaighinn ann an cruthannan is cànan eile ma nithear iartras.

অনুরোধসাপেক্ষে এই প্রকাশনাটি অন্য ফরম্যাট এবং অন্যান্য ভাষায় পাওয়া যায়।

یہ اشاعت درخواست کرنے پر دیگر شکلوں اور دیگر زبانوں میں فراہم کی جاسکتی ہے۔

ਬੇਨਤੀ 'ਤੇ ਇਹ ਪ੍ਰਕਾਸ਼ਨ ਹੋਰ ਰੂਪਾਂ ਅਤੇ ਹੋਰਨਾਂ ਭਾਸ਼ਾਵਾਂ ਵਿਚ ਉਪਲਬਧ ਹੈ।

هذه الوثيقة متوفرة بلغات ونماذج أخرى عند الطلب

本出版品有其他格式和其他語言備索。

Na życzenie niniejsza publikacja dostępna jest także w innych formatach oraz językach.