

North Somerset - Practice Guidance - Establishing Permanence for our Children

Children's Services Vision

To make North Somerset a truly great place for children and young people to thrive; where all have the best possible life and opportunities, including those who are vulnerable, disadvantaged and/or have special educational or additional needs.

This Practice Guidance should be read in line with North Somerset Council Permanence Policy Statement.

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1. Defining Permanence

Permanence is the long-term plan for the child's upbringing and provides an underpinning framework for all social work with children and their families from family support through to adoption. It ensures a framework of emotional, physical and legal conditions that gives a child a sense of security, continuity, commitment, identity and belonging.

We should always consider, for children in our care, where the family history indicates a strong possibility that adoption outside the extended family network may be needed. At the outset we consider early permanence carers for children. Early Permanence is where children in care may be placed in a home at the earliest opportunity by being placed with foster carers who are also approved as prospective adopters. They initially foster the child and may become their adopters once the court proceedings have been concluded.

2. Key Objectives in Permanence Planning

The objective of planning for permanence is to ensure that children have a secure, stable and loving family to support them through childhood and beyond and to give them a sense of security, continuity, commitment, identity and belonging. It is

also important to remember that older children and young people also need to achieve permanence in their lives although they may not wish (for a variety of reasons) to be in a foster home or to be adopted. For example, they may prefer to live in a children's home where they can also achieve a sense of security and belonging.

The question "how are the child's permanence needs being met?" must be at the core of everything we do.

Where it is necessary for a child to leave his or her family:

- This should be for as short a time as needed to secure a safe, supported return home; or
- If a child cannot return home, plans must be made for alternative permanent care. Family members and friends should always be considered in the first instance with the permanence secured through the appropriate legal order to meet the child's needs.
- Where it is not in the child's best interests to live within the family network, it will usually be in the interests of the child for alternative permanent carers to be identified and the placement secured through adoption, long term foster care, Child Arrangements Order or Special Guardianship Orders;
- Residential group living is provided only when a need for this is identified within the Care Plan and when substitute family care is not appropriate:
- For older children, arrangements for their independent living must be considered.

Where it is clear that families and children are unable to live together, planning must be swift and clear to identify permanent alternative settings.

Wherever possible, care should be provided locally unless clearly identified as inappropriate.

Contact with the family, Kinship Care/Connected Persons and extended family should be facilitated and built on (unless clearly identified as inappropriate).

The professionals involved will work in partnership with parents/families to meet the above objectives. The wishes and feelings of the child will be central to decision making, where possible. The older and more mature the child, the greater the weight should be given to his or her wishes.

When undertaking permanence planning, all workers have a duty to promote the child's links with his or her racial, cultural and religious heritage by:

- Wherever possible promoting placements enabling the child to be brought up within the same racial, cultural and religious environment as their birth family. However, the child's needs should be looked at holistically and this should not be placed above other needs;
- If the above is not possible, identifying a placement which will promote links for the child's race, culture and religion.

According to the child's assessed needs details of which must therefore be evidenced within the child's Permanence Plan.

3. Options for Permanence

The options for permanence are:

- 3.1 Staying / Returning Home
- 3.2 Placement with Family or Friends/Connected Persons
- 3.3 Adoption
- 3.4 Fostering for Adoption
- 3.5 Special Guardianship Order
- 3.6 Child Arrangements Orders
- 3.7 Long-term Fostering

The child's Permanence Plan should be based on an assessment of their needs.

3.1 Staying / Returning Home

The first stage within permanence planning is pulling the family together and working with the network to ensure, where possible, that children and families stay together.

Staying at home offers the best chance of stability. Research shows that family preservation has a higher success rate than reunification. This of course has to be balanced against the likelihood of harm to the child.

3.2 Placement with Family or Friends/Connected Persons

If the assessment concludes that the child cannot safely remain at home, every effort must be made to secure a placement with a family member or friend / Connected Person (also often referred to as Kinship Care) as their carer. This will be either as part of the plan to work towards a return home or - if a return home is clearly not in the child's best interests - as the preferred permanence option. It is very important to establish at an early stage which relatives or friends might be available to care for the child, to avoid the kind of delays that can happen during court proceedings where this work has not been done.

3.3 Adoption

See Adoption Procedures for detailed procedures.

Adoption transfers Parental Responsibility for the child from the birth parents and others who had Parental Responsibility, including the local authority, permanently and solely to the adopter(s).

The child is deemed to be the child of the adopter(s) as if he or she had been born to them. The child's birth certificate is changed to an adoption certificate showing the adopter(s) to be the child's parent(s). A child who is not already a citizen of the UK acquires British citizenship if adopted in the UK by a citizen of the UK.

Research supports adoption as a primary consideration and as a main factor contributing to the stability of children, especially for those under four years of age who cannot be reunified with their birth or extended family. However, Adoption should be proactively considered as part of the spectrum of options, whatever the age of the child.

Adopters may be supported, including financially, by the local authority and will have the right to request an assessment for support services at any time after the Order is made. See Adoption Support Procedures for detailed procedures.

A child subject to an Adoption Order will be entitled to additional Education and Early Years support. This will be accessed through the designated teacher in the child's school/Early Years setting.

Adoption has the following advantages as a Permanence Plan:

- a) Parental Responsibility is held exclusively by the carers
- b) The child is no longer in Care
- c) No future legal challenge to overturn the Adoption Order is possible

- d) Decisions about continuing contact will usually be made by the new parents (on the child's behalf) who are most in touch with the child's needs, although this will be subject to any Contact Order made by the Court at the time of the Adoption Order
- e) The child is a permanent family member into adulthood
- f) As a previously Looked After Child, the child is entitled to additional education support throughout their school career.

Adoption has the following disadvantages as a Permanence Plan:

- a) It involves a complete and permanent legal separation from the family of origin.
- b) There is no review process.

3.4 Fostering for Adoption

A child for whom adoption is thought to be a likely outcome may be placed with prospective adopters who have been given temporary approval as foster carers. This can be where the child's plan is likely to become adoption, but other options have not yet been ruled out for that child.

Approved prospective adopters can be given temporary approval as foster carers under 25A of the Care Planning, Placement and Case Review (England) Regulations 2010 following an additional assessment of the prospective adopters which is approved by the Agency Decision Maker. Fostering to Adopt.

3.5 Special Guardianship Orders

See Guidance for Special Guardianship Orders for the detailed procedures.

Special Guardianship addresses the needs of a significant group of children, who need a sense of stability and security within a placement away from their parents but not the absolute legal break with their birth family that is associated with adoption. It will also provide an alternative for achieving permanence in families where adoption, for cultural or religious reasons, is not an option.

The following persons may apply:

- a) Any guardian of the child
- b) A local authority foster carer with whom the child has lived for one year immediately preceding the application
- c) Anyone who is named in a Child Arrangements Order as a person with whom the child is to live
- d) Anyone with whom the child has lived for 3 out of the last 5 years
- e) Where the child is subject of a Care Order, any person who has the consent of the local authority

f) Anyone who has the consent of all those with Parental Responsibility for the child e.g. Anyone, including the child, who has the leave of the court to apply. The parents of a child may not become the child's special guardians.

Special Guardianship Orders offer greater stability and security to a placement than Child Arrangements Orders in that - whilst they are revocable, there are restrictions on those who may apply to discharge the Order and the leave of the Court, if required, will only be granted where circumstances have changed since the Special Guardianship Order was made.

Special Guardians will have Parental Responsibility for the child and although this will be shared with the child's parents, the special guardian will have the legal right to make all day-to-day arrangements for the child. The parents will still have to be consulted and their consent required to the child's change of name, adoption, placement abroad for more than 3 months and any other such fundamental issues.

A Special Guardianship Order made in relation to a child who is the subject of a Care Order will automatically discharge the Care Order and the local authority will no longer have Parental Responsibility.

Special Guardians may be supported financially or otherwise by the local authority and, as with adoptive parents, will have the right to request an assessment for support services at any time after the Order is made.

Special Guardianship has the following advantages as a Permanence Plan:

- a) The carers have Parental Responsibility and clear authority to make decisions on day-to-day issues regarding the child's care
- b) There is added legal security to the Order in that leave is required for parents to apply to discharge the Order and will only be granted if a change of circumstances can be established since the original Order was made
- c) It maintains legal links to the birth family
- d) The child will no longer be in care and there need be no social worker involvement unless this is identified as necessary, in which case an assessment of the need for support must be made by the relevant local authority
- e) As a previous Child in Care, the child is entitled to additional education support throughout their school career.

Special Guardianship has the following disadvantages as a Permanence Plan:

- a) The Order only lasts until the child is 18 and does not necessarily bring with it the sense of belonging to the special guardian's family as an Adoption Order does
- b) As the child is not a legal member of the family, if difficulties arise there may be less willingness to persevere and seek resolution
- c) Although there are restrictions on applications to discharge the Order, such an application is possible and may be perceived as a threat to the child's stability.

3.6 Child Arrangements Orders

Child Arrangements Orders were introduced in April 2014 by the Children and Families Act 2014 (which amended section 8 Children Act 1989). They replace Contact Orders and Residence Orders.

A Child Arrangements Order is a court order regulating arrangements relating to any of the following:

- a) With whom a child is to live, spend time or otherwise have contact; and
- b) When a child is to live, spend time or otherwise have contact with any person.

The 'residence' aspects of a Child Arrangements Order (i.e. with whom a child is to live/when a child is to live with any person) can last until the child reaches 18 years unless discharged earlier by the Court or by the making of a Care Order.

The 'contact' aspects of a Child Arrangements Order (with whom and when a child is to spend time with or otherwise have contact with) cease to have effect when the child reaches 16 years, unless the court is satisfied that the circumstances of the case are exceptional.

A person named in the order as a person with whom the child is to live, will have Parental Responsibility for the child while the order remains in force. Where a person is named in the order as a person with whom the child is to spend time or otherwise have contact but is not named in the order as a person with whom the child is to live, the court may provide in the order for that person to have Parental Responsibility for the child while the order remains in force.

Child Arrangements Orders are private law orders and cannot be made in favour of a local authority. Where a child is the subject of a Care Order, there is a general duty on the local authority to promote contact between the child and the parents. A Contact Order can be made under section 34 of the Children Act 1989 requiring the local authority to allow the child to have contact with a named person.

A court which is considering making, varying or discharging a Child Arrangements Order, including making any directions or conditions which may be attached to such an Order, must have regard to the paramountcy principle, the 'no order' principle and the welfare checklist under the Children Act 1989.

Interim Child Arrangements Orders can be made.

Where a child would otherwise have to be placed with strangers, a placement with family or friends/Connected Persons may be identified as a preferred option and the carers may be encouraged and supported to apply for a Child Arrangements Order where this will be in the best interests of the child.

The holder of a Child Arrangements Order does not have the right to consent to the child's adoption nor to appoint a guardian; in addition, he/she may not change the child's name nor arrange for the child's emigration without the consent of all those with Parental Responsibility or the leave of the court.

Whilst support may continue for as long as the Child Arrangements Order remains in force, the aim will be to make arrangements which are self-sustaining in the long run.

As was the case with Contact and Residence Orders, any person can apply for a Child Arrangements Order. The following can apply for a Child Arrangements Order without needing the leave of the court. In addition, any person who is not automatically entitled to apply for a Child Arrangements Order may seek leave of the court to do so:

- Any parent (whether or not they have Parental Responsibility for the child), guardian or special guardian of the child
- Any person named in a Child Arrangements Order that is in force with respect to the child, as a person with whom the child is to live
- Any party to a marriage (whether or not subsisting) in relation to whom the child is a child of the family - this allows stepparents (including those in a civil partnership) and former stepparents who fulfil this criteria to apply
- Any person with whom the child has lived for a period of at least three years (this period need not be continuous but must not have begun more than five years before, or ended more than three months before, the making of the application); or
- Any person:
 - Who has the consent of each of the persons named in a Child Arrangements Order as a person with whom the child is to live
 - In any case where there is an existing order for care in force, has the consent of each person in whose favour the order was made
 - In any case where the child is in the care of a local authority, who has the consent of that authority
 - In whose favour a Child Arrangements Order has been made in relation to the 'contact' aspects and who has been awarded Parental Responsibility by the court (i.e. they would be able to apply for a Child Arrangements Order in relation to the 'residence' aspects)
 - In any other case, has the consent of everyone with parental responsibility for the child.
- A local authority foster parent is entitled to apply for a Child Arrangements Order relating to whom the child is to live with, and/or when the child is to live with any person, if the child has lived with him for a period of at least one year immediately preceding the application.
- A relative of a child is entitled to apply for a Child Arrangements Order relating to whom the child is to live with, and/or when the child is to live with any person, if the child has lived with the relative for a period of at least one year immediately preceding the application. (A relative is a child's grandparent,

brother, sister, uncle or aunt (by full or half-blood), or by marriage or civil partnership).

A Child Arrangements Order specifying with whom the child is to live has the following advantages:

- a) It gives Parental Responsibility to the carer whilst maintaining the parents' Parental Responsibility
- b) The child will no longer be Looked After and there need be no social work involvement, unless this is identified as necessary
- c) There is no review process
- d) The child will not be Looked After and so less stigma is attached to the placement
- e) Any contact is likely to be agreed and if considered necessary by the Court, set out in a Contact Order
- f) A child subject to a Child Arrangements Order will be entitled to additional education support throughout their school career.

A Child Arrangements Order has the following disadvantages:

- a) It is less secure than Adoption or Special Guardianship in that an application can be made to revoke the Order. However, the Court making the order can be asked to attach a condition refusing a parent's right to seek revocation without leave of the court.
- b) There is no formal continuing support to the family after the Order is made although in some instances, a Child Arrangements Order Allowance may be payable by the local authority.
- c) There is no professional review of the arrangements after the Order unless a new application to court is made, for example by the parents for contact or revocation. (N.B. New applications to court may be expensive to defend, and the carers would have to bear the cost if not entitled to assistance with legal costs).

3.7 Long-term Fostering

For those children who remain in care an important route to permanence is long-term foster care. Where the permanence plan for the child is longer-term foster care this may be where the current short-term foster placement is assessed to meet the long-term needs of the child for permanence or where a new placement is identified for a child as a result of an assessment and matching process.

This option has proved to be particularly useful for older children who retain strong links to their birth families and do not want or need the formality of adoption and where the carers wish for the continued involvement of the local authority.

Long-term fostering has the following advantages as a Permanence Plan:

- a) The local authority retains a role in negotiating between the foster carers and the birth family over issues such as contact
- b) There is continuing social work support to the child and foster family in a placement that is regularly reviewed to ensure that the child's needs are met
- c) It maintains legal links to the birth family who can still play a part in the decision making for the child.

Long-term fostering has the following disadvantages as a Permanence Plan:

- a) Lack of Parental Responsibility for the carers
- b) Continuing social work involvement
- c) Regular Looked After Reviews, which may be regarded as destabilising to the placement
- d) Stigma attached to the child due to being in care
- e) The child is not a legal member of the family. If difficulties arise there may be less willingness to persevere and seek resolution
- f) Post-care and/or post-18 the carers have no legal responsibility towards the young person.

4. Permanence and Local Placement

Where a child is placed with long term carers, it is important that the child has access to the friends, family or community within which they were brought up and which form part of their identity and their long-term support network. For these reasons children should be placed in local provision, wherever possible.

Any decision to place a child away from his or her community should be based on the particular needs of the child and considered within the context of a Permanence Plan. Where an alternative family placement is sought in the area of another local authority, the likely availability and cost of suitable local resources to support the placement must be explored. In the case of an adoptive placement, this will be required as part of the assessment of need for adoption support services (see Adoption Support Procedure), but should be carried out in relation to any permanent placement.

5. Assessing and Planning for Permanence

Assessments of a child's needs in relation to his or her Permanence Plan must:

- a) Focus on outcomes
- b) Consider stability issues, including the child's and family's needs for long-term support and the child's needs for links, including contact, with his or her parents, siblings, and wider family network.

Social workers must ensure the child's Permanence Plan is clearly linked to previous assessments of the child's needs.

Permanence planning meetings should be held to consider and agree proposed plans of permanency. See permanence planning meetings guidance for more detailed information and meeting template.

A court in deciding whether to make a Care Order, is required to consider the 'permanence provisions' of the Care Plan for the child:

- a) The provisions setting out the long-term plan for the upbringing of the child - to live with a parent/family member/family friend; adoption; or other long-term care, and
- b) The plan's provisions in relation to any of the following:
 - i. The impact on the child concerned of any harm that he or she suffered or was likely to suffer
 - ii. The current and future needs of the child (including needs arising out of that impact)
 - iii. The way in which the long-term plan for the upbringing of the child would meet those current and future needs.

(See s.8 Children and Social Work Act 2017).

Appendix 1: Identifying Permanence Options presents a brief, research-based checklist of considerations about Adoption, Child Arrangements Orders, Special Guardianship Orders and Long-term Fostering.

In considering the child's needs, full consultation with family and community networks should be undertaken to establish the child's relationships and support network.

In all cases, the child's own wishes and feelings must be ascertained and taken into account.

By the time of the second Child in Care Review, the child must have a Permanence Plan (incorporated into the Care Plan), to be presented for consideration at the review.

Where the Permanence Plan includes a Parallel Plan, the social worker must ensure that the parents are informed of the reasons why two plans are being made to meet the child's needs and prevent unnecessary delay.

6. Good Practice Guidance

The following practice guidance is not exhaustive, it is drawn from research and consultation with young people, parents, carers and practitioners.

6.1 Supporting reunification with birth or extended family

Research points to:

- The importance of clearly communicating to the family what needs to happen to enable the child to return home, and within what timescales.
- The importance of exploring family ties and long-term relationships with family, school and community.
- The use of family-led decision making forums as an effective way of facilitating both the above.

6.2 Identifying the best permanence option

Issues to consider:

- The assessment process must ask how stability for this child will be achieved;
- Long term stability means the sense of a permanent home with the same family or group of people, as part of the same community and culture, and with long-term continuity of relationships and identity.
- Short or medium term stability or continuity will be important for children who are going to stay in care for a brief period before going home and for children who are going to need new permanent arrangements. The quality of a child's attachments and life will be detrimentally affected by uncertainties, separations from what /who is known and changes of school and placement.
- Educational experiences, links with extended family, hobbies and friendships and support to carers, contribute to guarding against disruption and placement breakdown.
- The importance of carefully listening to what children want from the placement, helping the relationship between carer and child to build, making thorough plans around contact with family, providing vigorous support during crisis times and taking a sufficiently flexible attitude to adoption by carers.
- The older a child is, the less likely it is that the child will secure a permanent family through adoption.
- The larger the family group of children, the harder it is to secure a single placement that will meet all the needs of all the children.

6.3 Twin Track or Parallel Planning

Social workers are encouraged to consider working to this model, working towards a child's return home whilst at the same time developing an alternative Permanence Plan, within strictly limited timescales.

Where children's cases are before the court in Care Proceedings, the Court require twin track planning to be reflected in the Care Plan - see also Public Law Outline.

6.4 Placement/Contact with Siblings - Issues to Consider

It is important to assess the extent and quality of relationships in a sibling group. The Sibling Relationship Checklist Together or Apart is a useful tool.

Usually, and especially where there is a pre-existing and meaningful relationship, it will be important to actively seek to maintain sibling relationships within any Permanence Plan, including those where an alternative family placement is sought.

Issues from research:

- The most enduring relationships people have are likely to be with their siblings;
- The impact on separated siblings of losing vital support, a shared history and continuity affect stability in the placement;
- More successful outcomes occur for children placed together with their siblings. Children should therefore be placed with their siblings unless there are exceptional circumstances, such as dysfunctional interaction that cannot be remedied, incompatible needs or where the lack of appropriate placement would lead to unacceptable drift. The immediate non-availability of a suitable placement should not prevent rigorous home-finding efforts within an agreed time frame, based on balancing the potential for success against the risk of undue delay;
- The importance of identifying strengths and difficulties in sibling relationships in order to make appropriate permanent placement decisions. It is important to ascertain the perceptions and wishes of the child and their family, to assess the shared experience of siblings and the children's individual permanence needs. This involves thorough consideration of issues of gender, race, disability, identity and attachment.
- The importance of including regular contact between siblings within the Permanence Plan wherever possible, if they cannot be placed together.

6.5 Direct contact with birth family members and others

Contact must always be for the benefit of the child, not the parents or other relatives. It may serve one or all of the following functions:

- To maintain a child's identity. Consolidating the new with the old.
- To provide reassurance for the child.
- To provide an ongoing source of information for the child.
- To give the child continuing permission to live with the adoptive family.
- To minimise the sense of loss.
- To assist with the process of tracing.
- To give the adopters a secure sense of the right to parent. This will make the parenting task easier.

Direct contact will generally work best if all parties accept/agree to:

- I. The plan for permanence.
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II. The parental role of the permanent carers.

III. The benefit of contact.

IV. The adoptive parents being present.

Direct contact is not likely to be successful in situations where a parent:

- Disagrees with the plan for permanence.
- Does not accept the parental role of the permanent carer and their own minimal role with the child.
- Has proved to be unreliable in their commitment to contact in the past.
- Has not got a significant relationship/attachment with the child.

The wishes of the child to join a new family without direct contact, must be considered and given considerable weight, at any age.

If direct contact is a part of the Permanence Plan, a formal agreement setting out how contact will take place, who with, where and how frequently must be negotiated before placement, and reviewed regularly throughout the child's life.

6.6 Indirect contact with birth family members and others

We do not all share the same sense of family - it means different things to different people. It helps when children are helped to understand to whom they are related, especially if they have complicated family trees including half-brothers or sisters living in different places. Identity is built on solid information.

Wherever possible, indirect contact between the child and his or her new family with people from the past should be facilitated:

- a) To leave open channels of communication in case more contact is in the child's interests in the future.
- b) To provide information (preferably two-way) to help the child maintain and enhance their identity and to provide the birth relative with some comfort in knowing of the child's progress.

Indirect contact must be negotiated prior to placement, and all parties should be asked to enter into an agreement with one another about the form and frequency that the contact will take. This will be confirmed at the Placement Planning Meeting. The letter box contract will be drawn up and signed by adoptive parents and birth parents. Renegotiations of the contact should only take place if the child's needs warrant it.

All parties to the agreement will need to accept that as the child becomes older and is informed more fully about the arrangements for indirect contact, the child will have a view regarding its continuation. No contact arrangements can be promised to remain unaltered during the child's childhood. Those involved need to accept that contact may cease if it is no longer in the child's interests. Alternatively, an older child may need to change to direct contact.

6.7 Clearly communicating the Permanence Plan

- Communicating a Permanence Plan effectively involves setting it out clearly and concisely as part of the Care Plan, in a way that acts as a useful reference to all involved during the Review process.
- Good quality Care Plans set out clear, concise statements about intended outcomes.
- Make timescales clear.

6.8 Legal routes to permanence

For younger children unable to be returned home where adoption is the plan, a Care Order and Placement Order are likely to be necessary unless parents are clearly relinquishing the child and are in agreement with the plan and the placement choice

For children for whom adoption is not appropriate, each case will need to be considered on its merits. The decision between Special Guardianship Order, Child Arrangements Order and Long-Term Fostering under a Care Order will depend on the individual needs of the child set alongside the advantages and disadvantages of each legal route.

Appendix 1: Identifying Permanence Options

Child Arrangements / Special Guardianship Orders	Adoption	Long Term Fostering
<p>Child needs the security of a legally defined placement with alternative carers, but does not require a lifelong commitment involving a change of identity.</p> <p>Child's relation, foster or other carer needs to exercise day to day parental responsibility and is prepared to do so as a long-term commitment.</p>	<p>Child's primary need is to belong to a family who will make a lifelong commitment.</p> <p>Child's birth parents are not able or not willing to share parental responsibility in order to meet their child's needs, even though there may be contact.</p>	<p>Primary need is for a stable, loving family environment whilst there is still a significant level of continued involvement with the birth family.</p> <p>Child has a clear sense of identity with the birth family, whilst needing to be looked after away from home.</p>
<p>There is no need for continuing monitoring and review by the Local Authority, although support services may still need to be arranged.</p> <p>Child has a strong relationship with the alternative carers and legally defined permanence is assessed as a positive contribution to their sense of belonging and security.</p>	<p>Child needs an opportunity to develop a new sense of identity whilst being supported to maintain or develop a healthy understanding of their past.</p> <p>Children expresses a wish to be adopted.</p>	<p>There is need for continuing oversight and monitoring of the child's developmental progress.</p> <p>Birth parents are able and willing to exercise a degree of parental responsibility.</p>