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Chapter 5: Foster Homes

Section 2: Licensing and Licensing Appeals

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## Licensing and Licensing Appeals

This section pertains to foster home licensing and licensing appeals. It also covers requirements for transferring licences to another child and family services agency.

### Legislation

#### Foster Home Licensing

[Subsection 8\(1\)](#) of *The Child and Family Services Act* provides for the licensing of foster homes. No person shall operate a foster home without a licence for the purpose from a child and family services agency.

Section 1 of the [Foster Homes Licensing Regulation](#) defines a licensing agency as an agency that licences foster homes. Section 2 states that the regulation applies to foster homes and respite foster homes.

Part 2 of the regulation provides for the licensing of foster homes:

- Section 3 pertains to the application process including information to be provided, screening and assessment of applicants, obtaining references, and home inspections.
- Sections 4 through 15 set out terms and conditions for the issuance, renewal and suspension or cancellation of licences.
- Section 16 requires a licensee (foster home) to notify the licensing agency when it intends to cease operation. When a foster home ceases operation, section 17 requires the transfer of records of foster children to the respective placing agencies.

Other legislative requirements (federal, provincial and municipal) apply to the licensing of foster homes in addition to those under *The Child and Family Services Act* and the *Foster Homes Licensing Regulation*. Clause 3(4)(e) of the regulation refers to other applicable standards in legislation, regulations and by-laws governing building construction and use, fire prevention and safety and public health. These requirements are listed in the Foster Home Licensing Reference Manual distributed through the Child Protection Branch. They are also referenced, when applicable, in this section and Section 1.5.4, [Foster Care Responsibilities](#).

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## Licensing Transfers

Section 13.1 of the [Foster Homes Licensing Regulation](#) prescribes the criteria and process for transferring of licensing of a foster home to another agency. An application must be made in a form approved by the Director of Child and Family Services.

## Licensing Appeals

[Subsections 8\(2\) and \(3\)](#) of *The Child and Family Services Act* provides for a person to appeal an agency's decision to refuse, suspend, cancel or not renew a foster home licence.

[Clause 19\(p\)](#) of *The Child and Family Services Authorities Act* requires child and family services authorities to hear and decide appeals respecting the licensing of foster homes.

Section 24 of the [Child and Family Services Authorities Regulation](#) transfers the power of the Director of Child and Family Services (director) under [clause 4\(2\)\(b.2\)](#) of *The Child and Family Services Act* to the authorities with respect to foster home licensing appeals under subsection 8(2) of that Act. Subsection 31(1) transfers the duty of the director to consider and decide on appeals to an agency's authority.

## Policy

### Interpretation and Application

The Child Protection Branch has consulted with legal counsel regarding the regarding section 2 of the [Foster Homes Licensing Regulation](#). The regulation applies to (regular) foster homes and respite foster homes. Foster parents must *ordinarily reside* in the home for both types of situations.

Consistent with the intent of the regulation, a home should not be licensed unless a foster parent resides in the home for a minimum of five 24-hour days per week. It is up to the agency and the foster parent to determine the specific days. However, it is not recommended that the foster parent be in the home solely on days when foster children are most likely to be out of the home.

If there are two adults in the home, they can both be considered foster parents only if they are married or living in common-law. This interpretation is consistent with rulings by the Canada Customs and Revenue Agency, which allows only one person to be compensated as a foster parent.

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## Authority to Licence Foster Homes

Except for agencies mandated to operate in a designated area within Manitoba, the [Agency Mandating Regulation](#) authorizes agencies to licence foster homes anywhere in the province subject to [section 23](#) of *The Child and Family Services Authorities Act*.

Agency licensing authority is further governed by the following:

- An agency's mandating child and family services authority may coordinate the licensing of foster homes in specific geographical areas through assigning one or more of its agencies to licence homes on behalf of its other agencies.
- The four child and family services authorities may jointly agree to a process for developing, licensing and using emergency foster homes in a designated geographical area.
- In consultation with the four authorities, the Director of Child and Family Services may designate an agency or agencies to licence homes developed by other service organizations such child care facilities and family service agencies.

## Screening and Assessment

Screening involves obtaining information about an applicant through appropriate checks and references including those listed in subsection 3(2) of the [Foster Homes Licensing Regulation](#). Assessment involves making a decision whether to licence a home through the steps listed in subsection 3(4) of the regulation and additional steps or processes that may be required by an agency's mandating authority.

An agency may use foster parent [orientation](#) in combination with in-office interviews to assess applicants. This approach has the advantage of encouraging applicants to assess themselves and to answer questions they may have about the type of children they are most comfortable in fostering.

Criminal record, child abuse registry and prior contact checks for licensing foster homes involves the following:

**Criminal Record Checks** – The licensing agency is responsible for ensuring that criminal record checks are obtained on foster home applicants and other adults living in the home.

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**Child Abuse Registry Checks** – The licensing agency is responsible for obtaining a consent to request a child abuse registry check through the Child Protection Branch pursuant to [subsection 19.3\(2\)](#) of *The Child and Family Services Act*.

**Prior Contact Check** – The licensing agency is responsible for obtaining consent to do a prior contact check and for conducting the check through the Child and Family Services Information System (CFSIS) and other relevant electronic or paper records including, when applicable, records from the former Children’s Aid Society of Winnipeg, which is also available through the records clerk at the Child Protection Branch

## Agency Staff, Volunteers and Board Members

For purposes of this section, *staff* means any person who is employed, retained or contracted by a child and family services agency or service area (regional office) and is involved in the delivery of services. This definition applies to part-time and casual as well as full-time staff.

Agency staff, volunteers or board members and, when applicable, their partners or spouses cannot be licensed to foster a child who is in care of the person’s own agency or service area except when the person has a kinship tie to or an existing community relationship with the child. An agency’s mandating authority may allow for exceptions to this rule providing there is no real or apparent conflict of interest.

When a staff, volunteer or board member applies for a foster home licence from his or her own agency or service area the following procedures apply:

1. The applicant is advised of the above-noted policy and any decisions in regard to the application of the policy.
2. The homestudy is completed by a person not employed by the applicant’s own agency.
3. For a staff person or volunteer, the licence is approved by the executive or regional director. For an executive or regional director or agency board member, the licence is approved by the agency’s mandating authority.
4. For a staff person, the placement is supervised by a staff member at least one and preferably two classification levels above that of the licensee. For an executive or regional director, the placement is supervised by an agency’s mandating authority.

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5. All financial arrangements beyond basic maintenance are approved by the executive or regional director of a staff member and, by the licensing agency’s mandating authority for an executive or regional director.

## Licensing Forms and Guidelines

In addition to requirements in section 3 of the [Foster Homes Licensing Regulation](#), licensing agencies must use provincial forms prescribed by the Director of Child and Family Services. They are also encouraged to use or adapt suggested provincial forms and guidelines.

The forms and guidelines are available through the Child and Family Services Information System (CFSIS) and are listed below in two tables. The term “prescribed” in CFSIS refers to forms prescribed by regulation or required by the department.

**Table 1: Prescribed Forms for Foster Home Licensing**

Form Name	Category
Application for a Licence to Operate and Maintain a Children’s Foster Home	Foster Care
Application for a Child Abuse Registry Check by a CFS Agency – Other (Form CAR-CFSAO Rev 8/06)	Child Abuse Registry
Application for a Prior Contact Check by a CFS Agency (Form PCC-CFSA Rev 10/03)	Child Abuse Registry
Children’s Aid Society of Winnipeg Records (Agency Requests CAS Records Form)	Administration or Foster Care
Authorization for Release of Confidential Information	Admin.
Children’s Foster Home Applicant(s) Additional Information	Foster Care
Children’s Foster Home Requirements Checklist	Foster Care
Basement Bedroom Requirements Checklist	Foster Care
Children’s Foster Home Licence	Foster Care

**Table 2: Suggested Forms for Foster Home Licensing**

Form Name	Category
Authorization for Medical Reference and Information	Foster Care
Personal History <ul style="list-style-type: none"> <li>▪ Foster Family Questionnaire</li> <li>▪ Personal Information</li> <li>▪ Biography/Life Experience</li> </ul>	Foster Care
Foster Home Study Guidelines	Foster Care
Foster Home Review/Re-Licensing Guidelines	Foster Care
Foster Family Release of Information	Foster Care

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Form Name	Category
Foster Family File Information – Cover Sheet	Foster Care
Foster Family Transfer Agreement	Foster Care
Foster Family Transfer Checklist	Foster Care
Sharing Foster Home Information (See Section 1.5.3)	Foster Care

## Licence Suspension or Cancellation

Suspension or cancellation of a foster home licence under section 15 of the [Foster Homes Licensing Regulation](#) applies only when the licensing agency forms the opinion that a foster home should no longer be licensed due to concerns about the home as set forth in subsection 15(1) of the regulation. The decision to remove a foster child is a separate process specific to the best interests of the child (see Section 1.5.6, [Removing Foster Children](#)).

## Foster Home Licensing Appeals

Child and family services agencies and authorities are required to have licensing appeal processes that are based on sound legal principles and consistent with legislative requirements. The province encourages the four authorities to work together in developing these processes for the benefit of foster parents and licensing agencies.

In addition to the timeline in [subsection 8\(2\)](#) of *The Child and Family Services Act*, agencies and authorities are also required to follow policies and standards in Section 1.7.3, [Complaints and Reviews](#), upon receiving an appeal.

## Standards

1. **Processing Foster Home Applications** – When a decision is made to accept a foster home application, a worker or coordinator:
  - explains the agency’s licensing process to the applicant(s) including requirements under Part 2 of the *Foster Homes Licensing Regulation* and any additional requirements of the agency and its mandating authority,
  - gives the applicant(s) an [application form](#) to be completed and signed, assisting the person as necessary in completing the form,
  - requests each applicant and any other adult residing with the applicant(s) to obtain a criminal record check and provide the agency with the results of that check,

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- obtains signed [consents](#) from each applicant and any other adult residing with the applicant(s) do conduct child abuse registry and prior contact checks (see [Screening and Assessment](#) in this section),
  - obtains information as to the applicant(s) physical and mental health using forms and procedures approved by the licensing agency's mandating authority, and
  - obtains references from four persons where the applicant(s) ordinarily reside or a recommendation from a local child care committee concerning the applicant(s) ability to protect, nurture and care for children.
2. **Initial Screening of Foster Home Applicants and Others** – On receiving signed consents to do child abuse registry and prior contact checks from each applicant and any other adult residing with the applicant(s), the worker or coordinator initiates the appropriate checks to determine if an applicant or adult is listed on the child abuse registry, is or has been the subject of a child protection investigation, or is otherwise known to child and family services. The results of these checks and action taken are recorded on the foster care management file (see [Screening and Assessment](#) in this section).
3. **Foster Home Applicants Applying Elsewhere or Already Licensed** – In compliance with section 6 of the [Foster Homes Licensing Regulation](#), a worker or coordinator takes all reasonable steps to determine if an applicant has applied to another agency for a licence to operate a foster home or is already licensed. The worker or coordinator:
- asks an applicant if he or she has previously applied, was previously licensed, is currently applying to another agency for a licence, or is currently licensed by another agency,
  - completes a prior contact check on CFSIS and, when necessary, through contacting other agencies in Manitoba or child welfare authorities in other provinces or territories, and
  - if an applicant is currently applying for a licence with another agency or is currently licensed by another agency, advises that the agency cannot proceed with the application until the applicant withdraws the other application or ceases to be licensed by another agency.
4. **Applicants and Others on the Child Abuse Registry** – On receiving confirmation from the Child Protection Branch that a foster home applicant or any other adult

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living with an applicant is listed on the child abuse registry, the worker or coordinator:

- in the case of single person, advises the applicant of the results of the check and explains that the agency will not proceed with the application due to child protection concerns,
- in the case of a married or common-law couple, advises the person listed on the registry of the results of the check and, when necessary, explains to the couple that the agency will not proceed with the application due to child protection concerns, or
- in the case of an adult residing with the applicant(s), advises the adult of the results of the check and, if the adult is not prepared to move out of the home, explains to the applicant(s) that the agency will not proceed with the application due to child protection concerns.

5. **Persons Subject of a Child Protection Investigation** – When a foster home applicant or other adult residing with an applicant is or has been the subject of a child protection investigation but is not listed on the child abuse registry, the worker or coordinator:

- obtains relevant information from the investigating agency or staff in the licensing agency to determine if the applicant(s) or adult poses a [risk](#) to children as defined in Section 1.1.0, Case Management
- if the applicant or other adults in the home are considered to pose a medium or high risk to children, proceeds in a similar manner as in [Standard 4](#) with respect to communicating the results of the check and the reasons for not proceeding with the application,
- proceeds with the application if the applicant(s) or adult are considered to pose a low risk to children, subject to ascertaining through the assessment process if a licence should be issued (see [Screening and Assessment](#) in this section),
- if a decision is made not to issue a licence, advises the applicant of the right to appeal the decision of the agency to refuse to license the foster home.

6. **Persons with Criminal Record** – When a foster home applicant or other adult residing with an applicant has a criminal record, the worker or coordinator:

- requests the applicant obtain a copy of the content of the record and provide it to the agency,

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- meets with the person, if necessary, to obtain more information about the person's record and to determine if the offences or convictions indicate the person is considered a risk to children,
  - proceeds in the same manner as in Standard 4 above if the applicant(s) or adult are considered to pose a medium or high risk to children,
  - proceeds with the application if the applicant(s) or adult are considered to pose a low risk to children, subject to ascertaining through the assessment process if a licence should be issued,
  - if a decision is made not to issue a licence, advises the applicant of the right to appeal the decision of the agency to refuse to license the foster home.
7. **Foster Home Assessments and Inspections** – to ensure compliance with subsection 3(4) of the [Foster Homes Licensing Regulation](#) and [Screening and Assessment](#) policy in this section, the worker or coordinator:
- reviews the results of criminal record, child abuse registry and prior contact checks,
  - obtains the required medical reference and four personal references or a recommendation from a local child care committee,
  - completes an assessment of the foster home involving a minimum of two visits to the residence of proposed foster home as well as in-office interviews that may be required to complete the home study, and
  - inspects the home environment and completes the foster home requirements and basement bedroom requirements [checklists](#) with the applicant(s).
8. **Third Party Foster Home Assessments** – A service provider (individual or service organization) authorized or contracted to develop foster home resources conducts foster home assessments and inspections as required in Standard 7 above. The policy statement in Section 1.8.2, Human Resource Practices, regarding [agency hiring practices](#) applies to contracting individuals.
9. **Documenting the Application Process** – The worker or coordinator records all relevant inform relating to the screening and assessment of the foster home applicant(s) on the foster home record (see [Standard 6](#) in Section 1.5.1, Resource Management).

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## Issuing a Licence

10. **Approving Foster Parent Applications** – When an assessment of the foster home application is completed, the program manager or supervisor responsible for the foster home program reviews the information and documentation and makes a decision whether to recommend the home for licensing. In some agencies, the foster home coordinator may have managerial or supervisory authority. In others, the executive or regional director may both review and approve the application.
11. **Issuing a Foster Home Licence** - When a foster home application is approved, a [licence](#) is issued on the form prescribed by the Director of Child and Family Services. The licence includes any terms and conditions in accordance with section 4 of the [Foster Homes Licensing Regulation](#). The executive or regional director or a person delegated in writing to act on behalf of or in the absence of the executive or regional director signs the licence. The licensing agency ensures the foster home receives the licence and places a copy of the licence on the agency foster home file.
12. **Licensing Places of Safety as Foster Homes** – When an agency places a child under [subsection 21\(1\)](#) of *The Child and Family Services Act* in a family residence that is not licensed as a foster home, the placing agency worker:
  - advises the family that the placement cannot exceed one month unless the individual or couple applies for a foster home licence in accordance with the policy for [family residences](#) in Section 1.4.2, Place of Safety,
  - when applicable, gives the individual or couple a foster home licensing application form to complete and return to the agency within one month from the date the child was placed in the home,
  - completes an assessment of the foster home within six months from the date the child was placed, and
  - if the home is approved (see Standard 9 above) issues a foster home licence.

If the family decides not to proceed or the home is not approved for licensing, immediately initiates a plan to remove any children the agency placed in accordance with the policy for [family residences](#) in Section 1.4.2, Place of Safety.

In some instances, an agency other than the placing agency may assume responsibility for assessing the home and issuing a foster home licence.

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13. **Refusing to License a Foster Home** – When an agency refuses to license a foster home, the applicant is advised in writing of the decision within five working days from the date of the decision. The letter states the reasons for the agency refusing to license the home and advises the applicant of the right to appeal the decision, explaining the [process](#) for doing so. If children have already been placed in the home, the policy for [family residences](#) in Section 1.4.2, Place of Safety also applies.
14. **Renewing a Foster Home Licence** – When an agency renews a licence pursuant to section 13 of the [Foster Homes Licensing Regulation](#), the agency ensures the foster home receives the licence renewal and places a copy of the renewal on the agency foster home file.

## Transferring a Licence

15. **Foster Home Information and Documentation** – Pursuant to subsection 13.1(5) of the [Foster Homes Licensing Regulation](#) and the [Foster Homes Records](#) policy in Section 1.5.1, Resource Management, on receiving an application to transfer a foster home licence to another agency, the licensing agency worker or coordinator:
- if the foster home licence will expire within three months of the transfer date, completes the annual licensing review required under section,
  - obtains a signed [Foster Family Release of Information](#) consenting to the release of information from the foster care management record (FCM),
  - when applicable, advises the foster parent(s) that access to the FCM record on CFSIS will be transferred to the new agency on completion of the transfer, and
  - forwards the information and documentation with a [Foster Family Information Cover Sheet](#) signed by the foster home program manager or supervisor.
16. **Proposed Licensing Agency Response** – Pursuant to subsections 13.1(6), (7) and (8) of the [Foster Homes Licensing Regulation](#), on receiving information and documentation from the licensing agency, the foster home program manager or supervisor in the proposed licensing agency:
- countersigns the Foster Family Information Cover Sheet and returns it to the program manager or supervisor in the licensing agency within five working days,
  - reviews the information and documentation and, when considered necessary, requests additional information or documentation from the foster family, and

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- advises the foster parent(s) and the current licensing agency of its decision about approving the transfer at least one month prior to the expiration of the current licence.

**17. Licence Transfer Agreement** – Once agreement is reached to transfer a foster home licence to another agency, the [Foster Family Transfer Agreement](#) form is completed and signed by the applicant(s) and the program managers or supervisors in the licensing and proposed licensing agencies.

**18. Former Licensing Agency Record** – On completion of the licensing transfer, the former licensing agency closes its FCM record effective the date of the transfer. For FCM records on CFSIS:

- electronically transfers the FCM case to the new licensing agency if the foster parent(s) authorized the new licensing agency having access to the record,
- closes the FCM case if the Foster Family Release of Information form does not allow the new licensing agency to have access to the record, and
- closes the facility record.

**19. New Licensing Agency Record** – The new licensing agency opens a FCM record effective the date the licence is transferred. For CFSIS records, the agency moves the case from pending to open and creates a new facility record.

## Processing Licensing Appeals

**20. Agency Licensing Appeal Process** – All foster home applicants and parents are informed in writing of their right to appeal a licensing decision under [section 8](#) of *The Child and Family Services Act* and section 14 of the [Child and Family Services Authorities Regulation](#) and provided with a copy of the agency's licensing appeal process. Foster home applicants are given a copy as part of the home assessment process or in orientation sessions. Foster parents are given a copy when a decision is made to suspend, cancel or not renew a licence. Agencies and their mandating authorities are also encouraged to make pamphlets or brochures on foster care available in reception areas.

**21. Notifying Placing Agencies of Licensing Suspensions** – A licensing agency notifies all agencies that have placed a child in home of a decision to suspend or cancel a foster home licence under Part 2 of the [Foster Homes Licensing Regulation](#). All placing agencies are notified at least one month in advance of the decision unless circumstances prevent the licensing agency from doing so.

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