

# Children in Foster Care: Delegated Authority Policy

**Version 3.2**  
**April 2018**

Document name & location	Children in Foster Care: delegated Authority Policy CSC Policy Library DORIS	
Document Author	Sarah Roberts	
Document owner	Rosanne Turner Team Manager Family Placement	
Review date	This document is to be reviewed a minimum of every 2 years, the next review to occur no later than April 2020. Incremental reviews may take place as required.	
Accessibility	This document can be made available in hard and electronic formats. No copies in other languages are currently available.	
Destruction date	Details of destruction dates	
How this document was created	Version 1	Author and Team
	Version 2	Team / Line Manager
	Version 3	CSMT / DMT / CMT
	Version 4	Executive Briefing / Executive / Full Council / Portfolio Holder
	Version 5	Public document or Pre-print Design Circulation
Circulation restrictions	No exceptions, FOI Exempt (Delete as appropriate)	
Version	Detail of change	Name & Date
3.1.	Document created	Sarah Roberts September 2014
3.2	Review	Rosanne Turner TM FPT

## **Accessibility**

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## 1 Introduction

Foster carers should be authorised to make every day decisions about the child/ren they foster wherever possible, whenever it is safe to do so, and, within the legal and policy frameworks. This policy outlines Bracknell Forest Council's approach to allowing this to happen.

The policy has been written based on the suite of documents written and produced by the Delegated Authority Project managed by the Fostering Network (2009 – 2011).

## 2 Policy Statement

We work in partnership with foster carers, birth family and social work colleagues to create a more normal life for children in foster care.

Foster carers should be authorised to make every day decisions about the child/ren they foster wherever possible, whenever it is safe to do so, and, within the legal and policy frameworks. Foster carers being able to make such decisions will increase the likelihood of placements remaining stable, of children and young people making more positive attachments to their foster carers and minimise the circumstances in which children who are in care feel 'different.'

We aim to ensure that we have the most appropriate arrangements for the delegation of authority in all cases. In order to achieve this we will work sensitively with members of the birth family ensuring that they can contribute fully and freely to the planning processes for their child. We will provide information to the birth family members and young people about care planning, fostering and the management of delegated responsibility (see Appendices 5 and 6).

We aim to ensure that foster carers are treated as co-professionals. We will provide clear written information about the responsibilities they are being asked to undertake. We will ensure that they have the necessary training and understanding about the arrangements for delegated responsibility.

We aim to ensure that children and young people have opportunities to contribute to discussions and influence decisions about delegated authority.

## 3 Scope

This policy applies to all foster carers who provide placements to children and young people in the care of Bracknell Forest Council, that is in-house and independent fostering providers' foster carers.

## 4 Definitions

'Delegated authority' refers to the arrangement for all or some of the responsibilities held by a person with 'parental responsibility' (PR) being met, in certain circumstances, by someone else, for example and in relation to this policy, foster carers.

*Parental responsibility* (PR) is defined in law as ‘all rights, duties, powers, responsibilities and authority, which by law a parent of a child has in relation to the child and his property.’ Delegating authority to a foster carer does not mean that the person with PR surrenders or transfers PR; a foster carer never has PR.

A person with delegated authority can only make decisions and do what they are authorised to do; unless it is an emergency in which case the law states that a person who has care for a child may ‘do what is reasonable in all circumstances of the case for the purpose of safeguarding or promoting the child’s welfare.’

Foster carers need clarity about the range of their decision making authority in relation to the children they are looking after. The Children Act 1989 Volume 2 Statutory Guidance on Care Planning, Placement and Case Review, which came into force on 1st April 2011, introduced the requirement for a ‘*Placement Plan*’. The Placement Plan sets out the arrangements for the child to live and be cared for by the foster carers including arrangements for the delegation of authority by birth parents and by the Local Authority where there is shared PR.

## **5 Legal Framework**

### **5.1 Children Act 1989**

- Section 1 concerns the welfare of the child
- Sections 2 to 4 focus on parental responsibility
- Sections 20 to 23 focus on looked after children
- Sections 31 to 33 and 39 focus on care orders
- Section 34 deals with parental contact

### **5.2 Care Planning Placement and Case Review (England) Regulations 2010**

Regulation 9 and schedule 2 provide details in relation to the Placement Plan

### **5.3 Children Act 1989 Statutory Guidance Volume 2: Care Planning, Placement and Case Review (2010)**

Chapter 3 focuses on the placement and has sections about the Placement Plan, shared responsibilities and consents.

### **5.4 Children Act 1989 Statutory Guidance Volume 4: Fostering Services (2010)**

Chapter 3 contains a section on delegated authority for foster carers. Delegated authority is also referred to in the sections about contact with family and friends, achieving healthy outcomes and educational achievement.

## 5.5 National Minimum Standards 2011

- NMS 1 outlines what is expected in relation to the child's wishes and feelings and the views of those significant to them being taken into account.
- NMS 2 'Promoting a positive identity, potential and valuing diversity through individualised care' states 'foster carers meet children's individual needs as set out in the child's placement plan as part of the wider family context.' (NMS 2.3)
- NMS 4 'Safeguarding children' identifies the need for 'foster carers to take appropriate risks as a normal part of growing up' (NMS 4.4) and that 'the service implements a proportionate approach to any risk assessment.' (NMS 4.5)
- NMS 6 'Promoting good health and wellbeing' states 'children's health is promoted in accordance with their placement plan and foster carers are clear about what responsibilities and decisions are delegated to them and where consent for medical treatment needs to be obtained.' (NMS 6.5)
- NMS 7 'Leisure activities' refers to foster carers understanding 'what is in the child's placement plan and have clarity about decisions they can make about the day to day arrangements for the child, including such matters as education, leisure activities, overnight stays, holidays, and personal issues such as hair cuts' (NMS 7.3) and 'foster carers are supported to make reasonable and appropriate decisions within the authority delegated to them, without having to seek consent unnecessarily' (NMS 7.4).
- NMS 9 'Duty to promote contact' expects that 'foster carers understand what decisions about contact are delegated to them, in line with the child's care plan, and make those decisions in the child's best interest' (NMS 9.7).

## 6 Principles and Practice

### 6.1 Key Principles

- Effective delegation of authority will minimise delays in decision making and maximise the child's opportunity to enjoy their childhood and a full family life.
- Young people's views and feelings must be taken into account when discussing the issues in relation to delegated authority.
- Parents must be supported and kept informed so they can continue to contribute to their children's lives.
- Foster carers are a key part of the professional and corporate parenting team.
- Foster carers must be enabled and supported to take everyday decisions about the child they are fostering where and when appropriate. In long term placements this even more important.
- Decisions about the delegation of authority must be based on good quality assessments of need and risk for the child and foster carers.

- Foster carers must be provided with training and support to undertake appropriate risk assessments in areas in which they are authorised to make decisions.
- Decisions regarding the level of delegated authority should be based on good quality assessments of need and risk for the individual child and foster carers. The balance and distribution of responsibilities should support the key relationship between the child and the foster carer and should reflect the status of the placement, for example, it would be expected that foster carers providing long term and permanent placements would have more delegated authority.

## 6.2 Practice Points

- The placement planning meeting is the forum to share information and to clearly identify who does what and agrees what when a child is placed. It should focus on ensuring the day-to-day needs of the child are met with the minimum of disruption and delay. The plan should focus on ensuring that the child can feel as normal as possible whilst living in the foster home.
- Parents, foster carers and fostered children (subject to their age and understanding) should attend the placement planning meeting before the placement begins, or, where this is not possible, within five days after the placement begins in order to discuss and ensure that there is clarity about who will have authority to make pertinent decisions.
- Foster carers need full historical and current information about the child and his/her family in order to provide safe and effective placements. It is incumbent on the child's allocated social worker to provide the information.
- The Placement Plan, and therefore the arrangements for delegated authority, needs to be considered on a regular basis and as any issue arises; it must be reviewed at each LAC review and any changes to the child's circumstances, parents' willingness to work in partnership in delegating appropriate authority and/or foster carers difficulties in managing any issues about delegated authority must be included in the Placement Plan process by the child's allocated social worker and recorded on the Delegated Authority Agreement by the supervising social worker (SSW).
- Delegation of authority can only be agreed by those with parental responsibility. Foster carers never have parental responsibility for their fostered child thus they can only make decisions by acting on behalf of the parent or local authority. Parental authority cannot be transferred to foster carers.

## 7 Procedures

### 7.1 The Planning Process

The following identifies what must happen to ensure that children and young people placed with foster carers experience as normal a life as possible.

A medical consent episode must be completed before a child is placed with Foster Carers. Two copies should be printed, signed and one copy left with the carers, one copy scanned on to Mosaic.

Ideally the Placement Plan (on Mosaic) must be drafted by the child's allocated social worker before the child is placed, or, if not reasonably practicable, within 5 working days of the start of the placement. The following information must be included in the Placement Plan:-

1. Why the placement was chosen and how the placement will contribute to meeting the child's needs.
2. 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.
3. Any arrangements for contact between the child and parents/anyone with Parental Responsibility/any other connected person, including, if appropriate, reasons contact is not reasonably practicable or not consistent with the child's welfare; details of any other order relating to contact (under Section 8 or 34 of the Children Act 1989); the arrangements for notifying any changes to contact arrangements.
4. Arrangements for the child's health (physical, emotional and mental) and dental care, including the name and address of registered medical and dental practitioners; arrangements for giving/withholding consent to medical/dental examination/treatment.
5. Arrangements for the child's education and training, including the name and address of the child's school/other educational institution/provider and designated teacher; the Local Authority maintaining any statement of Special Educational Needs.
6. The arrangements for and frequency of visits by the child's social worker; and for advice, support and assistance between visits.

It is vital that the Placement Plan reflects the needs of the child, placement etc. The Delegated Authority Agreement needs to be explicit about the distribution of tasks, consents and responsibilities between parents, social workers and foster carers; in other words there should be clarity about who does what under what circumstances. To facilitate this the Social Worker from the FPT or IFA should initiate the Delegated Authority Agreement (on Mosaic) and bring it to the planning meeting to be discussed and agreed as part of the placement plan. Where both parents have PR, consultation should take place with both of them whenever possible about the decisions and consents with regard to the delegation of authority.

It is important that time is taken to anticipate consents and agreements that may be needed in the weeks and months ahead in order to avoid problems later on in the placement. The plan should include as much detail as possible, including the name and role of the lead person with respect to each consent and task. Where authority is delegated and there are two foster carers in the household, the Delegated Authority Agreement must be clear about the joint nature of their responsibilities or clearly define which foster carer has the delegated authority, if for any reason this is not shared.

The Placement Plan is an integral part of the child's Care Plan and is a legal requirement for every new placement. The child's allocated social worker must seek agreement to the Placement Plan from all those responsible for implementing the Care Plan, i.e. the child's social worker, the foster carer and the foster carers' allocated supervising social worker at the placement planning meeting.

All parties should sign the Placement Plan. A copy of the Placement Plan must be made available to the foster carers, parents and the Independent Reviewing Officer. The same applies to the Delegated Authority Agreement.

The Delegated Authority Agreement must be used as a working tool rather than a one off product. It must be kept up-dated and reviewed at each statutory review chaired by the Independent Reviewing Officer. The first review will be particularly important as the time for participants in the meeting to pay attention to how the delegated authority is working in practice and to any areas of consent and decision making which were not anticipated or detailed sufficiently at the initial Placement Planning meeting.

The Delegated Authority Agreement should be brought back to each subsequent LAC review meeting, Pathway Planning Meeting, Permanency Planning Meeting and when appropriate Child Protection Conferences. These meetings will provide opportunities to evaluate how the arrangements for delegated authority are working at every stage of the child's journey, to agree what changes need to be made, if any, and to ensure that the arrangements are having the maximum positive impact on the child's life.

Good communication between the child's allocated social worker, the supervising social worker and foster carers is essential. This group must function as a 'core team' and must work together to optimise the impact and opportunities within the placement, to resolve conflict and solve any problems. Time and attention must be paid to the functioning of the core team in order to support successful placements.

When there is a change of the child's allocated social worker or supervising social worker, it is vital that a meeting is co-ordinated with the new 'core team' member so that the new relationships can be established and the Delegated Authority Agreement discussed. This should enable positive and productive working relationships and reduce difficulties in managing differences of opinion that can arise during a placement. Where there are differing views about how the placement should be managed, how a child is cared for or about an aspect of delegated authority, these must be discussed with the relevant team manager and with the involvement and assistance of the Independent Reviewing Officer, if relevant.

## **7.2 Liability and Legal Indemnity**

Good parenting includes managing risk. Children in foster care must be treated, as far as possible, as other children are and the professionals concerned with them must work with this imperative. In order to increase foster carers' confidence and competence in making more decisions and managing risk, the fostering service will provide support, advice and training. However, there are likely to be some occasions when things go wrong.

Foster carers are acutely aware of the importance of having information and support in order to look after someone else's child safely and effectively. They need to have clarity and understanding about the decision making responsibilities and feel confident to undertake these. Supervising social workers must ensure that the foster carers are sufficiently trained and supported to take on the responsibilities and provide regular opportunities for foster carers to discuss how the delegated authority is working in practice.

If harm comes to a child in placement, the foster carers can be held liable if negligence is proven and they can be sued. The Fostering Service has legal indemnity insurance in place which provides insurance cover for all the approved in-house foster carers. In accordance with Schedule 5 of the Fostering Services [England] Regulations 2011, the Foster Care Agreement, agreed and signed by foster carers once the Agency Decision Maker has approved them, sets out in writing the arrangements for meeting any legal liabilities of the foster carer by reason of the placement.

Supervising social workers must check that all the foster carers they are allocated to, have signed Foster Care Agreements and that signed copies of this document are on the electronic foster carers' case file. Furthermore, they should ensure that foster carers are satisfied and comfortable with the arrangements Bracknell Forest Council's fostering service has in place to deal with any potential liabilities and how the fostering service will meet claims by or against foster carers in respect of damage, loss or injury, or legal defence costs.

## **8 Guidance on Consents and Areas of Decision Making**

The following are some of the key areas where decisions or consents are required, with advice about who may be best placed to lead on them. It should be noted that parent(s) must agree to authority being delegated, unless there is a care order in place and the local authority considers it necessary to limit the parent's exercise of their parental responsibility in the interests of the child's welfare.

### **8.1 Education**

#### **8.1.1 Choosing a School**

The choice of an early years setting or school should be discussed and agreed by the holders of parental responsibility at a statutory review meeting. The foster carers should then be able to accept the place and sign any relevant forms.

#### **8.1.2 Change of School**

If the foster carer decides to move house or wants the child to attend a different school, this will need to be agreed at a statutory review meeting. The impact a move of school will have on the child must be a key focus in the discussion. The foster carer should be able to complete the practical steps to implement the agreed actions, and the delegation of authority to do this needs to be reflected in the Delegated Authority Agreement.

### 8.1.3 Meeting with School Staff

In a medium to long-term placement, the foster carers should usually be the people to meet school staff to discuss progress and share information that the school needs to know in order to help the child succeed. Between reviews, the foster carer should ensure that the social worker and, if appropriate, the parent is kept informed about the child's progress at school, particularly if there are any problems.

### 8.1.4 School Day Trips

Risk assessments for school trips and outings are the responsibility of schools. Foster carers should be delegated the task of providing agreements and signatures for these from the outset of a placement, wherever possible. Where this is not delegated, the reason should be made clear in the Delegated Authority Agreement.

### 8.1.5 Longer School Trips/Trips involving more hazardous activity

Longer school trips at home or abroad that require additional funding from the local authority, and trips which involve potentially hazardous activities, will require foster carers to consult with the child's allocated social worker. There may also be implications for contact which will need to be resolved. Where consent is necessary from the local authority and/or the parents, it is important to ask for this as soon as possible in order to avoid the child missing out on an opportunity. There should be a guiding principle that unless the child is likely to be put at a particular risk of harm which cannot be mitigated, he or she should be allowed to go on the trip.

### 8.1.6 Accessing Educational and Leisure Activities

Looked after children should have the same opportunities as any child to take full advantage of extra-curricula education initiatives. Foster carers should be delegated the task of providing agreements and signatures for these from the outset of a placement, wherever possible.

### 8.1.7 Sex Education

Children will receive education about sex and relationships at school, unless parents have decided to withdraw their children from such lessons. However, the arrangements in schools for how sex education is delivered in the curriculum may differ. A child's participation in the school's provision for sex and relationship education should be discussed at the placement planning meeting and parents wishes identified and recorded. If it is agreed beforehand that the child attends, the foster carer should be able to consent on any school documentation. There will also be occasions when issues around sex and relationships arise in the foster home. Unless parents have expressed particular wishes about what they want their child to be told, and how, foster carers should respond as any reasonable parent would.

### 8.1.8 Sports Activities/Organisations

All children who go to school will participate in physical education – this does not require consent. Foster carers should be able to give consent to children participating in extra-curricula sports activities and activities, such as scouts or

guides. Delegated authority to give such consents should be discussed at the start of the placement and the decision recorded in the Placement Plan.

## 8.2 Health Care

Foster carers should be absolutely clear from the outset about their responsibilities if children require emergency medical treatment and if they require planned treatment. The child's health plan must set out the details of the child's health needs and how they will be met. The Delegated Authority Agreement should clearly show where and when the foster carers have delegated authority to take decisions or give consents in relation to a child's health. The Delegated Authority Agreement can be used by the foster carer as evidence of their delegated authority – should they need to present this to a health professional, for example.

### 8.2.1 Dentist

Foster carers should be able to consent to routine examinations and treatment wherever possible. There are no nationally accepted consent forms for routine dental examinations and treatment. The documents signed by adults accompanying children to the dentist are the means by which the dentist claims fees and payments. Presenting the child is assumed consent for the procedures that follow. However, it is important that it made clear in the Delegated Authority Agreement whether or not foster carers have delegated authority to take the child to the Dentist.

### 8.2.2 Immunisations

Foster carers should be given delegated authority, whenever possible, to consent to immunisations. Parents may have concerns about particular immunisations, and this should be explored with them at the beginning of the placement and any issues detailed in the Delegated Authority Agreement.

### 8.2.3 Non Routine Medical Treatment

Children should never have to wait for pain relief or emergency treatment as a result of confusion about who has authority to give consent. Situations may arise where children sustain an injury or require emergency treatment. The placement planning meeting should discuss who can give consent to treatment and in what circumstances so that undue delay is avoided, for example by foster carers having to contact the emergency duty team out-of-hours or a manager having to go to the hospital to sign a consent form. It should be noted that even where authority has not been delegated, foster carers can do what is reasonable in an emergency to keep a child safe.

In some cases children may require invasive medical procedures. These may be planned, or unplanned but predictable – for example, if a child has a long standing medical condition, which results in frequent unplanned surgery. In other cases, invasive intervention may be required in an emergency. Foster carers should not automatically be barred from consenting to such procedures. Delegated authority should be discussed at the outset of the placement and the Delegated Authority Agreement

should make clear what has been delegated.

#### 8.2.4 Optician

Foster carers should be able to sign consent for routine eye and sight tests and the provision of glasses.

#### 8.2.5 Routine Medicals

Foster carers should be able to sign consents for routine medicals when ever possible, for example at school or looked after children medicals. They should inform the child's social worker when these are taking place and of the outcome.

### 8.3 Leisure and Everyday Life in the Foster Home

#### 8.3.1 Babysitting

It needs to be understood that children and young people who are being looked after, need consistency and stability therefore careful consideration needs to be given to any babysitting arrangements. Generally adults in the foster carer's own support network will be DBS checked and assessed in terms of suitability to provide short periods of care to children/young people in order to support the main placement (becoming recognised "back up carers" who receive payment from BFC). This work will be undertaken as part of the foster carer's initial assessment and annual review in recognition that this is a standard form of support for most placements. Back up carers could provide a range of support from babysitting to covering short periods of continuous care including overnight care.

Use of the sons and daughters of the foster carer to provide babysitting should be agreed as part of the Placement Planning Meeting at the beginning of the placement and reviewed subsequently. This decision would therefore include input from the parent, child (if old enough to express their wishes and feelings), carer, child's Social Worker and Supervising Social Worker. A balance will need to be struck between normalising family experience for the child in placement with a requirement to take an informed decision as to the ability of the proposed babysitter to meet the needs of the individual looked after child. It would be normal practice for this to happen only if the foster carer's son or daughter is over the age of 18 years (though it could be considered for 16-18 yr olds if thought appropriate by those identified above). The proposed babysitter would need to be happy to babysit and a risk assessment should be completed. Best practice would be for the son or daughter to have completed a babysitting course; The British Red Cross provides such courses. Research indicates that when parents supervise their children it reduces the chance that a child will be injured. However, when older siblings supervise younger children there is an increased risk of injury. Although this research was undertaken with birth families, the findings are

pertinent when considering sons and daughters babysitting.<sup>1</sup>

### 8.3.2 Body Piercings

In long-term placements of older children, the judgement of the foster carers should generally prevail: they should be able to weigh up the arguments for and against giving permission and be confident to make decisions which do not accord with the child's wishes (if it is in the child's best interest to not agree). In general, a young person should understand the health and aesthetic implications of piercing. There will be circumstances when social workers, foster carers or parents disagree, but have to accept that the young person is of an age to make such a decision for themselves.

It should be noted that, in English law, it is illegal for young people under 16 years old to have their genitals pierced. It is also illegal for females under 16 to have their breasts pierced, although this does not apply to males under 16.

### 8.3.3 Contact

The principles and arrangements for contact need to be established and formalised in the Placement Planning meeting and then reviewed at each statutory review. It may be possible for foster carers, particularly in well established placements, to undertake a degree of decision-making in respect of some contact arrangements if the parameters for this are clear, agreed beforehand and detailed in the Delegated Authority Agreement. Any task that involves foster carers in supervising contact or facilitating contact in the home requires the foster carers to have received adequate training for these tasks. Risk assessments must be completed in all cases where contact is being undertaken in the foster carer's home.

### 8.3.4 Disability Living Allowance

If a claim for Disability Living Allowance (DLA) is made for a child under 16, it is the responsibility of the Secretary of State for Work and Pensions to appoint a person to receive and deal with the allowance on the child's behalf. For most children outside foster care the appointee is a parent, but for fostered children the appointee is usually their foster carer. The parents or local authority's agreement to this is not required; however, it would be useful to have this agreed within the Placement Plan.

It is the appointee's responsibility, ie the foster carer, to use the DLA to support the child. DLA is not intended to be saved in its entirety, but any unused DLA can be saved and put towards future needs of the child. The Department for Work and Pensions (DWP) is responsible for monitoring the award; there is no requirement to keep receipts or records of expenditure, Bracknell Forest Council (including the fostering service) are not responsible for monitoring the award. However, the DWP can be asked to investigate if there are concerns that the DLA award is not being used

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<sup>1</sup> 'Please keep an eye on your younger sister' August 2010 - published in Injury Prevention, a journal from the British Medical Association

appropriately.

### 8.3.5 Haircuts

This is often not straightforward and can be a fraught area for foster carers and children. It is an important issue which can require sensitive attention, as hair care and style may have cultural or religious significance for families. Decisions about the timing of, and arrangements for, haircuts should be delegated to foster carers, wherever possible. However, the issues need to be fully explored with parents at the outset. Arrangements should be agreed at the Placement Planning Meeting and recorded in the Delegated Authority Agreement; arrangements should be revisited, as necessary, in statutory reviews.

### 8.3.6 Holidays in the UK

Plans for taking a child on holiday should be discussed with parents and the child's social worker. Any issue about funding and or impact on contact arrangements should be raised at the earliest opportunity, and before the child is aware that there is the opportunity to go on holiday with the foster carers. It is essential that the child's social worker and parents know the whereabouts of the holiday destination. It may be necessary on some occasions for social workers to undertake a risk assessment in relation to the holiday arrangements.

### 8.3.7 Holidays Abroad

The possibility of a child accompanying their foster carers on a family holiday abroad should be discussed sensitively with parents and their agreement sought 'in principle'. This is best done when the child or young person becomes looked after. The parents' views and concerns should be known at the outset. In all cases, there should be clarity at the outset about consents, passports and the possibility that arrangements can be made at short notice. It would be best practice to obtain a passport by the second LAC Review wherever possible. Consents and passports are also relevant in relation to school trips abroad.

### 8.3.8 Mobile Phones and other Digital Devices

This is an issue that can cause considerable disagreement. There needs to be clarity about what foster carers can decide in relation to the ownership and use of mobile phones, access to the internet and social media and for this to be detailed in the Delegated Authority Agreement. As a general principle, foster carers with young people in long-term placements should be responsible for making decisions regarding the possession and use of mobile phones and digital media. Any restrictions should be specified at the time of placement or discussed in statutory reviews. Parents may need help to understand that foster carers who are caring for other children in the household need to be able to operate as consistently as possible with all the children. Foster carers and social workers may wish to refer to the Fostering Network, [www.fostering.net](http://www.fostering.net), *Pathways Through Fostering* book *Safer Caring*, and should use the specific resources available on e-safety from the Fostering Network or [www.ceop.police.uk](http://www.ceop.police.uk) on this topic to inform their decisions.

<https://www.thefosteringnetwork.org.uk/sites/www.fostering.net/files/content/safercaringsupplementaryresource-chapter10.pdf>

### 8.3.9 Photographs and Other Media Activity

There should be no restrictions on foster carers taking family pictures of the fostered child, or the child and their friends. The foster carer does not need consent for this. It is important that fostered children have a record and memories of their childhood and photographs can be a helpful way for fostered children to make sense of their history.

Decisions on whether the foster carer can consent to other types of photographs or media activity can be more problematic due to issues of confidentiality and safeguarding. The issue of the age and competency of a young person to make informed decisions also has to be factored into the considerations of 'who decides what'. It should be assumed that young people over 16 would be the 'lead' in these decisions.

- School photographs – Foster carers should be enabled to give consent for formal school photographs. They should be encouraged to ensure children have school and group photographs taken as part of their life history.
- Other types of photographs/wider media activity – Many children love to be able to take part in activities that may lead to publicity in the media. Others wish to engage in paid or voluntary activities which drive improvements in foster care and that may attract media attention. While this should be normally encouraged and celebrated, the issues of 'who consents', needs to be judged in relation to particular known risks to the safety of an individual child. Young people and foster carers often feel they are struggling with blanket policies in these areas so individual consideration of each case is important. Any restrictions on a child's photograph or name appearing in the media should be based on good explanations and clearly specified in the Delegated Authority Agreement.

### 8.3.10 Participating in Hazardous Activities

Early anticipation and discussion about a child taking part in hazardous activities can save much distress and disappointment. Views will vary on what activity may be considered 'hazardous' or 'risky'. The Government expects that any risk-averse culture will be challenged. The Government also wants foster carers to be able to act more often as 'any good parent would'.

However, prior consultation with parents and collaboration over these types of decisions are necessary and it is important that foster carers work within Bracknell Forest Council's policies in relation to any restrictions on certain activities and in ensuring any necessary insurance is in place. If authorised to take decisions for a range of anticipated activities that can cause injury, for example, skating, riding, sailing, wall climbing and Karting, the foster carer would need to ensure that the child or young person has the correct safety equipment, adequate preparation and, where applicable, is supervised by a recognised instructor or supervising organisation. More unusual requests should be discussed at a statutory review meeting and a decision on delegated authority agreed.

### 8.3.11 Overnight Stays

The Government's intention is that foster carers should be able to make decisions about overnight stays as if the fostered child was their own child, and act as any protective parent would. The authority delegated to the foster carer to make decisions about overnight stays should be set out in the Delegated Authority Agreement, along with any restrictions on overnight stays that may be necessary in exceptional circumstances. Volume 2, chapter 3, of the Children Act 1989 Statutory Guidance covers this matter in the section 'Shared Responsibilities and Consents'.

### 8.3.12 Visiting Friends

As with overnight stays, the statutory guidance concerning visiting friends is clear: unless there is a reason for not delegating authority, the foster carer should be authorised to act as a good parent in decisions regarding visits to friends.

## 8.4 Areas where Authority Cannot be Delegated

### 8.4.1 Religion

A child in the care of Bracknell Forest Council cannot be brought up in a religion that is different to the one they would have otherwise been brought up in. This does not mean that a child cannot be placed with a foster family of a different faith, if this family is appropriate to meet the child's wider needs. However, it does mean that the foster carers cannot actively seek to persuade the child to change their religion. If a fostered child is considering changing their religion, even if they are over 16, foster carers should seek advice and guidance about how they respond. Full consideration in the statutory review needs to be given to the long-term implications of the child departing from the faith of the family of origin.

### 8.4.2 Passports

Young people can apply for an adult passport at age 16. Applications for passports for younger children can only be signed by someone who holds parental responsibility, that is a parent or, if a care order is in place, an officer of Bracknell Forest Council. This does not prevent foster carers being authorised to undertake some of the preparation of the application form or, if necessary, collecting passports (with a letter of consent from the signatory) from regional passport offices. Passports are frequently a problem when carers want to take children on holiday at short notice, or early on in a placement. It is, therefore, essential that the placement planning meeting or first statutory review considers arrangements for a passport application so this process is started as early as possible. For more information and guidance on this topic visit

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118766/looked-after-children-passports.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118766/looked-after-children-passports.pdf)

### 8.4.3 Taking the Child Abroad

A fostered child cannot be taken abroad without the written consent of someone holding parental responsibility. It is often difficult for parents to

think about their child being taken out of the country. Foster carers and social workers need to be careful not to raise a child's hopes about a holiday before consent has been obtained from a parent or from a manager.

#### 8.4.4 Tattoos

UK law is clear: 18 is the minimum age for a person to have a tattoo. The issue of parental consent, therefore, does not arise.

## 9 Appendices

### 9.1 Appendix 1 Who informs who and when? Guidance for foster carers who are authorised to take decisions and undertake key tasks.

Everyone has a responsibility to make the Placement Plan and Delegated Authority Agreement work as well as possible in order to ensure the child in placement has increased opportunities to have a normal life. It can, however, be helpful for foster carers to have some key questions ready to make absolutely sure that they and the social workers and parents are communicating clearly about the basis of decisions and their expectations of each other.

Communication is at the heart of good practice, and this includes delegated authority. It is imperative that parents' feel as fully involved as possible in their child's life and the planning process. As well as being a legal duty, it increases the chances of building confidence and trust with foster carers and social workers and helps parents to think about delegated authority in a way that meets the needs of their child without them feeling disempowered or sidelined. Sometimes foster carers can talk directly to parents to keep them up to date and to advise them of actions they have undertaken on their behalf. In other situations, parents may need to receive information about their child's care and welfare from the social worker, who needs to be kept informed of developments by the foster carer.

Communication is also crucial in order to build confidence and trust between the professionals. There may be agreement about what responsibilities are delegated to foster carers, but there can still be scope for misunderstandings about who is informed about what has taken place and when. It is easy to assume that all parties have the same expectations in relation to this and only find out later, when it has become a problem, that they did not.

The pressures of time also mean that some actions and decisions, and the basis upon which these are made, are not always as clear as they need to be. Foster carers and social workers have a responsibility to ensure that there is clarity of understanding.

Finally, things rarely run to plan: problems crop up at the worst moment; the foster carer needs something resolved quickly; the social worker is ill; the manager is out. What is in place to deal with this scenario and what principles should guide the foster carer in making 'the best possible' decision in the circumstances?

Assumptions are risky things to have. Checking what another person is expecting

of us, exactly what has been agreed (and why), is rarely wasted effort. What follows are some questions which may help foster carers in these situations.

### 1 Expectations regarding how foster carers involve parents in their fostered child's life

How can the fostered child's parents receive the information that they want from me between reviews about how I am caring for their child/making everyday decisions?

- directly or via the social worker
- notes
- phone calls/texts/email
- a diary
- postcards

### 2. Expectations about when foster carers should communicate with social workers or parents over decisions they have taken.

Is this consent, decision or task something I need to advise the social worker/parent/ out-of-hours service about:

- Immediately – as soon as I have made it?
- Next time I see them?  
At the next review when the Delegated Authority Agreement is reviewed as part of the Care Plan / LAC Review?
- I just record that it has happened.

### 3. Expectations about what informs social workers decisions

Is the social worker's advice, about a consent or decision based upon:

- The legal position?
- Departmental policy and procedure?
- A risk assessment?
- A discussion with a manager or IRO?
- A personal view?
- Foster carers can use the Delegated Authority Agreement to record notes and questions about these things to discuss with their fostered child's social worker or in reviews.

## 9.2 Appendix 2 Frequently Asked (Legal) Questions about Delegated Authority

### 1. What is parental responsibility?

- Parental responsibility (PR) is defined in law as: 'All the rights, duties, powers, responsibilities and authority, which by law a parent of a child has in relation to the child and his property'.
- This means that a person with parental responsibility is responsible for the care and wellbeing of the child and, unless a court order says something different, that person, and anyone else that also has parental responsibility, can make important decisions about the child's life (subject to important exceptions set out in the *Delegated Authority Handbook for Social Workers and Foster Carers*\*).

### 2. Who has Parental Responsibility?

- A child's foster carer never has PR.
- The child's mother has PR from birth.
- The child's father, if married to the mother at the time of the child's birth, has PR.
- Where a child's father was not married to the mother at birth he can acquire PR if he subsequently marries the mother or:
  - *he becomes registered on the birth certificate as the child's father (for a child born after December 2003)*
  - *he and the child's mother make a parental responsibility agreement providing for him to have PR for the child*
  - *the court makes a parental responsibility order in favour of the father.*
- The local authority also has PR if the child is subject to a Care Order, Interim Care Order or Emergency Protection Order. Note that when a child is accommodated by agreement (s20 CA1989), the parents (and others with PR) retain their PR and the local authority does not have PR.
- A person with a Child Arrangements or Special Guardianship Order from the court has PR.
- Prospective adopters who have a child formally placed with them for adoption by the court have PR, although the adoption agency may restrict their exercise of PR.
- An adoption agency has PR throughout the time that a child is authorised to be placed for adoption.
- Adoptive parents have PR and the birth parents cease to have PR from the moment the adoption order is made.
- A step-parent or civil partner may obtain PR by agreement with all the people who have PR, or via a Court Order.
- A guardian who is appointed after the death of a parent or other person with PR has PR, provided the proper legal formalities have been followed.
- A second female parent can acquire PR in a similar way to an unmarried father.

\* published by the Fostering Network 2011 (see [www.fostering.net](http://www.fostering.net))

### 9.3 Appendix 3: Information for Parents of Children in Foster Care

Produced by the Delegated Authority Project 2009-1, Fostering Network

#### Note on terminology used:

**Parental responsibility** - all the rights, duties, powers, responsibilities and authority which by law a parent has in relation to a child and his property.

**Accommodated** - when young people are looked after by the local authority and in foster or residential care with the agreement of their parents.

**Care Order** - a court order that means that parental responsibility for a child is shared by the parent and by the local authority. The local authority can only override a parent's exercise of their parental responsibility if it is necessary to do so in order to safeguard or promote the child's welfare.

**Delegated authority** - where a person with parental responsibility gives permission to another person to do or agree something on their behalf in relation to a particular child.

### Your feelings

Whatever the reasons for your child needing to live with foster carers, you may be feeling upset, possibly angry and confused, and maybe lonely, too.

Some parents who have been through this say that having their child cared for by someone else is one of the most difficult things they have had to face, even if it's for a relatively short time. They also say that, because they are upset, it is often hard to take in what they are told about how foster care works.

This information sheet has been written to help you feel more confident about asking questions about foster care. It may also help you to join in the discussions that take place about how your child will be cared for while he or she is living in foster care and who - between you, the social workers and the foster carers - can decide what, and agree what, for your child on a day-to-day basis.

### **What are foster carers and what do they do?**

Foster carers are ordinary people doing the very important job of caring for other people's children. Fostering families come in different shapes and sizes, just like families everywhere. Some foster only one child; some care for foster brothers and sisters and small groups of children, usually no more than three. They may foster children for short periods - helping them to return home, perhaps - or for very long periods, if a young person needs to stay until they are old enough to leave and live independently.

Some other things you might like to know about foster carers are:

- Foster carers have to be approved by a fostering service provider before they can foster. The backgrounds of all foster carers, and any other adult in their household, are carefully looked at when they apply to foster, to ensure that they are the right people to care for children.
- Foster carers are approved and supported by local authorities or by voluntary or independent agencies. If local authorities have not got a suitable foster home for a child, they will often place him or her with a foster carer from another service. All fostering services have to comply with the same regulations and requirements, so this is not something to worry about.
- Foster carers receive training before and after they are approved to foster by their fostering service.
- Foster carers are supervised by their own social worker - a different social worker to the one responsible for your child.
- All foster carers receive an allowance that covers the cost of caring for the children they care for. Many foster carers also receive a fee to reward them for the skills, time, experience, etc, that they bring to their role. Without these payments, they would not be able to foster as, like any other family, they would have to find paid employment elsewhere.

### **What happens when my child goes to stay with foster carers? How does it work?**

The social workers have to make sure that the foster home is suitable for your child before he or she goes there.

Before, or very soon after, your child goes to stay with the foster carers, there has to be a meeting - a **Placement Planning Meeting**.

This is an important meeting because it brings together the social worker and the foster carers, the parents (if that is possible) and the child (if old enough). The aim of the meeting is to ensure that everyone meets each other, everyone is clear about why the child needs a foster home and everyone knows about the **Care Plan** for your child. The Care Plan is important because it helps everyone involved to develop a shared understanding of what needs to happen to meet your child's needs.

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The social worker's job at this meeting is to make sure that the foster carers have as much information as possible to care for your child - about family, health, education, routines, activities, likes and dislikes. You are probably the person who knows your child best and you can do a great deal to help your child by sharing information with the social workers and the foster carers.

As the parent, you need information, too. You need to feel reassured about the care your child will receive. Even in very unusual situations when parents can't be told where their child is living, they are still entitled to information about the sort of foster family their child is going to stay with - what they do, what sort of area they live in, what their home is like, etc - so they can think about their child there. The Placement Planning Meeting, the initial Care Planning Meeting and the Review meetings that come later are also important for sorting out arrangements for contact and how parents, social workers and the foster carers will work together to make sure the child's needs are met in the foster home. It is important that as much as possible is planned in advance to avoid delays and misunderstandings. The Delegated Authority Agreement will be reviewed at each stage of the child's journey.

### **How do I know who makes decisions and who does what when my child is in foster care?**

- Parents have Parental Responsibility (PR).
- If there is a Care Order, the local authority shares PR with the parent. It is important that social workers work with the child's parents and that the parents are consulted about the care their child receives and their wishes taken into account.
- Foster carers do not have PR - this means that any authority to make certain decisions is delegated to them by people who do have PR.

The Placement Planning Meeting is for discussing what decisions and tasks foster carers undertake on your behalf or on the local authority's behalf.

Whether your child is on a Care Order or looked after with your agreement (which is called accommodated), it is important that you have opportunities to meet the foster carers and to play a part in this discussion. Even if - for some reason - you cannot attend the Placement Planning meeting, you need to be fully involved so that you understand what is happening and can have your say about how things are done for your child.

The most important thing is that your child gets the care he or she needs and there is a minimum of delay sorting out who can make particular decisions about your child, or give particular consents.

Children and young people in foster care say they feel embarrassed and upset if there are delays in agreeing things, or if getting consents and agreements from parents and social workers makes them stand out from other children. That is why parents, foster carers and social workers all have a responsibility to agree as much as possible in advance, to make sure things work well for the child.

If you give prior permission - or if the local authority delegates authority - to foster carers to consent to things like emergency or routine medical treatment, school trips, overnight stays or hair cuts (ie the everyday decisions that all children need), this will enable the foster carer to make the best arrangements possible for your

child.

However, responsibilities work both ways. In order for you to feel comfortable with foster carers taking decisions that you or the social workers have agreed in advance, you are entitled to receive good reliable information - from the foster carer or the social worker - about what has been decided, and when. You also need to be reassured that you will be consulted about the other things that arise.

Of course all this will depend on your child's age and your situation.

### **Five things that all parents need to know about delegated authority and consents**

1 You are entitled to help and support to understand and play your essential part in your child's life when he or she is in foster care.

2 The relationship between you and your child's foster carer is important. It is better for your child if you can talk together and agree things. Whenever possible you should meet the foster carer at placement planning meetings and reviews and at times during your child's stay - and not just when contact takes place.

3 You need to be clear about the arrangements for **authority and consents** in relation to your child - what you will do, what the social workers will do, and what the foster carers are authorised to do.

4 If children are going to stay with foster carers until they are old enough to live independently, it is usually helpful and feels more normal for them to have foster carers who can take more day-to-day decisions for them. This ensures that things can be sorted easily and quickly for them and stops them feeling different from their friends. It is not about excluding you.

5 As your child gets older, he or she should be helped and encouraged to take more responsibility and make more decisions in his or her life as part of becoming more grown up. It may not be comfortable for parents - or for foster carers - but sometimes the young person's opinion will count most when decisions are made.

### **Six top tips for parents**

1 Do speak to the social worker and foster carer/s about the details of your child's day-to-day care, routines and preferences, such as their health, religious practices and education. You could write these down for the foster carer.

2 Make sure you are contactable - social workers or foster carers may need to consult you or advise you of something at short notice, so let them know of any change of address or telephone number.

3 Don't be afraid to ask questions - about your rights, about foster care and about your child's foster carers.

4 Do attend meetings.

5 Ask if the local authority has any additional services or sources of support for parents of children in foster care.

6 All fostering services have to produce a Statement of Purpose and a Children's Guide about how the service is run and how it works. Ask to see these if you want to find out more about foster care.

### **Independent help and support for parents**

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Family Rights Group confidential telephone advice line can be contacted on 0808 801 0366. There is no charge for mobile and landline callers.

### **9.4 Appendix 4: Information for Children in Foster Care**

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/305147/Delegation\\_of\\_authority\\_to\\_carers\\_YP\\_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/305147/Delegation_of_authority_to_carers_YP_version.pdf)