Delegated Authority Policy

Foster Carer Policies and Procedures · https://handbook.co.uk/docs/delegated-authority-policy/

Legislation

The Children Act 1989

• Sections 2 to 4A – Parental Responsibility

• Sections 20 to 23 – Children Who Are Looked After

• Sections 31 to 34 – Care Orders

The Children Act 1989 Statutory Guidance Volume 2: Care Planning, Placement and Case Review (2015)

• Chapter 3 – The placement, placement plan, and shared responsibilities and consents.

• Regulation 9 and Schedule 2 – The Placement Plan

The Children Act 1989 Statutory Guidance Volume 4: Fostering Services (2013)

• Chapter 3 – Covers foster carers' delegated authority, including decision-making about contact with family and friends, supporting healthy outcomes for children who are looked after, and promoting educational achievement.

The National Minimum Standards for Fostering Services (2011)

• Standard 6 – Delegation of decisions about health.

• Standard 7 – Delegation of decision-making about education, leisure activities, overnight stays, holidays, and personal matters such as haircuts.

• Standard 9 – Delegation of decision-making about contact.

Independent Reviewing Officers Handbook 2010

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

Convention on the Rights of the Child 1989

The United Nations Convention on the Rights of the Child (UNCRC) is an international human-rights treaty that recognises and protects children's human rights.

Background

The statutory framework for fostering and care planning, together with the Foster Carers' Charter, recognises how important it is for foster carers to make a wider range of everyday decisions for the children they support, so that home life feels as typical and comfortable as possible.

The Government has confirmed that, within the child's care plan and while honouring parents' wishes and feelings, foster carers should have as much appropriate flexibility as possible to make decisions for the children they care for. Delegated authority must be recorded in the Placement Plan, which is now part of the Care Plan. Therefore, the shared responsibilities of parents, social workers and foster carers must be discussed during the initial placement-planning process and at every subsequent review.

In 2011 the Fostering Regulations were updated, placing a clear expectation on all local authorities to delegate certain responsibilities to foster carers—such as authorising some important everyday decisions for the children they support. Only the local authority, after consulting everyone who holds parental responsibility, can agree to delegate any day-to-day decision-making. The goal is that, when professionals—supervising social workers, local authority social workers, foster carers and parents—think carefully together and communicate openly and honestly, delegated authority helps children enjoy a more typical childhood.

Why thoughtful and planned delegation of authority is important

Children can become confused about who is responsible for everyday decisions made for them. They may feel embarrassed or singled out when adults cannot make prompt decisions, which can highlight differences between them and their friends. When professionals are unsure who holds authority, children may miss out on ordinary activities and trips.

Foster carers can also be unsure about who is able to do or approve certain things. Their confidence may be affected when delegated authority is not clearly explained or discussed with them, even when they do hold that authority. They may discover that their supervising social worker or the child's social worker is likewise unclear about who can give agreement.

Parents and others with parental responsibility need to feel involved and valued in their children's day-to-day lives, and to know they are not excluded from guiding their children. This involvement is particularly important when the placements of children and young people are extended or become long-term.

The Purpose of Delegated Authority

Delegated authority is chiefly about making life in foster care feel as typical as possible for children. It reduces delays in decision-making by decreasing the time required to think through who is best placed to act.

Delegated authority permits the local authority to pass on decision-making; it does not permit the agency or any other organisation to delegate decisions directly to a foster carer.

Delegated authority is never a blanket approach. It is not about foster carers ‘going it alone’ or excluding parents or social workers. It is also not about reducing careful risk assessment or leaving foster carers unsupported if difficulties arise.

Principles

Carefully considering how we delegate authority helps reduce delays in decision-making and gives each child the best chance to enjoy their childhood, while always keeping their safety paramount.

The agency believes that any decision about delegating authority must rely on robust, person-centred assessments of need and risk for both the child and the Foster Carer. Applicants should always be assessed as confident and competent to carry out suitable risk assessments within the areas where they are authorised to decide, and this scrutiny should continue through each Foster Carer’s Annual Reviews and in their supervision with the Supervising Social Worker, once they are approved Foster Carers. The Supervising Social Worker will identify and arrange training to close any skill or knowledge gaps, so that Foster Carers can fulfil their parenting role effectively.

The agency believes Foster Carers should be empowered and supported to make everyday decisions for the child in their care when appropriate. This becomes even more important in long-term placements. The scope of the foster responsibilities should be explored from the very start of the placement at the Initial Placement Planning Meeting and then at each Child Looked After Review. These discussions must always consider the Foster Carer’s experience and confidence in carrying out the tasks involved.

Wherever possible, everyone should explore and agree in advance which decisions can be delegated before the situation arises.

The Child/Young Person's Competence to Make Decisions Themselves

The child's voice should always be heard and considered when discussing delegated authority, with respect for their age and level of understanding. The Local Authority must make sure parents are supported and informed so they can take as full a role as possible in their children's lives. Please see: Health and Children under age 16 and Gillick Competence and Fraser Competence.

Sometimes a child has enough age and understanding to make decisions on their own. For example, they may feel strongly about the often-sensitive topic of haircuts; when they have enough maturity and understanding, they may be allowed to make these choices themselves. When considering whether a specific child, on a specific occasion, has the understanding needed to decide, the following questions can guide the Foster Carer, Supervising Social Worker and the Local Authority Social Worker:

• Can the child understand the question being asked?
• Do they recognise and understand the options available to them?
• Can they balance the pros and cons of each option?
• Can they share a clear personal view, rather than repeating what someone else thinks they should do?
• Can they keep their view reasonably consistent, or do they change their mind often? Regardless of a child's competence, some decisions cannot be made until they reach a certain age; for example, tattoos are not allowed for anyone under 18, as noted above.

Delegated authority should be reviewed at every Child Looked After Review, talked through during Foster Carers' supervision, and discussed with everyone involved between reviews.

Guidance on key consents and areas of decision-making

Below are some key areas where consent or decisions are needed, along with guidance on who may be best placed to lead. The agency expects that when decisions are being delegated by the Local Authority to the Foster Carer, the Local Authority has already secured consent from those who hold Parental Responsibility and has recorded this using the Delegated Authority Decisions Template (or the Local Authority's equivalent).

• Sleep-Overs
When it is appropriate and safe, Foster Carers should make decisions about overnight stays or 'sleep-overs' as they would for their own child, acting as protective parents. Sleep-overs may take place at the child's friend's home or at the Foster Carer's relatives' or friends' home. Children usually request

sleep-overs, and these occasions can be fun for them.

The Fostering Regulations advise: ‘If unsure about the right decision, or if there is reason to think a child may face specific risk in a particular household, the Foster Carer should seek guidance from the responsible authority (i.e., the Local Authority Social Worker).’

Foster Carers should always have contact details for the household where the child will be staying. They should also connect with that household beforehand—as any caring parent would—to assess the request, confirm the arrangements, and ensure the household has the Foster Carer’s contact details.

There is no legal requirement to obtain Disclosure and Barring Service (DBS) checks on adults in a private household where a child may stay overnight as a precondition for the stay.

During sleep-overs, the Foster Carer remains fully responsible for the child’s welfare and care at all times. Responsibilities delegated to the Foster Carer by the Local Authority cannot be passed on; therefore, the Foster Carer must be available to take full responsibility for the child during a sleep-over.

The agency sees it as best practice that a sleep-over lasts no more than two consecutive nights, during which the Foster Carer must stay available and fully responsible for the child’s welfare. Although this exceeds existing guidance, the decision has been made after careful consideration of the children’s welfare and safety.

The Local Authority can, however, agree to longer sleep-overs; in such cases, the agency expects the Local Authority to give written confirmation of the extended period to both the Foster Carer and the Supervising Social Worker. It remains important to note that, even during extended sleep-overs, the Foster Carer stays responsible for the child’s care and welfare.

• Respite

If a Foster Carer needs a period of ‘respite’, whether planned or in an emergency, they should discuss this need with their Supervising Social Worker as early as possible. Positive Aspirations Group policy states that every Foster Carer must identify someone who can care for fostered children, either in their own home or in the Foster Carer’s home, if needed; this person is part of the Foster Carer’s support network and known as Enhanced Support. Adults who provide Enhanced Support for foster carers will undergo additional checks. For more information, please see the Positive Aspirations Group Respite Policy.

• Health Care of Children and Young People Looked After

From the start of each placement, Foster Carers should know exactly what their responsibilities are

for both emergency and planned medical treatment. The child's care plan will detail their health needs and how those needs will be met. The Initial Placement Agreement and Delegated Authority Decisions Template should state clearly where the Foster Carer has delegated authority to make health decisions or give consent. The Foster Carer can use the Initial Placement Agreement and the signed Delegated Authority Decisions Template as proof of their authority—for instance, if a health professional requests this. Foster Carers should also receive a medical consent card, which can be kept in a purse or wallet and summarises the agreed consents. This card should be used alongside the 'red book', which contains the health record for children aged 0–5.

Routine medicals – Whenever possible, Foster Carers should be able to sign consent for routine medicals, such as school or Child Looked After medicals. Foster Carers must always inform the child's Social Worker and their Supervising Social Worker of the outcomes.

Immunisations – Whenever possible, Foster Carers should be given delegated authority to consent to immunisations.

Non-routine medical treatment – Children should never have to wait for pain relief or emergency care because of uncertainty about who can give consent. Situations may arise where a child or young person is injured, needs emergency treatment, or requires invasive procedures—planned or unplanned—such as for a long-term condition, appendicitis, or a broken bone. It is important to decide clearly whether the Foster Carer or the Local Authority should give consent in these scenarios. This clarity helps prevent any delay in treatment.

Optician – Foster Carers should be able to give consent for routine eye and sight tests and for glasses or contact lenses.

Dentist – Wherever possible, Foster Carers should be able to consent to routine dental examinations and treatment.

Health and Young people aged 16 or 17

Young people aged 16 or 17 are presumed able to consent to their own medical treatment, as long as their consent is voluntary and they are properly informed about the procedure. If they can give valid consent, it is not legally necessary to obtain consent from someone with parental responsibility. However, it is good practice to involve the young person's family in the decision-making process—unless the young person asks otherwise—if they consent to sharing their information.

Health and Children under age 16 and Gillick Competence and Fraser Competence

Children under 16 – Gillick competence refers to a child under 16 having enough understanding to fully grasp what a proposed intervention involves, making them ‘Gillick competent’ to consent to treatment. Determining whether a child is Gillick competent can be challenging, so advice from the Local Authority Social Worker should be sought when needed. Fraser competence specifically concerns contraceptive advice. The level of understanding needed for different interventions can vary greatly. Therefore, a child under 16 may be able to consent to some interventions but not others. The child’s capacity to consent should be assessed carefully for each decision. In some cases, such as with certain mental health issues, a child’s mental state may change, meaning they appear Gillick competent for a decision at times and not at others. In these situations, the Local Authority Social Worker will need to seek legal advice and inform the Foster Carer and Supervising Social Worker of the outcome.

If the child is ‘Gillick competent’ and voluntarily consents after receiving appropriate information, that consent is valid, and no additional consent from someone with parental responsibility is required. However, it remains good practice to involve the child’s family in decision-making, if the child agrees to share their information. If concerns arise or advice is needed, the Local Authority Social Worker should be contacted as soon as possible and the issue discussed with the Foster Carer and Supervising Social Worker.

Refusal of Consent
If a young person aged 16 or 17 who can consent, or a child under 16 who is Gillick competent, refuses treatment, a court could overrule that refusal if it would probably lead to the child’s death or severe permanent injury. The Local Authority Social Worker must seek legal advice in such cases. When necessary, the courts can also overrule a refusal to consent by someone with parental responsibility.

Education for Children and Young People

• Education law treats Foster Carers as holding the same status as a parent.

School day trips – Risk assessments for school trips and outings are the responsibility of schools. Wherever possible, Foster Carers should be given delegated authority from the start of a placement to provide agreements and signatures. If this authority is not delegated, the reason must be clearly explained.

Longer school trips/trips involving more hazardous activity – Longer school trips in the UK or abroad that may need extra local-authority funding, or trips involving potentially hazardous activities, require the Foster Carer to ask the Supervising Social Worker to consult the Local Authority Social Worker. Possible contact-arrangement implications also need to be resolved. When consent is needed from the Local Authority and/or the Parents, it should be requested as early as possible so the child does not miss out.

Choosing a school – The choice of an early-years setting or school should be discussed and agreed by those who hold parental responsibility at the statutory review meeting. After agreement, Foster Carers should be able to accept the place and sign any relevant forms.

Change of school – If the Foster Carer plans to move home or wants the child to attend a different school because of distance, the proposal must be agreed at a Child Looked After Review. Once agreed, the Foster Carer should be able to accept the place and sign any relevant forms.

Meeting with school staff – The Foster Carer is usually the person who meets school staff to discuss the child's progress and share information the school needs, for example about behaviour. The Foster Carer must keep their Supervising Social Worker and Local Authority Social Worker informed about the child's progress, especially if any issues arise.

Receiving School Reports – Foster Carers must always receive a copy of each child's school report and should sign any return slips acknowledging receipt. They must pass a copy of the report to the Local Authority Social Worker and Supervising Social Worker. School reports should be discussed in Foster Carers' supervision sessions, at the child's review and during Personal Education Plan (PEP) meetings.

Attending PEP's – Foster Carers should always be responsible for attending all PEP meetings.

Accessing educational and leisure activities – Children should have the same opportunities as any child to take part in extra-curricular educational initiatives. Wherever possible, Foster Carers should be delegated authority from the start of a placement to provide agreements and signatures.

Sports activities/organisations – Foster Carers should normally be able to give consent for children to take part in extra-curricular sports and activities such as scouts or guides.

Leisure and Everyday Life in the Foster Home

Visiting friends – Unless there is a clear reason not to delegate authority, the Foster Carer should be authorised to act as a protective parent when deciding about visits to friends.

Holidays in the UK – The agency expects Foster Carers to include every child in their care in family holidays. Most holidays will need discussion with the Local Authority and Supervising Social Worker (for example at the IPA or Child Looked After Reviews) for funding or contact-arrangement reasons. The Local Authority and Parents must know the child's location, so Foster Carers should give them and the agency sufficient notice of plans to take a child on holiday in the UK (see Leisure Activities Policy).

Holidays abroad – The agency expects Foster Carers to take the child on any planned family holiday abroad. The Local Authority Social Worker should discuss holidays abroad 'in principle' with Parents when the child becomes looked after. From the outset, there should be clarity about consents, passports and arrangements that allow short-notice travel, so Foster Carers can make use of a discounted offer or arrange a trip for personal reasons. These consents and passports are also relevant for school trips abroad. Foster Carers must give the Local Authority and the agency enough notice of plans to take the child outside the UK.

A fostered child cannot be taken abroad without written consent from someone who holds parental responsibility. Foster Carers should give their Supervising Social Worker plenty of notice so the required written consent can be obtained.

Haircuts – Hair care and style can have cultural or religious significance and may need sensitive handling. Whenever possible, decisions about the timing and arrangements for haircuts should be delegated to the people the child lives with, but the Local Authority must explore the issues with Parents at the outset. Arrangements should be agreed at the placement-planning meeting. See also The Child/Young Person's Competence to Make Decisions Themselves.

Contact – Contact arrangements should be set up and formalised in the Placement Plan and Initial Placement Agreement. Any changes should be agreed at the Child Looked After Review. In well-established placements, Foster Carers may make some contact decisions if the boundaries are clearly agreed in advance.

Photographs – Foster Carers must never take photographs of fostered children in the bath or while undressed at any age. Otherwise, there should be no restrictions on Foster Carers taking family pictures of the child or the child with friends, and no extra consent should be needed. Photographs

help children make sense of their history, so Foster Carers should keep a notated photo album or folder with each child.

Foster Carers should be able to give consent for formal school photographs and should encourage children to have school and group photographs taken as part of their life story.

Decisions about other photographs, media or social-media activity can be more complex, as confidentiality and safeguarding considerations may apply. Foster Carers should consult their Supervising Social Worker and the child's Social Worker. The age and competence of the young person to make informed media decisions must be considered, and young people over 16 should normally take the lead.

Other types of photographs and media activity – Many children enjoy activities that may lead to media publicity, or they may wish to take part in paid or voluntary roles that attract media attention and improve foster care. While this involvement should usually be encouraged and celebrated, decisions about consent must consider any known risks to the child's safety. Children and Foster Carers often feel restricted by blanket policies, so these decisions must be specific and discussed with the child's Social Worker.

Any restriction on a child's photograph or name appearing in the media must be based on clear reasons and specified in the Placement Plan, Initial Placement Agreement and delegated-authority documentation.

Participating in hazardous activities – Early discussion about these scenarios can prevent distress and disappointment. Opinions differ on what counts as 'hazardous' or 'risky', so collaboration is essential. Foster Carers must follow local-authority policies on any restricted activities and ensure necessary insurance is in place. If they are authorised to make decisions for activities that can cause injury—such as skating, riding, sailing, wall climbing or karting—the Foster Carer must ensure the child has the correct safety equipment, suitable preparation and, where needed, supervision by a recognised instructor or organisation. Any unusual requests should be discussed at a review meeting, and delegated authority decisions agreed.

Sex Education – Children are entitled to receive sex-and-relationships education at school, unless Parents choose to withdraw them from these lessons. A child's participation in the school's sex-and-relationships programme must be discussed at the placement-planning meeting, and Parents' wishes recorded. This discussion is especially important if a Parent asks for their child to be withdrawn. In

such cases, where the Local Authority also holds parental responsibility, it must weigh the Parent's wishes against the child's needs, rights and expressed views before reaching a decision.

If it is agreed in advance that the child will attend, the Foster Carer should be able to give consent on school forms, but may not withdraw the child from sex-and-relationships education. Sometimes questions about sex and relationships arise at home; unless Parents have stated particular wishes about what their child should be told, Foster Carers should respond as any caring parent would, offering open, non-judgemental discussion and guidance.

Mobile telephones – This topic can be a source of disagreement. As a general principle, in long-term placements Foster Carers should make decisions about a child's possession and use of a mobile phone. Any restrictions need to be set at placement or reviewed later. Foster Carers, Supervising Social Workers and the Local Authority Social Worker should also consider the risks linked to 'smart' phones, including unsupervised internet and social-media access.

Disability Living Allowance – When a claim for Disability Living Allowance (DLA) is made, the appointee who receives and manages the allowance on the child's behalf is usually the Foster Carer. No agreement is required from Parents or the Local Authority. The appointee must use the DLA to support the child; while saving the entire amount is not its purpose, unused funds may be saved for future needs. The agency does not monitor DLA use, but may reasonably ask how the money is spent, so Foster Carers should keep clear records.

Body piercings – Because piercing is currently popular, it should be discussed by the Local Authority Social Worker, Parents and Foster Carers before a request arises. In long-term placements with older children, the Foster Carer's judgement will usually guide the decision: they must weigh the pros and cons, acting confidently even when their decision differs from the child's wishes. Any child requesting a piercing should understand the health and appearance implications. Situations may arise where the Local Authority Social Worker, Foster Carer or Parents disagree but must accept that the child is old enough to decide.

There is no legal age of consent for most body piercings, so a person under 18 can give consent. However, a child under 16 cannot legally consent to a genital piercing (or nipple piercing for girls), as this is considered indecent assault. No age-consent plans exist for other piercings, though some local authorities make recommendations for specific ages, and individual piercing studios often set their own age limits or ask for Parent or guardian consent.

Sunbeds – Guidance on sunbed use is limited, yet due to health risks the agency considers it best practice not to allow any child to use a sunbed. If a child requests to do so, the matter must be discussed with the Local Authority Social Worker, and specific permission would be required.

Agency Procedure

All arrangements for Delegated Authority must be discussed, agreed where possible, and written into the agency's Delegated Authority Decisions Template at the initial placement-planning meeting. If agreements cannot be completed at that meeting, all decisions must be confirmed and signed off at the child's first Child Looked After Review.

Once finished, the form must be signed by the Local Authority Social Worker, the child and every person with Parental Responsibility, then countersigned by the Foster Carer and their Supervising Social Worker. The signed document should be stored in the Foster Carer's agency file.

Some Local Authorities have their own Delegated Authority forms. In those cases, the Local Authority form takes precedence. The agency does not wish to duplicate work, but the Local Authority form must be checked against the agency form to ensure nothing is missed.

Delegated Authority is never a one-off decision; it should be reviewed at every Child Looked After Review, discussed during Foster Carer supervisions and talked through with all relevant parties between reviews.

Frequently Asked Questions

• What is the difference between having Parental Responsibility and having delegated authority? Parental Responsibility always stays with the parent(s) unless an adoption order transfers it to the adopters. When a child is subject to an emergency, interim, or full care order, the Local Authority shares Parental Responsibility with the parent(s). Someone who holds delegated authority may act only within the permissions they have been given (unless there is an emergency, when they must do whatever is reasonable to keep the child safe), whereas a person who holds Parental Responsibility can make almost any decision about a child's upbringing.

A Foster Carer never has, and must never assume, Parental Responsibility. Delegated authority does not grant Parental Responsibility to the Foster Carer.

• Who takes legal responsibility for decisions made by a person with delegated authority?
When a child is on an Emergency Protection Order (EPO) or an Interim or Full Care Order, Parental Responsibility is shared by the Local Authority and the parent(s). Even when authority is delegated, the person who has Parental Responsibility remains legally accountable for fulfilling it. A person with delegated authority may also be legally responsible if their decision is negligent or criminal.

• How does a Foster Carer know if the person delegating authority is able to make that decision?
If the Local Authority holds an EPO, Interim Care Order, or Full Care Order, it can delegate responsibility in consultation with the parent(s). If the child is accommodated under section 20 of the Children Act 1989 and no such order exists, only the parent—or another person with Parental Responsibility—can give permission to delegate authority to the Foster Carer. It is therefore vital to know the child's legal status before considering delegation.

• What happens if the Foster Carer disagrees with what the Local Authority is proposing?
The 'Delegated Authority Decisions' Template is designed to support thorough discussion, shared understanding and agreement about every delegated decision; it should never be a mere tick-box exercise. Delegations should always be agreed in principle, and no Foster Carer should act in areas they do not fully understand.

If a Foster Carer is unsure about any decision, they should talk it through and agree a way forward with their Supervising Social Worker and the Local Authority Social Worker.

Areas where Foster Carers cannot legally give consent

Religion, Faith and Belief – A child in local-authority care cannot be brought up in a faith (or lack of faith) different from the one in which they would otherwise have been raised. Foster Carers must not actively try to persuade a child to change their religion or level of observance.

If a fostered child wishes to change faith—even if they are over 16—the Foster Carer should seek guidance from their Supervising Social Worker on how to respond. A Child Looked After Review must consider the long-term implications for the child or young person who wants to leave the faith or beliefs of their birth family.

Taking the child abroad – Even with a passport, a fostered child cannot travel outside the UK without written consent from a person who holds Parental Responsibility. Foster Carers should give their Supervising Social Worker plenty of notice so that the necessary consent can be arranged.

Passports – Young people can apply for an adult passport at age 16. Passport applications for younger children can be signed only by someone with Parental Responsibility—a parent or, if a Full Care Order is in place, an authorised officer of the Local Authority. Foster Carers can still help prepare the application or collect a passport (with a consent letter from the signatory) from a regional passport office.

Passports often cause delays when Foster Carers wish to take a child on holiday at short notice or soon after a placement starts. The placement-planning meeting or first review must therefore consider passport arrangements as early as possible.