



## Delegated Authority Policy

Foreword

### Why have a policy and what does it mean?

Many young people who live in foster care and residential care report that the delay in getting permission for some items/events can lead to embarrassment and ultimately prevent them from being able to partake in activities that their peers can.

This policy aims to reduce, wherever possible, any delay for a young person or child who becomes looked after by foster carers/residential providers and allow for decision making and signatory permission to be made on their behalf by their foster/residential provider rather than the Local Authority or their parents.

However we are mindful that for a parent, not having their child living with them, the loss of decision making can be difficult to come to terms with. We also understand that some decisions are complex and that responsibility for those items needs to be retained by parents and/or the Local Authority.

Carers may not always want to have overall decision making responsibility in all areas, equally children and young people and their parents may not want a carer to have decision making responsibility and permission in certain areas of a child's life.

This policy will set out the areas in which Delegated Authority may apply for children and young people and also the different levels and reasons for those. It will also state when the decisions about what Delegated Authority may be consented to will take place and with whom. There will also be a clear outline of whose responsibility it is to speak to each of the people involved and record their views to contribute to an overall agreement.

At the end of any discussions a document will be produced, it will clearly state to whom Delegated Authority responsibility is given and for what, this is a document that will be read, discussed and agreed by all the people involved and will be signed and retained on a child/ young persons file, with copies also given to parents and their carers.

The Welsh Government stated in their Fulfilled Lives, Supporting Communities' document that Delegated Authority for Foster Carers was important so that :-

*“Children and young people in foster care are able to enjoy the same opportunities as their peers to have a fulfilled childhood and foster carers are given enough autonomy to make everyday decisions about the children in their care”.*

The Children’s Commissioner for Wales endorsed the publication of the Welsh Government guidance quoting:

*“I welcome this process of clearly establishing what authority is to be delegated to Foster Carer’s as one that will bring clarity and enable looked after children to feel that their day to day experience is more in line with that of their friends and peers”.*

### **What is Delegated Authority?**

Parents have ‘parental responsibility’ for their children. This means they normally make the decisions about their children – what they can and can’t do. Where they go etc... when children come into foster care on a voluntary basis (S.20 Children Act 1989) the parents keep all of their parental responsibility. If the child/ren are the subject of an Interim Care Order (S.38 Children Act 1989) or a Care Order (S.31 Children Act 1989) the parental responsibility is shared with the relevant Local Authority.

Foster carers therefore have to consult with the parent, usually via the Children’s social worker, before they can make any day to day decisions for the children.

Delegated Authority means the parent or the Local Authority agree to let the carer make some of those day to day decisions on their behalf without having to consult first.

It is important to consider the implications of the Placement Plan and Delegated Authority for the role of both parents. Where both parents have parental responsibility, consultation with both should take place, where possible, if a decision or consent is to be delegated.

### **What is the difference between having Parental Responsibility and having ‘Delegated Responsibility?’**

A person with PR may not surrender or transfer the PR

A person with Delegated Authority may only do what they are authorised to do (unless it is an emergency, in which case they can do what is reasonable to keep the child safe). Whereas the person with PR can make almost, any decision about a child’s upbringing.

Any arrangement with a temporary carer is not legally binding and a person who holds PR may take back their child, and/or the authority they have delegated, at any time, unless a court order says they may not.

Any delegation does not relieve the parent, or other person delegating of any liability that may arise as a result of a failure to meet the parental responsibility.

### **Why is it important?**

- Normalising the experience of young people in care
- Reducing delay in decision-making
- More productive and thoughtful thinking about who is best placed to do what.
- Discussion and forward planning regarding agreement and consent issues
- Inclusivity and treating foster carers/residential carers as part of the team around the child.
- Clarity and transparency.
- Better use of existing processes and roles

### **What does it mean to Delegate Authority?**

A person with PR (Parental Responsibility) 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 authority to be met in certain circumstances by someone else. This is called 'delegating authority' and may be given for a particular event or arrangement (such as a medical appointment or school trip).

The law says that the person who does not have PR for a child but has care of the child (e.g. Foster Carer) may 'do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child welfare. This means that in an emergency, if no agreement has been made about what to do, the 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 with a person with PR.

Carers often find they need the authority to make certain day-to-day decisions, such as whether the child they are caring for is allowed to stay overnight with a particular friend, or whether she or he can go on a school trip. The Children Act 1989 Volume 2 Statutory Guidance on Care planning, placement and case review amendments, which came into force on 1 April 2011, requires Local Authorities to ensure that the placement plan, which sets out the arrangements for the child to live and be cared for by the foster carers, specifies any arrangements for the delegation of authority from the parents to the Local Authority. This should include any arrangements for further delegation from the Local Authority to the foster carer/residential provider. The placement plan should help the carer understand what decisions they can make. Where there are issues that a carer believes it would be in the child's best interest for them to decide, and these are not covered in the placement plan, then the carer should discuss this with the child's social worker during the statutory visit, or by contacting them directly.

### **Legislation underpinning Delegated Authority**

The following are key pieces of legislation and guidance concerning delegation of authority. This is not an exhaustive list.

The Children Act 1989

Sections 2 to 4A concern parental responsibility.  
Sections 20 to 23 concern looked-after children.  
Sections 31 to 34 concern care orders.

The Children Act 1989 Statutory Guidance Volume 2: Care Planning, Placement and Case Review (2010):

Chapter 3 concerns the placement and has sections on the placement plan and shared responsibilities and consents.

The Children Act 1989 Statutory Guidance Volume 4: Fostering Services:

Chapter 3 contains a section on foster carers' delegated authority and it also refers to Delegated Authority in sections on contact with family and friends; achieving healthy outcomes for looked-after children; and educational achievement.

The revised National Minimum Standards for Fostering Services(2011):

Standard 6 refers to delegation of decisions about health.  
Standard 7 refers to delegation of decision-making about education, leisure activities, overnight stays, holidays and personal issues such as haircuts.  
Standard 9 refers to delegation of decision-making about contact.

IRO handbook:

Statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children (2010).

**Key Principles underpinning this policy are:-**

- Effective delegation of authority should minimise delays in decision-making and maximise the child's opportunity to enjoy their childhood and a full family life.
- Decisions about delegation of authority should be based on good quality assessments of need and risk for the individual child and carer.
- Delegated Authority to foster carers/residential providers will be individually agreed for each child and young person in their care. The extent of the delegation will vary depending on: the type of placement; the legal status; the rights, entitlements and opinions of the child or young person and their parents; and the skills and competence of the foster carer/residential provider.

- Children and Young People must be able to express their views and have them heard. The best interests of the child or young person will determine all decisions.
- Parents must be supported and informed so they can play as full a part as possible in their children's lives.
- Foster carers/residential carers should be enabled and supported to take everyday decisions about the child where appropriate. In long-term placements this is even more important.
- A foster carer/residential provider's span of responsibilities should take account of their wishes and feelings about undertaking the tasks involved.

### **Good practice requires that:**

- Sharing information about day-to-day care and routines is essential but not enough in itself. Foster carers/residential providers cannot care safely and make decisions without good quality information about the history of the child and the family. Social workers must ensure that foster carers/residential carers receive this.
- A foster carer/residential carer's delegated authority to take decisions is discussed and agreed with the carer and the child or young person's parents at the start of the placement as part of the placement planning and/or review process dependent on timescales and circumstances.
- Where there are positive working relationships with the birth family, routinely securing parental consent is to be encouraged.
- The wishes and feelings of the foster carer/residential provider should also be considered and recorded.
- Parents should be given all the information they need to reach a decision about delegation of authority (see *Appendix 2: Information for Parents*); 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.
- Delegations of authority have to be agreed by those with parental responsibility. A foster carer/residential carer never has parental responsibility for the child they look after; they can make decisions only by acting on behalf of the local authority and parent. Parental responsibility cannot be transferred
- 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's circumstances, or in the parent's willingness to delegate authority, or the foster carer/residential provider's skills and confidence to take on authority, can be reflected in that plan.

### **Good quality assessments**

Decisions regarding the level of Delegated Authority should be based on good quality assessments of need and risk for the individual child and foster carer/residential provider. The balance and distribution of responsibilities should support the key relationship between the young person and the foster/residential provider carer in long-term and permanent placements.

### **Being Specific**

The Delegated Authority agreement should be explicit about the distribution of tasks, consents and responsibilities between parents, social workers and foster carers/residential provider. It should include as much detail in this respect as possible, including the name of the lead person with respect to each consent/decision/task and their role.

Where authority is delegated and there are two foster carers in a household, the Delegated Authority agreement should address the joint nature of their responsibilities.

### **Thinking ahead**

It is particularly important for everyone to try to anticipate consents and agreements that may be needed in the weeks or months ahead. The age and interests of the young person, and the lifestyle and recreational holiday plans of the foster carers, should all be considered in an effort to predict what decisions are likely to arise. What is likely to come up? What will be needed?

Foster carers/residential providers should take responsibility for informing social workers where they foresee a matter arising that may require a decision about delegation of authority. This will help avoid problems further down the line.

Even when a specific decision has to be taken by a manager within the children's service, it may be possible to authorise the foster carer/residential provider to sign the relevant documentation.

### **A 'living document'**

The Delegated Authority document that has been drawn up following consultation is agreed at the first LAC review and reviewed at subsequent statutory reviews chaired by the independent reviewing officer.

Review meetings provide opportunities to look again at how authority to give consents and take decisions is distributed between the social worker, parent and foster carer/residential provider 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 and the review and signed consents obtained to those changes.

### **Keeping parents involved and informed**



As the placement continues, it is important that social workers continue to maintain a close working relationship with parents (wherever possible) by ensuring that parents receive regular information about the everyday care of their child in a way that feels right for them.

The exclusion felt by many parents, and their own confusion about 'how it all works', can contribute to a need to hold on tightly to the few pieces of control that they feel they possess – for example, decisions about haircuts and holidays.

### **Resolving differing opinions**

The child's social worker, the foster carer/residential provider and the supervising social worker are the key professionals working with the child. The status and functioning of this 'core team' relationship and its role in problem solving and conflict resolution is key to the successful support of each placement. It is so important that it requires attention in its own right. Time is short, but good

communication between these professionals is essential outside the formal reviews, particularly if there are tensions or problems.

### **Withdrawal of Delegated Authority**

There should be a clear process by which delegated authority can be withdrawn if concerns arise about the foster carer's/residential provider's capacity to discharge these functions. Any decision to withdraw delegated authority should be considered under the care planning review process and in the case of foster carers a formal review of the carers continuing registration should be initiated.

### **Different Peoples role within Delegated Authority**

#### **Local Authorities Role**

Local authorities should ensure that every day decisions about the care of children and young people are delegated to the foster carer/residential provider unless there are clear reasons why this would interfere with the Local Authority's statutory duty to 'safeguard and promote' the welfare of looked after children, or there are well-founded and legally binding objections from the child or young person's parents.

#### **Foster/Residential Carers Role**

Foster carers/residential providers will be responsible for keeping the child or young person's social worker informed about decisions taken under Delegated Authority; this can be done during routine visits unless there is need for immediate consultation. This should be covered in the foster care agreement/ placement plan.

#### **Parents Role**

Parents need to be able to support and promote their child/ren's wellbeing whilst they are looked after, by agreeing to Delegated Authority consent to the child/ren's foster/residential carers following careful discussions and understanding of what they are agreeing to.

Parents should not feel afraid to ask or challenge areas that they do not agree with; parents should be wholly involved in the discussions about Delegated Authority and requesting a full explanation as to what it will mean for them and their child/ren.

### **How will Delegated Authority be carried out?**

When a child is placed it can be an upsetting and distressing period for all involved. Therefore BCBC are intending to have the discussion about and implement Delegated Authority at the point of the first Looked After Childrens (LAC) review.

Each child becoming Looked After or changing placements must have a LAC review within one month; therefore this should give reasonable time for each decision maker or person involved to have an input into drawing up a bespoke Delegated Authority Agreement for any child or young person.

The Fostering Supervising Social worker will undertake discussions with the foster carers about which aspects of Delegated Authority they feel they are able to consent to and which areas in terms of the child/young person that they are currently looking after would best meet their needs to lead as 'normal' a life as possible.

The Safeguarding Social worker will undertake discussions regarding Delegated Authority with the parent/s clearly outlining what they are agreeing to (or not – and why) and can put those areas onto the Delegated Consent form in preparation for the LAC review.

The Safeguarding social worker will (age appropriately) discuss with the child/young person what areas of Delegated Authority they would like to see in place whilst they are looked after.

The Safeguarding social worker will discuss with the residential provider which aspects of Delegated Authority they will undertake.

The proposed Delegated Authority form with all views included should be looked at and agreed by a safeguarding manager and recorded in supervision prior to being presented to the LAC review /IRO.

At the initial LAC review the delegated consent form will be discussed and the discussion points recorded, this should lead to an agreed Delegated Authority consent form being available at the end of the LAC review that all parties are signed up to and clear about.



## Important Questions

### Who has legal responsibility for decision made by a person with Delegated Authority?

- Where authority has been delegated, the person who has PR still remains liable in law for any failure to meet any part of his parental responsibility.
- A person to whom authority has been delegated may also be liable in law if the decision they made was negligent or criminal.

### How does a foster carer/ residential provider know if the person delegating authority is able to make that decision?

- If the local authority has an Emergency Protection Order or Care Order, the foster/residential provider may assume that any officer of the local authority has the authority to delegate responsibility. However, if the local authority does not have such an order, it is the parent or someone else with PR who has to agree to delegate any authority to the foster carer/residential provider.
- A written record should be kept by the Foster Carer/residential provider of all decisions to delegate authority.

### What happens if the young person is 16?

There are some things that a young person who is 16 or over, or under 16 but mature, can consent to in their own right, for example:

- A young person aged 16 (or a young person under that age who is considered by medical staff to have sufficient understanding of the implications of treatment) can consent to their own medical treatment.
- From the age of 16 a young person can consent to their own care plan when they are looked after by the local authority and there is no court order in place.

### **Areas where foster carers cannot legally give consent**

#### Passport:

Young people can apply for their own passport at age sixteen. Prior to this the local authority would have to apply

#### National Insurance Number:

Local authorities should ensure that all looked after young people receive their national insurance number without delay and that the information is given to both the young person and the foster carer/residential provider. Useful information can be found on the website below.

[www.hmrc.gov.uk/manuals/nimmanual/nim39310.htm](http://www.hmrc.gov.uk/manuals/nimmanual/nim39310.htm)

### Welsh Government Delegated Authority Summary

The following table summarises the areas of delegated authority which should be considered for each child or young person in foster/residential care. The overriding principles are that:

- All decisions must be made in line with the Care Planning process.
- In the case of an emergency or where an unexpected opportunity arises the foster carer/residential provider should act as a reasonable, prudent parent.

<b>Foster carers/residential providers should generally hold delegated authority for:</b>	<b>In particular circumstances and following discussion they may hold delegated authority for:</b>	<b>Local Authorities will generally be responsible for:</b>
Routine medical visits to GP subject to the Gillick Principle (I think this needs to change but can't think of the correct title )	Immunisations	Passports
Overnight stays	Body piercings	Decisions regarding contact
Holidays within the UK	Non Routine medical treatment including general anaesthetic subject to the Gillick Principle	Alcohol use
Organised Activities	Holidays/trips abroad	
Haircuts	Change of school	National Insurance Number
Visiting friends	Wider media activity (Dependent on individual circumstances)	Use of contraception (dependent on capacity of young person)
School medical	Church and religious ceremonies	

Optician	Participating in hazardous activities	
Dentist		
School day trips*		
Meeting with school staff		
Sports clubs/organisations		
School photographs*		
Sex education		
Mobile telephones		
Consent to educational initiatives		
* Responsibility for these areas should be delegated as soon as possible after placement		

**Children Looked After**

LOCAL AUTHORITY TO DELEGATE CONSENT

Name of Child/ Young Person: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Information System Number: \_\_\_\_\_

Legal Status: \_\_\_\_\_

Placement Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Current Carer: \_\_\_\_\_

I (parent or local authority Representative with parental responsibility) authorise: \_\_\_\_\_

Who is (status of Person): \_\_\_\_\_

To give consent for: \_\_\_\_\_  
 (name of child/ young person)  
 in the following areas:

Overnight stays (Up to 3 consecutive nights)	Yes	No
Organised Activities	Yes	No

School day trips	Yes	No
Longer school trips in UK	Yes	No
Longer trips abroad with school	Yes	No
Using computers in school	Yes	No
Change of school	Yes	No
School photographs	Yes	No
School doctor	Yes	No
Permission for school to give Paracetamol, etc	Yes	No
Meeting with school staff	Yes	No
Medical consents (as discussed)	Yes	No
Optician appointments/tests/glasses	Yes	No
Sports or social clubs/organisations	Yes	No
Joining religious organisations	Yes	No
Participating in hazardous activities, e.g. rock climbing, Skiing	Yes	No
Haircuts	Yes	No
Body piercings	Yes	No
Photographs for publicity	Yes	No
Other, please specify	Yes	No
Agreed by parent:	Yes	No

Parents' Signature & Date: \_\_\_\_\_

Foster Carers'/Residential Provider Signature & Date: \_\_\_\_\_

Child/ Young Person's Social Worker Signature & Date: \_\_\_\_\_

Recommended by IRO  
Signature: \_\_\_\_\_

Date of LAC Review Meeting: \_\_\_\_\_

Authorised by Manager  
Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Copies sent to:**

School	Yes	No	
GP	Yes	No	
Parent	Yes	No	
Foster Carer/Residential Provider		Yes	No
Supervising Social Worker	Yes	No	
Child/Young Person	Yes	No	
Other, (please specify):	_____		