

## **Delegated Authority**

Delegated authority should provide carers with the ability to agree and consent for certain activities and day to day arrangements for looked after children. Such consents should avoid delay for the child and should provide them with the ability to join in with ordinary life experiences.

In order for delegated authority to be effective there must be:

- Forward planning regarding consent issues and agreements
- Recognition of the professionalism of foster carers and residential workers and their ability to make informed decisions in the context of meeting the child's needs
- A clear record of who can make decisions and what type of decisions
- Appropriate records which evidence the level of decision making and rational for carers having such delegation of authority

Delegated authority is not about:

- Adopting a one size fits all approach for all children
- Excluding social workers or birth parents from decision making processes
- Exposing children to unnecessary risk
- Dismissing the local authority's responsibilities

## **Parental responsibility (PR) and delegation of consents**

Carers should be given the maximum **appropriate** flexibility to make decisions relating to children in their care, within the framework of the agreed **[Placement Plan]** and the law governing [Parental Responsibility] (PR).

Those with PR for a child (the mother will have PR, the father may also) retain their PR once a child becomes looked after. If a child is placed voluntarily under section 20 of the 1989 Act, the local authority does not have PR and so agreement must be reached about what decision-making the parents will delegate to the local authority. The local authority should work with the parent(s) as far as possible to help them understand the benefits to their child of appropriate delegation to the local authority and carers.

If a child is subject to a care order, interim care order or emergency protection order, the parent(s) share PR with the local authority and the local authority can limit the extent to which the parent(s) can exercise their PR if this is necessary to safeguard or promote the child's welfare. As far as possible, however, parents whose child is subject to a care, interim or emergency protection order should be consulted about their child's care and their views taken into account. Whatever the legal status of a child's placement, parents should be helped to understand the role of foster carers and the relevance of appropriate delegated authority, in order that they can support the foster carers. This should be achieved through

the care planning and review process and reflected in appropriate child care records and documents.

### **Who can delegate authority?**

If the local authority has an [Emergency Protection Order], [Interim Care Order] or [Care Order], the local authority has the authority to delegate in consultation with the birth parents or person holding parental responsibility. This can be a very sensitive and emotive issue for parents and therefore careful consideration must be applied at all times when delegating authority to carers.

If the local authority does not have such an order, it is the parent or someone else with parental responsibility who must agree to delegate authority to the carer. This aspect must be clear and transparent to all parties and recorded in the child's placement plan.

There are some instances whereby a young person who is 16 or over, or under 16 but mature enough to do so, can consent in their own right, e.g.,

- From the age of 16 a young person can consent to their own care plan if they are looked after by the local authority and there is no court order in place.
- A young person aged 16 (or younger if considered by medical staff to have sufficient understanding of the implication of treatment) can consent to their own medical treatment.

### **Assessment and delegation**

Decisions regarding the level of delegated authority must be made on the theory of good quality assessment of need and weighed up against the individual risk for the child and carers, alongside the wishes and views of children, parents, social workers and carers.

The level of delegated authority will differ for individual children and placements depending on factors such as:

- The age and views of the child/young person
- The experience and training of the carer
- Issues relating to legislation of legal status or placement
- The nature and length of placement
- Role and involvement of the parent
- Ongoing assessment and review of the child
- Outcomes from statutory visits and care planning meetings
- **The particular decision to be made**

Delegated authority for each child must be agreed through the care planning process and must be reflected in the child's placement plan and presented to the Independent Reviewing

Officer at a child's statutory review. Only if agreement is reached in the child's review will delegated authority be approved. Social workers are expected to provide a full assessment to the IRO including any risks and the rationale for delegating decisions for children. Delegated decisions must be kept under constant review and must be discussed with carers during care planning meetings and statutory visits completed by the social worker.

Whilst planning for the child is underway, the Fostering service must also assess the carer and provide appropriate information around their level of experience and training in relation to meeting the needs of the child.

Arrangements for delegating consent must also be discussed and agreed with the carer through supervision and through their foster carer review. Foster carers must also have an up to date foster carer agreement.

In terms of a child placed in a children's home, the Registered Manager must ensure ongoing discussion is held with staff through staff meetings and supervisions and regular feedback provided to the social worker.

### **The placement plan (see placement plan section)**

The placement plan forms part of the care plan for the child and sets out the arrangements for them to live with, and be cared for, by foster carers or residential placements. This is the record which also specifies the arrangements for the delegation of authority from the parents to the local authority. It must also include any further delegation from the local authority to the foster carer or residential placement. The placement plan should help the carer understand what decisions they can make and how to ensure that decisions made safeguard the child.

All parties with parental responsibility and those with delegated authority must take seriously the allocation of decision making as this can impact greatly both positively and negatively on the child, and all parties may be held responsible for any safeguarding concerns raised due to poor decision making and care planning. Therefore the placement plan must be explicit about expectations and decision making responsibilities.

### **Reviewing the placement plan**

The Independent Reviewing Officer must consider the issues within delegated authority at every review along with other plans which contribute to the overall care plan for the child.

Delegation of authority must be revisited at every review and discussed mid review within a care planning meeting. The placement plan must be updated at each review by the social worker. This will ensure that changes in the child/young person's circumstances, or in the parent's willingness to delegate authority, or the carer's skills and confidence to take on authority, can be reflected in that plan.

### **Dispute**

There may on occasions be a conflict on what decisions may be delegated and to whom. In such circumstances the team manager for the child must seek to resolve the issue at the earliest stage in discussion with the registered manager of the service, taking into account the views of all parties involved in the care planning process, including the child.

Ultimately delegated authority must only be granted on an individual basis and should not be used as an 'across the board' approach therefore any conflicts must be resolved as soon as possible through due care planning processes and ratified in the child's review.

### **Guidance on Key Consents**

Where possible carers should be supported to make day to day decisions and manage risk. Children/young people in care should, as far as possible, be treated the same as other children.

#### **Health**

The placement plan will show clearly where the 'named' carer has delegated authority to take decisions or give consents for routine medical appointments. Appropriate medical consent must be detailed in the placement plan.

#### ***Routine medicals***

Carers should be able to give and sign consent. They must inform the social worker of the outcome from appointments.

#### ***Immunisations***

Consent for immunisations should be explored with parents at the start of the placement and through the review process. In the event that parents are unable to give consent then this should be provided by the relevant Service Manager and this should be reflected in the placement plan to ensure that carers are clear that this aspect is not delegated.

#### ***Non-routine medical treatment***

Intrusive or planned procedures should be discussed and agreed in advance with the social worker and respective social care managers. In all instances where the child requires surgical intervention or anaesthetic then this must be agreed with the relevant Service Manager and reflected in the placement plan.

#### ***Optician***

Routine eye and sight tests should be delegated to carers.

#### ***Dentist***

Carers should be able to consent to routine examinations and treatment where possible, unless this requires extensive work or general anaesthetic

### **Education**

#### ***School day trips***

School should undertake a risk assessment for trips organised by them and should take into account individual needs of children in this process. Delegation should be given to the carer to agree to school trips wherever possible

### ***Longer school trips/trips involving hazardous activity***

Such trips may require additional funding and agreement from the local authority, and carers must consult in this instance and secure agreements from the appropriate social care manager.

### ***Choosing a school***

The choice of school should be discussed with and agreed by holders of parental responsibility. This is a significant decision for a child and must be addressed through the care planning processes.

### ***Change of school***

This needs to be agreed at a review meeting as the impact on the child/young person may be significant.

### ***Meeting with school staff***

Carer's must keep the social worker informed of meetings attended.

### ***Accessing education/and leisure activities e.g. football clubs or Guides***

Looked after children/young people should have the same opportunities as any child/young person to take full advantage of extra-curricular education activities. Carers should be delegated the task of providing agreement wherever possible. However, if the sport or activity is hazardous or requires overnight stays away from the usual placement then agreements should be sought from the local authority.

## ***3. Leisure and Every Day Life***

### ***Visiting Friends and Over Night stays (see permission for overnight stays)***

Statutory guidance is clear that unless there is good reason, the carer should be authorised to act as a good parent in decisions regarding visits to and from friends and family and friends of the carers.

### ***Holidays***

In all cases there should be clarity at the outset of the placement about consents and passports. The possibility of foreign travel should be discussed with parents in principle. Someone with parental responsibility must always give consent.

Holidays will usually require discussion with the parent and consultation with the local authority for both funding and contact implications. Foster carers should ensure the local authority is given adequate notice, and it is necessary for the local authority and parents to know the whereabouts of the child/young person. Foster carers must not plan holidays within the school term. All adults with whom the child is intending to stay must be known to the local authority and form part of the carers support networks as detailed in their safe care policy and child's placement plan.

### ***Haircuts***

This is often a sensitive issue and must be fully explored with parents at the outset. If possible, consent should be delegated to carers but cultural and religious significance must be taken into account.

### ***Contact***

Contact arrangements will be formalised in the Placement Plan, and a review must agree any changes. In established placements carers may have a degree of decision making if parameters are clear and agreed in advance, this may include sibling contact which is set on an informal level for example.

### ***Photographs and media activity***

Family pictures should have no restrictions although the local authority is clear pictures including looked after children/young people cannot be posted on social networking sites. Other types of photos and media activity are more problematical given issues of confidentiality and safeguarding may be present. The age and competency of the young person must be factored in and clear guidance should be provided in the placement plan.

Carers should ensure that they have in placement an up to date photograph of all children which can be used in the event that the child is missing from care. This should also be accompanied by a profile of the child and any further information that may help in such instances.

### ***School photographs***

Carers should be able to consent for formal school photographs and other photographs taken in school such as school plays and sports days.

### ***Sex education***

A child/young person's involvement in school provision for sex and relationship education should be discussed at care planning meetings and the parents' wishes identified. If it is agreed the child/young person attends, the carer should be able to consent to any school documentation within the home.

### ***Mobile phones***

Restrictions or arrangements for having a mobile phone should be specified at the time of placement and in subsequent care planning meetings and reviews.

### ***Disability Living Allowance***

Normally if a child is under 16 the carer acts as an appointee however, DLA is paid to the child not the carer. There are no conditions laid down by the DWP as to how the money should be spent. It is intended that the money be used to enhance the child's life so that the child derives maximum benefit from the payment of this benefit.

The child's social worker must be involved in discussion around how the DLA can be used to improve the child's life and they are responsible for monitoring the way in which money is spent.

Scrutiny of the money process to ensure that the DLA is being spent appropriately is the responsibility of the child's social worker, supported by the supervising social worker.

### **Areas where foster carers cannot legally give consent**

#### ***Religion***

Foster carers cannot actively persuade a child/young person to change their religion. If a fostered child/young person wishes to change their religion, full consideration should be given to the longer term implications in a review. (This does not prevent children/young people being placed with a foster family of a different faith).

#### ***Taking the child abroad***

Someone with parental responsibility must give written consent.

#### ***Passports***

Can only be applied for by someone with parental responsibility.

### **Foster Carer Holidays and Prolonged Stays with Relatives and Friends**

Support networks should, in most cases, be part of the child's care plan and have clear benefits for the child/ren. It must be identified that such arrangements meet the needs of the child/ren and not the needs of the service or foster carers.

Support network arrangements should be planned and take place with the prior involvement of the child/ren's social worker and supervising support worker. They should be included in the child/ren's placement plans as part of the delegated authority process. Supervising social workers should discuss with named individuals and speak to the child separately both prior to and after each stay that falls into this category in order to make sure that such arrangements remain appropriate.

In order to support foster carers then alternative care may be of value in the following circumstances, in addition to delegated authority for overnight stays and holidays for the child/ren:

- To enable foster carers to take an annual holiday without foster children, where appropriate and where agreed in the foster carer agreement

To provide foster carers with the freedom to participate in leisure activities or family celebrations which may not be suitable for children

- In exceptional circumstances, to provide cover for foster carers in emergencies or other unforeseen situations such as illness
- To provide the child with consistent familiar surroundings and consistent carers

As part of the assessment process prospective foster carers are expected to identify the informal support they are likely to receive from their network of family and friends, and the level of support that they may receive including holiday care and more prolonged stays for the child/ren.

Many carers will be able to identify appropriate support from among family and friends at the assessment stage. For others, and for their family and friends, some experience of fostering will be necessary before confidently identifying a member of their support network who may provide care in their absence. In all cases the support networks for carers will be continually assessed through the supervision and review process for them and for the child/ren.

Foster Carers are required to approach and discuss with the identified person the support they may provide to them before an initial visit by a fostering social worker who will explain and discuss support network task. For all visits the matters listed in **Overnight Stays Away from the Placement or Other Staying Contact or Care Arrangements** will be covered and a supporting report will be submitted for consideration by the fostering team manager and children's social care team manager. This information will then be further considered and approved if appropriate, at the foster carers review and child care review. Updates to the safe care policy, foster carer agreement and placement plan will also be required.

In the case where a foster carer wishes to go on holiday and does not include the child/ren. Then they must notify their supervising social worker of this prior to booking such a holiday and inform them of their proposed dates. The supervising social worker will then work with them, the child and the child's social worker to seek alternative care for the duration of the holiday.

For short term placements, new placements and where delegated authority has not been provided to cover such aspects then it is appropriate for care to be provided by registered foster carers within the fostering service.

Where the placement is permanent or long term then support networks and delegated authority should have already been agreed and concluded for the foster carer and child and all matters listed in the policy for **Overnight Stays Away from the Placement or Other Staying Contact or Care Arrangements** should have been addressed through the child's review, placement plan and foster carers review annual agreement and safe care policy.

If this is so and it is deemed appropriate for the child to be cared for by a member of the identified support network then foster carers should complete with their supervising social worker the alternative carer form. This must be submitted at least 4 weeks prior to the holiday as a minimum requirement (emergency care will be considered on a case by case basis).

This form alongside the child's placement plan, foster carer agreement, safe care policy, pet assessment and any other assessments in line with the **Overnight Stays Away from the Placement or Other Staying Contact or Care Arrangements** to support the application must be submitted to the fostering team manager and service manager for consideration.



If delegated authority and support networks/carers for foster carers have not been agreed through due processes then approval will not be given and an alternative registered carer will be sought.

If it is agreed that a support carer may look after a child/ren then information should be made available to them:

- Placement Plan including appropriate medical consent and individual risks and risk management strategies
- Any other document/ information relating to the period that the child is staying with them, including appointments, activities etc

Under no circumstances must foster carers make private arrangements for the duration that they are on holiday with their identified support networks without the agreement and knowledge of the appropriate professionals.