

Scheme of Delegation

Directorate: Children and Families

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1. Accommodation of children into Local Authority Care

	What the function/power is	Who may carry it out	Any constraints/comments
1.1	Decision to accommodate a child pursuant to the Children's Act 1989	Service Director	<p>Legal Gateway Panel will consider non urgent requests. Each responsible Service Director will respond to emergency requests.</p> <p>If it happens out of hours this can be agreed by the Senior Manager on call.</p> <p>Decision to authorise a search should be completed by the Service Manager. The decision to place rests with Service Director.</p> <p>Decision to place in Residential can only be made by the Service Director.</p> <p>Decision to place out of county can only be made by the Service Director.</p>
1.2	Approval to apply for Emergency Protection Order under Section 44 of the Children Act 1989	Responsible Service Director	The Service Director. Or out of hours the on-call senior manager can approve.

2. Decision to issue Care Proceedings and author final Care Plans

	What the function/power is	Who may carry it out	Any constraints/comments
2.1	Decision to Instigate Care Proceedings under S31 Children's Act 1989	Chair of Legal Gateway Panel or Service Director if required outside panel	Following prior authorisation from the Service Manager, this should be presented to Legal Gateway Panel. Agreement to instigate proceedings does not mean that the decision to accommodate has also been made.
2.2	Decision to instigate public law outline processes under the <i>Public Law Outline</i> (2014) and the Children and Families Act 2014	Chair of Legal Gateway Panel	Following prior authorisation from the Service Manager this should be presented to Panel.
2.3	Approval of Initial Care Plans in Care Proceedings and Care Plan Amendments	Responsible Service Manager	All Care Plans must be authorised with a signature by the Social Worker, Team Manager and responsible Service Manager.
2.4	Approval of Final Care Plans	Responsible Service Manager	All final Care Plans must be endorsed by a CLAR (Child Looked After Review) prior to Service Manager approval.
2.5	Ratification of Looked After Review recommendations	Team Manager	All Care Plans and proposed changes to Care Plans must be endorsed by an Independent Reviewing Officer at a CLAR. Team Managers over covering TM must ratify CLAR

recommendations within 5 working days. If no objections are received in 5 working days their agreement will be assumed.

2.6	Approval for Child subject to Care Order to be placed with parents.	Service Director	Following completion of Placement with Parents Assessment then plan should be discussed and agreed at a CLAR with the approval of the Independent Reviewing Officer and approved by the responsible Service Manager prior to Service Director approval.
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3. Foster Care Placements

	What the function/power is	Who may carry it out	Any constraints/comments
3.1	Approval for overnight stays of Child in care with the child's friends	Foster Carer	Delegated authority should permit pragmatic decision making by carers.
3.2	Approval for Child in care to have: <ul style="list-style-type: none"> Routine medical 	<p><u>Routine medical</u> Foster carer can give consent to routine medical treatment (see full delegated authority for foster carers).</p> <p>Consent from parents and other holders of PR to routine medical treatment should have been sought in the placement plan</p> <p><u>See Foster Care agreement on delegated Authority</u></p>	<p>Please contact the legal department if there are any queries regarding consent and who needs to give consent for a child in care and medical treatments and interventions.</p> <p>(Please also see the Council's guidance note for Medical</p>

intervention for Children in care protocol)

IN ADDITION TO THIS:- For non-routine medical treatment and for those interventions that fall outside of the scope of the consent given in the placement plan, consent should ALSO be obtained from parents and other holders of PR. If there is disagreement (and consent is not given) you need to contact legal as there needs to be a decision made about whether the local authority is able to make the decision which goes against the other holders' of PR's views (these are decisions that fall within the scope of s33 Children Act 1989).

Emergency treatment and surgery

- Emergency treatment
Surgery (local or general anaesthetic)

Consent should be given by the Service Manager for Local Anaesthetic and the Service Director for General Anaesthetic, alongside consent from those who hold PR.

IN ADDITION TO THIS:- For emergency treatment and surgery, consent should **ALSO** be obtained from parents and other holders of PR. If there is disagreement (and consent is not given) or there is a question over the ability to give informed

consent then please contact legal as an application to the High Court may be required.

3.3	Decision to withhold or withdraw life preserving medical treatment	<p>Director of Children's Service in consultation with treating physician and parents/other holders of PR.</p> <p>IN ADDITION TO THIS:-</p> <p>For end of life decisions, consent should ALWAYS be obtained from parents and other holders of PR. If there is disagreement between the local authority and holders of PR (and consent is not given) or there is a question over the ability of parents/carers to give informed consent then please contact legal as an application to the High Court may be required.</p>	<p>Please contact the legal department if there are any queries regarding consent and who needs to give consent and who needs to give consent for end of life decisions. Or if there is any disagreement to the decision making.</p> <p>(Please also see the Council's protocol on tri.x 'withholding or withdrawing life support for children')</p>
3.4	Approval of <i>enhanced</i> allowances to foster placement costs for: <ul style="list-style-type: none">• Holiday payments• Additional Needs/Interest• Clothing Grant	Team Manager can authorise up to £200 for a one off cost. For anything up to £7000 this would be the Service Manager.	The additional needs should be discussed between child's Social worker and Fostering Social worker and identified explicitly in writing and recorded on Mosaic in case notes.
3.5	Child in care taking part in group social or sporting activities	Foster Carer	Delegated Authority is designed to address this.

			Parental consent to be obtained wherever possible / appropriate. Activities should be included in the child's Care Plan and discussed at the CLAR.
3.6	Child in care taking part in activities with an element of exceptional risk e.g. Bungee-jump, skydive, non-sporting activities.	Children's social work manager	Parental consent to be obtained wherever possible / appropriate. Risk Assessment to be undertaken in advance by the child's Social Worker and provider.
3.7	Looked after Child going on holiday: <ul style="list-style-type: none"> In UK 	In the UK: Social Worker	Parental consent to be obtained wherever possible. Parental consent must be obtained if s20. In many instances a child's foster carer will have the delegated authority to decide on holidays in the UK. These plans should be discussed with the child's Social Worker. If the authority has not been delegated to the foster carer, or if the young person is not in a foster placement, decision rests with Team Manager.
	<ul style="list-style-type: none"> Abroad Passport applications 	Abroad: Service Manager Passport applications: Team Manager	
3.8	Looked after Child changing appearance e.g. piercing.	Team Manager	Parental consent to be obtained wherever possible / appropriate. If significant issue gain advice from Service

Manager. Tattoos are illegal under the age of 18.

3.9	Application to court for a child in care to change their name	Responsible Service Manager via Legal Gateway	Parental consent to be obtained where possible/appropriate (except adoption), then Service Manager can authorise progression to legal gateway. Children aged 16 years or over (with mental capacity) are generally free to apply in their own right to change their name via deed poll. For a child subject to a Care Order, SGO or Child Arrangements Order they need written consent from all with parental responsibility up to the age of 18. If consent is not agreed an application to Court is needed - CA1989 s33(7). This is with agreement via legal gateway and to be discussed with Independent reviewing officer beforehand.
3.10	Child in care obtaining contraceptive advice or provision	Foster Carer/ Child /YP	Parental consent to be obtained wherever possible / appropriate taking into account the child's wishes, age, competence and medical advice.

4. Residential, Foster Care and Adoption

	What the function/power is	Who may carry it out	Any constraints/comments
4.1	Application for child in care to be placed in secure accommodation	Director of Children's Services	<p>The criteria are explicit and the report to the Director of Children's Services will provide evidence to support the application.</p> <p>Director of Children's Services (DCS) is able to authorise without a secure order for up to 72 hours.</p> <p>If child is aged under 13 years approval must be given by a Minister of State.</p>
4.2	Approval of Section 34 contact expenses	Team Manager	On presentation of evidence of spend.
4.3	Funding of residential placements where more than one agency cannot meet the needs of the young person	Chair of Complex Needs Panel. Service Director Safeguarding and Family Support	CNF guidance must be followed
4.4	Decision to end child in care episode (s20).	This is a parental decision and should be reviewed and agreed by the Service Manager, ensuring that the IRO is made aware.	Following agreement by the Independent reviewing officer. Service Manager reviews to consider next steps including identified ongoing needs of the child / family and how these will be met. Consideration of support required or potential legal advice
4.5	Decision to apply to discharge care order	Legal gateway/Service Director	

4.6	All residential placements including parent and baby residential placements	Service Director	
4.7	Approval of new Foster Carers	Fostering Panel recommendation to Agency decision maker	Assessments undertaken by Fostering Social worker, approval recommended by Team Manager. Agency decision maker for Fostering are Service Managers in Corporate Parenting.
4.8	Temporary approval of Carers on receipt of appropriate written information (Reg. 24)	Fostering Service Manager or covering Service Manager	Viability assessment undertaken by Fostering Social worker, approval recommended by Team Manager. Responsible Service Manager must recommend approval. Agency decision maker for Fostering are Service Managers in Corporate Parenting.
4.9	Agreement to exceed Fostering approval limits	Fostering Service Manager or covering Service Manager	Via Fostering Team Manager recommendation. Includes Independent fostering agencies within local authority area.
4.10	Search for Residential Providers	Service Manager but citing the Service Director	On recommendation of Placements team following internal search. Any Service Manager can authorise in an emergency if the responsible Service Manager is not available. Approval to place must be given by Service Director.
4.11	Re-approval of Foster Carers	Fostering Agency decision maker	Home reviews carried out by fostering social workers.

			Must be reviewed at panel if: 1 st review; after an allegation or complaint; following a significant change in circumstances; any other circumstances at the discretion of the local authority.
4.12	Approval of plan for child to be adopted	Adoption Agency Decision Maker	Following recommendation of CLAR and completion of Child Permanence Report. The Agency Decision Maker, makes the decision that the plan of the child is one of adoption. For adoption this being Service Director or DCS.
4.13	Approval of matching child with prospective adopters	Adoption Panel recommendation to Adoption Agency decision maker	Following presentation of relevant paperwork from child's Social worker and prospective adopter's Social worker (Adoption Central England) to Adoption Panel.
4.14	Foster to Adopt placements	Service Director	Decision that foster to adopt should be the child's care plan is the decision of each responsible Service Director. Temporary approval of prospective adopters as foster carers (Reg. 22) must be sought from the Fostering Agency decision maker.
4.15	Approval of Adoption Allowances and review of Adoption Allowances	Service Manager	Via recommendation of child's social worker
4.16	Special Guardianship Allowances in excess of Special Guardianship Financial Policy	Service Director but if cost exceed £100K per year in addition to the policy the Director of Children's Services must approve	Via recommendation of Team Manager for the child in consultation with Fostering Team Manager. Clear evidence must be provided re exceptional circumstances. Special Guardianship Allowances within the remit of the financial policy should

be set out in the Special Guardianship Order support plan and approved by the Fostering Service Manager.

4.17 Formal respite care with foster carers friends or relatives

Team Manager

For all types of placements patterns of overnight stays should be monitored to ensure they do not become a regular respite arrangement by default. If an arrangement becomes part of the Care Plan then a formal assessment of the respite carers should take place. The respite carers should then become subject to review and monitoring as for any approved foster carer.

4.18 Approval of short break packages for children with disabilities pursuant to section 17 CA, s.20 CA and S.2 CSDPA

Service Manager

For short breaks to provide respite for parents/carers and to enable moves towards independence for children and young people with disabilities.

Overview of Fostering Decision Making



Fostering and Adoption decision makers	
Area of Decision Making	Agency Decision Makers
Approval, termination and review of foster carers	Adele Odili Jaz McAndrew Jess Davies Dorine Rai Stacie Edwards
Placement under Reg 24 (temporary approval of foster carers)	Adele Odili Back Up: covering Service Manager
Placement under Reg 25 (foster to adopt)	Service Director Back up: Tina Russell, Corporate Director Herefordshire Children's Services
Exemptions from the usual fostering limits for foster carers living in Herefordshire.	Adele Odili Back up: covering Service Manager
Agreement to the long-term matching of children with foster carers.	Tori Lynch, Service Director Back Up: Rachel Gillott, Service Director
Agreement to the long-term matching of children with Adoptive Carers.	Rachel Gillott, Service Director Back Up: Tina Russell, Corporate Director Herefordshire Children's Services
Care Plan of Adoption	Rachel Gillott, Service Director Tina Russell, Corporate Director Herefordshire Children's Services

Adoption and SGO allowances where carer meet criteria and financial support is within the financial assessment amount/policy	Adele Odili
Adoption and SGO allowances exceptions to policy	Service Director up to £100k DCS approval required if cost over £100K per year additional to policy allowances

The role of decision maker

The fostering service must identify a senior member of staff (usually referred to as the decision maker) who will receive the panel's recommendations and make decisions as required. More than one decision maker may be appointed, but they may not delegate their authority to another person. Standard 23 sets out the qualifications, knowledge and experience required of the decision maker. Regulation 27 requires that the decision maker must take account of the fostering panel's recommendation and any recommendation by the IRM before deciding whether or not to approve a person as a foster carer, and on what terms. Their decision must be made within seven working days of receipt of the panel's recommendation via the minutes (standard 14).

The decision maker is also responsible for deciding whether a person and their household remain suitable to foster, and whether the terms of approval remain suitable, following each review of the foster carer's approval. The decision should be based on the written report of the review; it must take account of any recommendation by the fostering panel (which must be provided on the occasion of the first review and may be provided for subsequent reviews) and any recommendation of the IRM.

Best practice for setting out decisions

In reaching a decision or making a qualifying determination, the decision maker should consider *Hofstetter v LB Barnet* and IRM [2009] EWCA 328 (Admin), in which the court set out guidance for the way in which an adoption agency decision maker should approach a case, whether it is a decision based on the agency panel's recommendation or the independent review panel's recommendation. This applies equally to fostering decision makers. The court said that it would be good discipline and appropriate for the decision maker to:

§ list the material taken into account in reaching the decision;

§ identify key arguments;

§ consider whether they agree with the process and approach of the relevant panel(s) and are satisfied as to its fairness and that the panel(s) has properly addressed the arguments;

§ consider whether any additional information now available to them that was not before the panel has an impact on its reasons or recommendation;

§ identify the reasons given for the relevant recommendation that they do or do not wish to adopt; and

§ state (a) the adopted reasons by cross reference or otherwise and (b) any further reasons for their decision.

Once a foster carer is approved, they must be notified in writing of this fact and of any terms of the approval. Terms may specify, for instance, that they may foster only a specific named child or children, or may identify a maximum number of placements which may be made at any one time or an age range for children fostered. Terms may also include factors such as short term or long term placements, short break care, or inclusion in a particular fostering scheme. Foster carers must also enter into a foster care agreement, covering the matters set out in Schedule 5 to the Regulations (regulation 2 and standard 14).

Useful Guidance and Essential Legislation

1. Statutory Guidance relating to the decision maker and ADM decisions:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275764/20130522statutory_guidanceassessment_and_approval_of_foster_carers_final.pdf

2. Link to Fostering Regulations 2011: <http://www.legislation.gov.uk/ukxi/2011/581/contents/made>

3. Link to National Minimum Standards for Fostering 2011: <https://www.gov.uk/government/publications/fostering-services-national-minimum-standards>

4. Link to flowchart of ADM and appeal process:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275766/flow_diagramassessment_and_approval_process_amended_version.pdf

5. Information Sharing

	What the function/power is	Who may carry it out	Any constraints/comments
5.1	Subject Access Requests	Team Manager	Upon receipt the Information Access Team will complete the request with the children's social work manager, responsible for the case, to advise on redactions.
5.2	Disclosure of information to other agencies not for safeguarding purposes (e.g. to assist in criminal investigation)	Team Manager	<p>Team Manager contacts Information Governance Team.</p> <p>On receipt of Legal advice refer to Service Manager if child welfare implications.</p>

6. Financial Approvals

	What the function/power is	Who may carry it out	Any constraints/comments
6.1	Authorisation levels	Team Managers	Team Managers can authorise up to £200 per child, individual payments. For ongoing or re-occurring payments the next level authorisation is required.
6.2	Authorisation levels	Service managers	Service managers can authorise up to £7000 per family. For ongoing or re-occurring payments the next level authorisation is required.

6.3	Authorisation levels	Service Directors	Service Directors can authorise costs for placements up to £8000 anything above must DCS must be sighted. (This is an addition to the corporate policy)
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7. Education Skills and Development / Commissioning

	What the function/power is	Who may carry it out	Any constraints/comments
7.1	To apply for an Education Supervision Order	Head of Learning and Achievement	
7.2	To prosecute parents Under Education Act 1996 Section 436A.	Head of Learning and Achievement	
7.3	Decision to intervene in schools causing concern under the Education and Inspections Act 2006 Section 60 and in particular to issue a warning notice	Corporate Director Children and Young People; Service Director Education, Skills and Learning; Head of Learning and Achievement.	Having regard to DfE Guidance <i>Schools Causing Concern</i> where there are concerns over performance, poor management and governance or where the safety of pupils and staff are threatened.
7.4	To suspend and replace the existing Governing Body and secure a specially appointed Governing Body for a temporary period under the Education and Inspections Act 2006 Section 65	Corporate Director Children and Young People; Service Director Education, Skills and Learning; Head of Learning and Achievement.	Used where the governing body is providing insufficient challenge to the Head, proving an obstacle to progress or where relations are having an adverse impact on standards.
7.5	Where the Local Authority is satisfied that it should exercise the power to secure boarding accommodation for young people aged over 16 but under 25 who are subject to a learning difficulty	Corporate Director Children and Young People; Service Director Education, Skills and Learning; Head of Additional Needs.	

What the function/power is**Who may carry it out****Any constraints/comments**

assessment as defined in Apprenticeships, Skills, Children and Learning Act (2009) Part 2 section 46 inserts section 514A. Decision to secure as such.

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| 7.6 | The Department for Education provides statutory guidance, updated in March 2018, for local authorities (in line with the legal requirements set out in Section 48 and Schedule 14 of the School Standards and Framework Act 1998 and the Schools and Early Years Finance Regulations 2018) in relation to schemes for financing schools. | Corporate Director Children and Young People; Service Director Education, Skills and Learning; Head of Learning and Achievement. | Local Management of Schools scheme for financing schools as agreed by Legal Services and the Schools Finance Manager. |
| 7.7 | The calculation of any direct payments and any uplift to ensure that a reasonable amount is available to purchase the eligible service is to be agreed on a case by case basis in accordance with the direct payments policy of the Council. | Corporate Director Children and Young People; Service Director Education, Skills and Learning; Head of Learning and Achievement. Service Manager Additional Needs. | Any direct payments made will be in accordance with the current direct payments policy and the assessed need and be allocated in line with the financial procedure rules of the Council. |

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