

ROYAL GREENWICH CHILDREN'S SERVICES

Delegation of Authority to foster carers and residential workers caring for our looked after children

1. Introduction

1.1 As corporate parents entrusted with the care of children, we want the best for them. This document outlines our commitment to enabling their carers to make the everyday decisions that all children need in supporting the best arrangements possible for looking after them. Ensuring that carers are supported to make day-to-day decisions helps the children in their care to have confidence in these relationships and supports the development of trusting and secure attachments to their carers; and promotes placement stability and good outcomes for children in the care of the Royal Borough of Greenwich.

1.2 Our key principle is that authority for day-to-day decision making should be delegated to foster carers and residential workers unless there is a good reason not to.(1) It is important that our looked after children have the right care and opportunities, and there is minimal delay in sorting out who can make particular decisions. Failure to delegate appropriately, or to make clear who has the authority to decide what, can make it more difficult for foster carers and residential workers to carry out their caring role and form appropriate relationships with the children in their care.

1.3 We recognise that our looked after children have parents or other people in their lives who hold parental responsibility, so we will work with them to make sure that there is clarity for the child or young person about who has the authority to take what decision that affects them.

1.4 Every looked after child must have a Placement Plan which sets out the plan for their day-to-day care and how decisions about them will be made. The Placement Plan specifies which decisions can be made by their foster carer or residential worker and, where decision making is not delegated to the foster carer or residential worker, the reasons will be explained. Children's Placement Plans, and the authority delegated through them, are informed by the principles set out here and the longer term planning for a permanent home for a child (eg. through Care Plans and Permanence Plans).

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2. Principles

- Authority for day-to-day decision making about a looked after child should be delegated to the child's carer, unless there is a good 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 child's views. Consideration should be given as to whether a child is of sufficient age and understanding to take some decisions themselves (see Section 4).
- Decisions must be made within the context of planning for a permanent home for the child.
- Decisions must be made within the context of the legal framework for parental responsibility in the Children Act 1989. (2)

3. Types of decision

Decisions about the care of a looked after child are likely to fall into three broad areas:

- Day-to-day parenting, e.g. routine decisions about health/hygiene, education, leisure activities;
- Routine but longer term decisions, e.g. school choice;
- Significant events, e.g. surgery.

3.1 Day-to-day parenting, e.g. routine decisions about health/hygiene, education, leisure activities;

All decisions should be delegated to the child's carer (and/or the child if they can take any of these decisions themselves). Where day-to-day parenting decisions are not delegated to the carers, the exceptions and reasons for them should be set out in the child's Placement Plan.

Decisions about activities where risk assessments have been routinely carried out by those organising / supervising the activity, e.g. school trips or activity breaks, should be delegated to the child's carer. There is no expectation that local authorities should duplicate risk assessments.

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The expectation must be that the assessment and approval of our foster carers, their training and previous experiences of, for example, caring for their own children, will equip them with the skills and competence to undertake the day-to-day caring task, including taking day-to-day decisions about their foster child's care.

3.2 Routine but longer term decisions, e.g. school choice;

The second category of decisions will require skilled partnership work to involve the relevant people. The child's permanence plan will be an important factor in determining who should be involved in the decision. For example, if the plan is for the child to return home, their parents should be involved in a decision about the type of school the child should attend and its location, because ultimately the child will be living with them. Where the plan is for long term foster care, or care in a residential unit until age 18, then while the child's parents must be involved (unless there is a care order and the Local Authority has decided not to involve them), where possible the school choice should fit with the foster carer's family life as well as be appropriate for the child.

3.3 Significant events, e.g. surgery.

Where the child is voluntarily accommodated the child's birth parents or others with PR should make these decisions. Where the child is under a care order or emergency protection order, decisions may be made by the birth parents or others with PR, which includes the Local Authority, depending on the decision and the circumstances. Such decisions should, however, always take account of the wishes and feelings of the child and their carer.

4. Deciding whether a child has sufficient understanding to make a decision

4.1 Any decision about delegation of authority must consider the views of the child. In some cases a child will be of sufficient age and understanding to make decisions themselves.

4.2 When deciding whether a particular child, on a particular occasion, has sufficient understanding to make a decision, the following questions should be considered:

- Can the child understand the question being asked of them?

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- Do they appreciate the options open to them?
- Can they weigh up the pros and cons of each option?
- Can they express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do?
- Can they be reasonably consistent in their view on the matter, or are they constantly changing their mind?

4.3 Regardless of a child's competence, some decisions cannot be made until a child reaches a certain age, for example, tattoos are not permitted for a person under age 18 and certain piercings are not permitted until the child reaches age 16.

4.4 There are some decisions where the law prevents authority being delegated to a person without PR. These include applying for a passport (a child aged 16 or over who has the mental capacity to do so can apply for their own passport). Where there is a care order, the child cannot be removed from the UK for more than a month without written consent of everyone with PR or the leave of the Court (where the child is voluntarily accommodated the necessary consents must be obtained as for a child outside the care system). The Local Authority cannot decide that a child should be known by a different surname or be brought up in a religion other than the one they would have been brought up in had they not become looked after.

5. The Placement Plan

5.1 Everyone has a responsibility to make the Placement Plan work as well as possible for the child.

5.2 The Care Planning, Placement and Case Review (England) Regulations 2010 (as amended) require that each looked after child's Placement Plan(3) must make clear who has the authority to take decisions in key areas of the child's day-to-day life, including:

- medical or dental treatment;
- education;
- leisure and home life;
- faith and religious observance;
- use of social media; and
- any other areas of decision-making considered relevant with respect to the particular child.

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5.3 The person(s) with the authority to take a particular decision or give a particular consent must be clearly named on the Placement Plan and any associated actions (e.g. a requirement for the carer to notify the Local Authority that a particular decision has been made) should be clearly set out in the Placement Plan.

5.4 Placement Plans **must** be agreed with the child's carer, and are likely to be most effective when drawn up in a Placement Plan meeting which involves everyone concerned, including the carers.

5.5 Where a decision is not delegated to the child's carer, but can be predicted in advance, the agreement of those with PR to the decision should be sought in advance and recorded in the Placement Plan, so that when the decision arises, delay can be avoided.

5.6 The appropriate distribution of decision making powers is likely to change over time, as the child matures and circumstances change. The Placement Plan forms a part of the child's overall care plan. Decisions about delegation of authority should then be considered at each review of the care plan.

5.7 The Placement Plan is reviewed at subsequent statutory reviews chaired by the Independent Reviewing Officer. The first review will need to pay particular attention to areas of consent and decision-making which were not anticipated or covered adequately in the original Placement Plan meeting. Review meetings provide opportunities to look again at how authority to give consents and take decisions is distributed between the foster carer, social worker, and parent and to decide if the balance is working and meets the child's needs. Any changes to Delegated Authority should be recorded in the Placement Plan.

5.8 Where a particular decision is not delegated to a child's carer and rests with the Local Authority, there is a clear system in place for ensuring that decisions can be made by the appropriate person in a timely way, with arrangements in place to cover sickness and annual leave. Details of these arrangements must be given to parents, carers and children (subject to age and understanding).

(1) The Care Planning, Placement and Case Review (England) Regulations 2010 (as amended by The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013) require that local authorities from 1st July 2013 publish policy setting out their approach to the **delegation of authority** to foster carers and residential workers caring for children the Local Authority is responsible for.

(2) A person with PR may not surrender or transfer any part of it to another person; however, a person who has PR may arrange for all or some of their responsibilities to be met in certain circumstances by someone else (including someone else who also has PR for the child). This is called 'delegating authority' and may be given for a particular event or arrangement (such as a medical appointment or a school trip). The law also says

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that the person who does not have PR for a child but has care of the child (eg a foster carer) may 'do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare'. This means that in an emergency, if no agreement has been made about what to do, the foster carer may do what is 'reasonable' in order to safeguard the child. Statutory guidance states that what is reasonable will depend upon the urgency of the situation and how practical it is to consult a person with PR.

(3) The required content of the Placement Plan is set out in Schedule 2 of the Care Planning, Placement and Case Review (England) Regulations 2010; relevant statutory guidance is in Chapter 2 of the Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review (both as amended).