

# **Children's Safeguarding & Strengthening Families**

## **Delegated Authority Policy**

## Delegated Authority Policy for Children’s Safeguarding and Strengthening Families

Title	Name of Policy
Purpose/scope	This policy outlines the arrangements that Telford & Wrekin Council have in place to manage delegating authority from those who have Parental Responsibility to those that do not, such as foster carers.
Subject key words	Delegated Authority, Parental Responsibility, Foster Carer, Fostering
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## **Delegated Authority**

### **Contents:**

- 1. Relevant legislation**
- 2. Principles**
- 3. Rationale for Delegated Authority**
- 4. What is Delegated Authority?**
- 5. What Delegated Authority is not about**
- 6. Clarity around decision making is critical because**
- 7. Parental responsibility and delegation**
- 8. Types of consent**
- 9. Who can delegate authority?**
- 10. Child's Competence to make decisions for themselves**
- 11. Assessment and delegation**
- 12. The Placement Plan**
- 13. Reviewing the Placement Plan**
- 14. Guidance on Key Consents**
  - a. Health Care**
  - b. Education**
  - c. Leisure and Every Day Life in the Foster Home**
- 15. Areas where foster carers cannot legally give consent**

### **Appendix 1 – Delegated Authority tool**

#### **1. Relevant legislation**

- Assessment and approval of foster carers: Amendments to the Children Act 1989 Guidance and Regulations Vol 4: Fostering Services (Jul 2013)
- Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013 amend The Care Planning, Placement and Case Review (England) Regulations (2010)
- Care Planning and Fostering (Miscellaneous Amendments) (England) Regulations (2015) amend The Care Planning, Placement and Case Review (England) Regulations (2010)
- Children Act: Volume 2 - Care Planning, Placement and Case Review (June 2015) updates and consolidates The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review documents published in March 2010. It now includes information contained in the following updates:
  - Delegation of authority: amendments to the Children Act 1989 Guidance and Regulations Vol 2: Care Planning, Placements and Case Review (July 2013)

- Permanence, long term foster placements and ceasing to look after a child: Statutory guidance for local authorities (Mar 2015)
- Children Act 1989 Guidance and Regulations Volume 4: Fostering Services (2011)
- Fostering Services National Minimum Standards (2011)
- IRO Handbook - Statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and reviews for looked after children (2010)

‘Carer’, in this context, means the foster carer or registered manager of the children’s home where the child resides. This will include **Connected Persons** given temporary approval as foster carers, but will not include **Private Foster Carers**.

**NOTE** - The policy should be signed by the Director of Children’s Services and the Lead Member for Children.

## 2. Principles:

- Authority for day-to-day decision making about a **Looked After** child should be delegated to the child’s carer(s), unless there is a valid reason not to do so\*;
- A Looked After child’s **Placement Plan** should record who has the authority to take particular decisions about the child. It should also record the reasons where any day-to-day decision is not delegated to the child’s carer;
- Decisions about delegation of authority should take account of the Looked After child’s views, and consideration should be given as to whether a Looked After child is of sufficient age and understanding to take some decisions themselves.

\*‘The carer’ means the foster carer or registered manager of the children’s home where the child resides.

## 3. Rationale for Delegated Authority

Delegated authority is all about giving children in care as normal a life as possible, with the same opportunities as other children.

The Government is clear that foster carers should be authorised to make everyday decisions about their fostered child wherever possible, within the legal framework. Care Planning, Placement and Case Review (England) Regulations 2010, Fostering Services Regulations 2011, and associated statutory guidance, which came into force in April 2011, underline the importance of social workers liaising closely with

parents, children and foster carers from the start of a foster care placement, to enable proper planning to take place about who does what.

#### 4. What is Delegated Authority?

Delegated authority is the process that enables foster carers to make common sense, everyday decisions about the children and young people they care for, such as allowing them to go to friends' houses for sleepovers, signing consent forms for school trips and even arranging haircuts. It can also reduce delay, involves planning around consent and treats foster carers as part of the team around the child.

Holders of parental responsibility can delegate authority to foster carers to undertake such tasks and decisions. Foster carers never have parental responsibility for a fostered child, so they can only take decisions about the fostered child where that authority has been delegated to them by the local authority and/or the parents.

Clarifying who is best placed to take everyday decisions depends on many factors: the young person's age, views, legal status and care plan, the parents' views and the experience and views of the foster carers. Collaboration and consultation are essential for successful working partnerships.

#### 5. What Delegated Authority is not about:

- Blanket approach
- Excluding social workers or birth parents
- Reducing attention to risk
- Foster carers going it alone

#### 6. Clarity around decision making is critical because:

Young people know who can make decisions on their behalf, are not stigmatised and do not miss out due to delay.

Parents know they are relevant in their children's lives and understand the decision making processes

Foster carers are clear about who can agree what

Social workers are clear about the department's policy in relation to decision making and give consistent advice/ delegation to carers

## 7. Parental responsibility and delegation

Delegating authority means that a person who has parental responsibility may arrange for some or all of their responsibilities to be met in certain circumstances by someone else. A person who does not have parental responsibility but has care of a child/young person (e.g. a foster carer) may do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child/young person's welfare. In an emergency if no agreement has been made, the carer may do what is 'reasonable' and statutory guidance states what is 'reasonable' will depend on the urgency of the situation and how practical it is to consult a person with parental responsibility.

## 8. Types of consent

1. Signed consents E.g. passports, medical consent, school trips
2. Implicit consents No signature required but consent issues concern the young person's access to or use of another service/activity/individual e.g. opticians, overnight stays, Facebook
3. Day to day decisions That is those decisions involving the foster carers own personal care of the young person. E.g. TV, transport and bedtime.

## 9. Who can delegate authority?

If the local authority has an Emergency Placement 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.

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 foster carer.

## **10. Child's competence to make decisions for themselves**

Delegated authority must consider the views of the child if they are of an appropriate age and understanding. Young people may themselves want to make decisions about things like activities, sports, social clubs, and haircuts. If it is in their interest to do so, they may be allowed to make these decisions for themselves and this should be recorded in the 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. Refer to Fraser guidelines and Gillick competency <https://learning.nspcc.org.uk/media/1541/gillick-competency-factsheet.pdf>

## **11. Assessment and delegation**

- Decisions regarding the level of delegated authority should be based on good quality assessment of need and risk for the individual child/young person and foster carer.
- The balance and distribution of responsibilities will differ in individual children depending on factors such as:

- The age and views of the child/young person
- The experience of the carer
- The legislative basis of the placement
- The nature and length of placement
- Role and involvement of the parent.

i.e. delegation in short term placements will differ to long term or permanent placements where the distribution of responsibilities should support the key relationship between the young person and the foster carer.

- Before delegating tasks to a foster carer consideration must be given to the carer's level of training, experience and confidence.
- The areas of delegation to a carer should be discussed in supervisory visits and statutory child care visits to ensure they make sure and are working in practise.
- Foster carers will be covered by legal indemnity insurance and the foster care agreement will set out in writing the arrangements for meeting any legal liability of the foster carer by reason of a child placed.

## **12. The Placement Plan**

- The placement planning meeting is the forum to share information and to sort out who does what and agrees what, when a child/young person is placed. It should be focused on ensuring the day-to-day needs of the child/young person are met with the minimum of disruption. It is also concerned with ensuring that the child/young person can feel as normal as possible in the foster home.
- Parents, foster carers and fostered children (subject to their age and understanding) should attend a placement planning meeting before the child moves in, or, where this is not possible, within five days after the child has moved, in order to discuss and ensure that there is clarity about who will have the authority to make particular decisions.



- Parents should be given all the information they need to reach a decision about delegation of authority. They should be given full opportunity to discuss any concerns they have with the social worker and should be kept informed about decisions made about their child/young person.
- Sharing information about day-to-day care and routines is essential but not enough in itself. Foster carers cannot care safely and make decisions without good quality information about the history of the child/young person and the family. Social workers must ensure that foster carers receive this.
- Delegations of authority have to be agreed by those with parental responsibility. A foster carer never has parental responsibility for their fostered child; they can make decisions only acting on behalf of the local authority and parent. Parental responsibility cannot be transferred.

It must be drawn up before the child is placed, or if not possible, within five days of the start of the placement and signed by all parties.

The placement plan must include details of who does what and key consents/decisions must be included. It should include as much detail as possible, and where there are two foster carers in a household, the plan should address the joint nature of their responsibilities.

The plan must be made available to parents and foster carers as part of the care plan. The plan should be agreed by the parents, local authority, foster carers and child/young person.

Key consents and decisions/tasks should be anticipated and agreed upfront. The age and interests of the young person and lifestyle of the carers should all be considered in an effort to predict what decisions are likely to arise. Foster carer should take responsibility for informing social workers as soon as they become aware that a matter arising may require a decision about delegation of authority.

The Placement Decision Tool sets out as many predictable areas as possible and all should be considered before the child moves in (or within five days)

This cannot be a definitive list of tasks and responsibilities. It is a guide to establishing clear delegation though not every area will apply to every child. It can be used to help birth parents understand the concept of delegated authority.

### **13. Reviewing the placement plan**

The Independent Reviewing Officer must consider the issues within delegated authority at every review along with other plans in the overall care plan.

Delegation of authority should be revisited at every review and discussed with all the parties between reviews. Any changes must be incorporated into the placement plan 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 foster carer's skills and confidence to take on authority, can be reflected in that plan.

Particular attention should be paid to any areas not considered or anticipated at the original placement planning meeting.

The review should consider if the balance of delegation between the local authority, parent and foster carer is working and meeting the child/young person's needs.

Any changes to delegated authority must be recorded in the placement plan.

Parents, foster carers and children should, where possible, be involved in the review meeting.

Where there are differing views as to how the child's placement is managed, or about any aspect of delegated authority, disagreements should be resolved with the assistance of the Independent Reviewing Officer, or by consultation between managers of the care professionals. The child/young person's social worker, foster carer and family placement social worker are the key professionals working with the child/young person in the placement. Good communication between these professionals outside formal reviews is essential.

## 14. Guidance on Key Consents

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

However, where children are accommodated under Section 20, only the person with parental responsibility can agree to delegate authority to the carer.

### **a) Health Care**

The placement plan will show clearly where the foster carer has delegated authority to take decisions or give consents, both in emergencies and in respect of planning treatment.

#### Routine medicals

Foster carers should be able to give and sign consent. They must inform the social worker of the outcome.

#### Immunisations

Foster carers should have delegated authority wherever possible. Concerns about particular immunisations should be explored with parents at the start of the placement.

#### Non-routine medical treatment

The placement plan will consider who can give consent to emergency treatment. Foster carers can do what is reasonable in an emergency. More intrusive or planned procedures should be discussed in advance and delegation made clear.

#### Optician

Routine eye and sight tests should be delegated

#### Dentist

Foster carers should be able to consent to routine examinations and treatment where possible.

### **b) Education**

#### School day trips

School risk assesses these trips. Delegation should be to the carer wherever possible and if not, reasons made clear.

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

Such trips may require additional funding from the local authority, and foster carers must consult in this instance, and where a potentially hazardous activity is involved. Implications for contact will need to be considered.

#### Choosing a school

The choice of school should be discussed with and agreed by holders of parental responsibility. Foster carers should then be able to accept the plan and sign relevant forms.

#### 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

This may vary according to the short or long term nature of the placement. In medium to long term placements the foster carer will usually meet school staff, but must keep the social worker informed. Steps to keep parents involved must be considered.

#### 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. Foster carers should be delegated the task of providing agreement wherever possible.

### **c) Leisure and Every Day Life in the Foster Home**

#### Visiting Friends

Statutory guidance is clear that unless there is good reason, the foster carer should be authorised to act as a good parent in decisions regarding visits to friends, including overnight stays (and DBS checks do not need to be sought).

#### Holidays in UK

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. This authority does not support foster carers taking children on holidays within their school term.

#### Holidays abroad

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.

NB: arrangements should be in place to allow short notice (especially in relation to school trips, cheap holiday deals etc). Carers should, however, give notice of their intention to book as far in advance of actually doing so as possible. The planning of all holidays needs to take into account contact arrangements for the child.

#### 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 of children carers may have a degree of decision making if parameters are clear and agreed in advance.

#### 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.

#### School photographs

Foster carers should be enabled to consent for formal school photographs.

#### Media activity e.g. Pictures of football teams

The 'who consents' issue should be judged in relation to risk and any restriction on the child's photo or name appearing in the media should be based on good assessment and specified in the Placement Plan.

#### Participating in hazardous activities

Early anticipation and discussion is important. Prior consultation with parents and the local authority will usually be necessary. The local authority must ensure necessary insurance is in place. If the carer is delegated to take decisions on activities that can cause injury e.g. horse riding, skiing or climbing, the carer needs to ensure the young person has adequate safety equipment; proper supervision and adequate preparation and insurance.

#### Sex education

A child/young person's involvement in school provision for sex and relationship education should be discussed at the placement planning meeting 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; unless parents have expressed particular wishes about what they want their child to be told, a carer should respond as a reasonable parent.

#### Mobile phones

Restrictions should be specified at the time of placement being made and in reviews.

#### Disability Living Allowance

The appointee is usually the foster carer. The parent or local authority's agreement is not required. The local authority is not responsible for monitoring the award but the Department of Work and Pensions can be asked to investigate if there are concerns the Disability Living Allowance award is not being used appropriately.

### **15. Areas where foster carers cannot legally give consent by law**

#### Child's Name

Foster carers cannot change a child's surname.

In terms of first names, local guidance should be referred to. Foster carers are to refer to the child by their given name and not to use 'nick names' or other names of endearment. The reason for this is to not confuse the child regarding their own identity when returning back to their birth family, or moving onto an adoptive placement or alternative permanent arrangement.

There will always be exceptions and in those circumstances careful consideration should be given to the issues by the professionals involved. Exceptional reasons to consider a name change are:

- a) If the name given causes ridicule or potential emotional harm. A professional discussion would need to take place between the Child's team and Fostering team, with a clear decision recorded with the reasons.
- b) If there is a known, identified and significant risk to the child which cannot be ameliorated by the child being placed outside the local geographical area.
- c) If it is not appropriate to place outside the geographical area e.g. the child is being placed with a sibling already in a fostering placement.
- d) The name is more identifiable due to its non-traditional spelling which would increase a **known risk and/or threat** to the child. In these instances, the name may be changed to the correct spelling.

### 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 child's care review. (This does not prevent children/young people being placed with a foster family of a different faith).

### Taking the child abroad

Everyone with parental responsibility for a child who is subject to a care order must give written consent to take the child abroad if it is for more than one month.

### Passports

Can only be applied for by someone with parental responsibility.

### **Agreed and Signed by:**

*Chwe Jones*

### **Director for Children's Services:**

*Shirley Reynolds*

### **Lead Member for Children:**