

## Children subject to a Care Order – Change of Name

### Introduction

Children aged 16 years or over (with mental capacity) are generally free to apply in their own right to change their name.

However, if a child is subject to a care order **the relevant age is 18**. Changing the surname of any child under 18 who is subject to a care order requires the written consent of everyone with Parental Responsibility.

A child who is accommodated under section 20 (Children Act 1989) can apply to change their name at 16 if they are deemed to have capacity and there are no private law orders in place.

**The following guidance applies to children subject to a care order and therefore the relevant age is 18**

### 1. Changing a Name with the Agreement of those with Parental Responsibility

The social worker should contact the child's parents/carers to seek their written consent to the child's change of name. Even if the Father does not have parental responsibility and his consent is not strictly required, it may still be appropriate that he is consulted, and his views obtained (unless to do so would be harmful or pose a risk to the child).

When all the necessary consents have been obtained please see section 3 for information on the different legal methods of obtaining a change of name.

### 2. Changing a Name without the Agreement of those with Parental Responsibility

If the child is subject to a Care Order and consent from all those with parental responsibility is not forthcoming, an application to change the child's surname can be made under Section 33(7) Children Act 1989.

Applying for a court order should be a last resort, and the court will expect parties to have tried to reach an agreement before making an application.

**In deciding whether to agree to a change of surname, the court's paramount consideration will be the welfare of the child.**

### Change of surname

- The application and supporting statement to the court must clearly set out a rationale to justify a change of surname, namely that it is felt to be in the child's best interests.
- The court will take the child's views into account

### Change of first name

- If a child is subject to a care order, and wants to be known by another first name, then no court order is needed, as the Local Authority can make the decision to change a child's first name by exercising their power to determine the extent to which the parents/guardians may exercise their parental responsibility under Section 33(3)b) Children Act 1989, provided they are satisfied it is necessary to do so in order to safeguard or promote the child's welfare.

Once an order is obtained, please see section 3 for information on the different legal methods of obtaining a change of name

### **3. There are two options available to achieve a change of surname.:**

#### **Statutory declaration**

- A statutory declaration is essentially a formal statement of intention to change a child's surname.
- All those who hold parental responsibility for the child must give their consent to the child's change of surname.
- Most organisations will accept a statutory declaration as formal evidence of a name change and should amend their records to reflect the child's new name. **There are some occasions where a statutory declaration is not sufficient to change details; for official documents like a passport or driving licence a deed poll is required** (see below).
- The Statutory Declaration must be completed by a parent or legal guardian or by a professional on behalf of the Local Authority.

- Once the Statutory Declaration document has been completed, it must then be signed in the presence of one of the individuals listed below. The document will be stamped as confirmation that it was sworn under oath.
  - a Solicitor
  - a Justice of the Peace (a magistrate)
  - a Commissioner for Oaths
- There is a charge attached to the document being sworn and authorised, it is
  - £5.00 for each statutory declaration (set by statute)
  - £2.00 for each exhibit to a statutory declaration (set by statute)
- The charge does not cover assistance with completing the document or advice.

### **Deed poll**

- A deed poll is a legal document that evidences a change of surname.
- All those who hold parental responsibility for the child must give their consent to the child's change of surname.
- A deed poll can be either unenrolled or enrolled - for the purposes of this guidance and for children who are subject to a care order, an enrolled deed poll is required.
- An enrolled deed poll is required for official documents such as a passport or driving licence.

### **Apply for an 'enrolled' deed poll**

- 'Enrolling' a deed poll means placing the child's new surname on public record.
- You must apply to the Royal Courts of Justice to [Change your name by deed poll: Change a child's name - GOV.UK \(www.gov.uk\)](https://www.gov.uk/change-your-name-by-deed-poll) using the deed poll process.
- There is a charge attached to enrolling a deed poll which is £42.44.