

**RESIDENCE CHILD ARRANGEMENT ORDER
POLICY
V1**

Reviewed December 2014

1. Overview

- 1.1 This Policy sets out Rochdale Metropolitan Borough's Council's (Rochdale MBC) Policy in respect of Residence Orders previously as made under Section 8 of the Children Act 1989.
- 1.2 This Policy has been updated in recognition that Child Arrangement Orders replaced Residence Orders and Contact Orders by virtue of Section 12 of the Children and Families Act 2014 which came into force on 22nd April 2014.
- 1.3 This Policy recognises that any Residence Orders made prior to the Children and Families Act 2014 will remain in force, unless otherwise determined by Court.
- 1.4 This policy applies to all staff within Children and Young Peoples Services and is also relevant to staff in partner agencies who work with children and young people living within Rochdale MBC area
- 1.6 Private arrangements or Residence Orders ordered by the Court as part of matrimonial or civil partnership proceedings are outside of the scope of this policy.

2. Introduction

- 2.1 A Residence Order is an Order made by a Court under Section 8 of the Children Act 1989 prior to 22nd April 2014 which gives Parental Responsibility to the person or persons in whose favour it is made.
- 2.2. The granting of a Residence Order will have discharged any prevailing Care Order in force prior to the Residence Order being made.
- 2.3 In relation to a former Cared For child or young person, a Residence Order provides legal permanence in regard to a placement with relatives or friends, or a previous foster placement, where this was considered to be in a child or young person's best interests when the Order was made.
- 2.4 Residence Orders determine where a child or young person will live and with whom.
- 2.5 A person or persons in whose favour a Residence Order is made will have parental responsibility, but the Order does not discharge the parental responsibility of others, such as a child or young person's parents.
- 2.6 Under a Residence Order and when parental responsibility is shared, each person holding parental responsibility may act independently of the other when discharging that responsibility.
- 2.7 Those acquiring parental responsibility under a Residence Order do not acquire the right to consent to adoption, to the making of an Adoption Order or the right to appoint a guardian.
- 2.8 Residence Orders made before 2009 will usually cease to have effect when the child or young person is 16, unless the Court has specified that it should last until the child or young person's reaches 18.

2.9 A Residence Order made in or after 2009 will usually cease to have effect when the child or young person is 18, unless the Court has specified that it should end earlier or another Order is made that discharges it. This is an amendment by Section 37 of the Children and Young Person's Act 2008 to the Children Act 1989 (Section 9(6) - duration of Residence Orders).

2.10 A Court may have attached Directions to a Residence Order which:

- Directs how it is to be carried out;
- Imposes conditions which must be complied with;
- Set out that it is to have effect for a specified period;
- Includes any other provision as the Court considered

3. Who Could Apply for a Residence Order?

3.1 The following people were able to apply for a Residence Order:

- Where the child or young person was Cared For, a person with the consent of the relevant Local Authority
- A parent or guardian
- A party to a marriage (whether the marriage was subsisting or not) where the child was brought up as a child or young person of the family
- A person with whom the child or young person had lived with for 3 years. (This did not need to be continuous but must have started more than 5 years before or ended more than 3 months before the making of the application)
- A Local Authority Foster Carer with whom the child or young person had lived for 1 year
- Where a Residence Order was already in force, a person who had the consent of those in whose favour the Residence Order was made
- In any other case, a person who has the consent of all those with parental responsibility.

3.2 Anyone other than the above, who wished to apply, including a child or young person, will have been required to apply to the Court for leave to make the application for a Residence Order.

4. Key Principles in Relation to Previously Cared For Children and Young People

- 4.1 A Residence Order increases the degree of legal permanence in a placement with relatives or friends, or a long-term fostering placement, where this was considered at the time the Order was made to be in the child or young person's best interests.
- 4.2 Where a Cared For child or young person would otherwise have to be placed with strangers, a placement with kinship carers may have been identified as a in a child or young person's best interests and the carers encouraged and supported in applying for a Residence Order where this was in accordance with the child or young person's overall Care Plan.
- 4.3 A Residence Order confers parental responsibility to be shared more equally with the parents than in relation to a Special Guardianship Order, which in some cases may have been regarded as a more appropriate arrangement in a child or young person's individual circumstances.
- 4.4 In determining whether to support a Residence Order application in relation to a Cared For child or young person, the Local Authority will have considered whether it would best discharge its duty and achieve permanence for the child or young person by supporting by a Residence Order.
- 4.5 In determining whether to support a Residence Order application in relation to a Cared For child or young person, the Local Authority will have considered the to potential benefits of continuity for the child or young person, including the potential gains that may accrue from permanency within the extended family, with a former Foster Carer or within the child or young person's wider community network.
- 4.6 Rochdale MBC recognises that a Residence Order:
 - a. Provides stability and security for a child or young person, so promoting good outcomes for the child or young person
 - b. Confers parental responsibility onto a carer or carers, enabling them to make significant decisions in relation to a child or young person
 - c. Provides for a 'normal' circumstances for the child or young person who may otherwise be Cared For
 - d. Can alleviate the potential stigma of being Cared For which may be experienced by a child or young person
 - e. May have formalised contact arrangements within proceedings and if considered necessary by the Court, been set out in a Contact Order.
- 4.7 The Local Authority recognises that a Residence Order can be less secure than Adoption or Special Guardianship in that an application can be made to revoke the Residence Order. The Court may, however, have attached a condition refusing a parent's right to seek revocation without prior leave of the court;

- 4.8 The Local Authority recognises that, unlike in relation to Special Guardianship or Adoption Order. There is no requirement placed on a Local Authority for continuing support or assessment following a Residence Order being made
- 4.9.1 The Local Authority recognises in some instances, ongoing periodic financial support may have been agreed by the Local Authority with responsibility for the Cared For child or young person immediately prior to a Residence Order being made

5. Contact Arrangements in Relation to a Child or Young People subject to a Residence Order

- 5.1 Any Contact Order in place prior to 22nd April 2014, will remain in force, unless otherwise determined by a Court
- 5.2 Any contact arrangements determined when a Residence Order was made will have been determined by the extent to which they were perceived to meet the identified needs of a child or young person.
- 5.3 The Local Authority recognises that management of contact may produce emotional and practical strains on all the parties involved; the making of a Residence Order may have, by itself, altered the dynamics of the family the child has left and the family with whom the child is placed.
- 5.4 The Council recognises that it has a duty to consider arrangements for a child or young person subject to a Residence Order, including contact arrangements where it is necessary to do so in order to safeguard and promote the child's welfare.

6. Support Services Available

- 6.1 The Local Authority recognises that any child or young person living within the Rochdale MBC area is eligible for universal services and identified services if assessed as a Child in Need.

7. Education Support Available for a Child Subject to a Residence Order

- 7.1 The Local Authority recognises that the experiences of a child or young person who was Cared For prior to a Residence Order being made, is likely to lead to them having experienced educational disadvantage. Advice and support is available from School Admissions and Family Information Service.
- 7.2 The Local Authority recognises that in order to address any early disadvantage, a nursery is eligible to receive Early Years Pupil Premium in relation to a child in their care who was Cared For immediately prior to a Residence Order being made.
- 7.3 The Local Authority recognises that in order to help address any potential gap in attainment, a school is eligible to receive Pupil Premium in relation to a child in their care who was Cared For immediately prior to a Residence Order being made.

8. Leaving Care Services in Relation to a Child or Young Person Subject to a Residence Order

8.1 The Local Authority recognises that if a child or young person was Cared For immediately prior to a Residence Order being made, they may be eligible for advice and assistance.

9. Financial Support in relation to a Child or Young Person Subject to a Residence Order

9.1 It is expected that the financial support needs in relation to a child or young person made subject to a Residence Order will primarily be met through universal benefit/credits and service available to all children and young people without additional financial support being provided by the Local Authority.

9.2 If a child or young person made subject to a Residence Order was Cared For by a Local Authority other than Rochdale MBC immediately prior to the Order being made and that Local Authority supported the granting of a Residence Order, it is the expectation of Rochdale MBC that an assessment of the child or young person's needs will have been undertaken by that Local Authority. Any such assessment of need will have addressed the financial support needs necessary to support the continuation of the arrangements.

9.3 [If there is a change in the financial support needs of a child or young person which may require the consideration of or a change to ongoing periodic financial support by a Local Authority, if the child or young person subject to the Order was Cared For by a Local Authority other than Rochdale MBC immediately prior to the Order being made, the expectation is that the carer or carers will approach that Local Authority to request a financial support needs assessment.] Please see below

9.3 Where the financial needs of a child or young person, previously Cared For and subject to a Residence Order arranged by a Local Authority other than Rochdale MBC, change, and their carer(s) seek a financial needs assessment or a review of a financial needs assessment, then there is an expectation that they shall approach the local authority who arranged the Residence Order.

9.4 Rochdale MBC accepts that it may be necessary in some exceptional circumstances to offer financial support to a family when the arrangements for a Residence Order were made by a different Local Authority. This may be as a result of the Court directing a welfare assessment of the child. In such circumstances the Local Authority will consider providing financial support under section 17 (6) of the Children Act 1989 on a case by case basis.

9.5 In relation to a child or young person who was previously Cared For by Rochdale MBC, and where the Local Authority, in the exercise of its duties, and following an Assessment of Need which would have taken place when the Order was made, may continue to make periodic financial contributions towards the care of the child or young person.

9.6 Any financial support agreed on the making of a Residence Order will be reviewed on an annual basis by Rochdale MBC in accordance with Rochdale MBC's Policies and Procedures relating to periodic financial support for Child Arrangement, Special Guardianship and Adoption Orders.

9.7 [Any financial support agreed by the Local Authority in relation to a child or young person Cared For by the Local Authority immediately prior to Order being made will be subject to

- The identified needs of the child or young person;
- Information that all State Benefits have been explored and applied for where appropriate;

9.8 [Any financial support agreed by the Local Authority in relation to a child or young person Cared For by the Local Authority immediately prior to Order being made must also take account of any other grant, benefit, allowance or resource available to the person in respect of his needs as a result of being granted a Residence Order in respect of a child. Financial support cannot duplicate any other payment available to the holder of the Residence Order.