



London Borough
of Hounslow

Policy for delegating authority to foster carers

September 2013



Purpose and scope of policy

1.1 Introduction

Decision-making around the care of looked after children can be an area of conflict between foster carers, social workers and parents and this can sometimes impact adversely on the quality of care given and the child's experience of being looked after.

It is important that at the start of every placement, everyone involved is clear about what authority to make decisions has been delegated to the foster carer and those decisions that have been retained by either children's services or parents.

This policy has been written to ensure that Hounslow's Fostering Service can comply with the statutory duty to ensure that decisions about the care of looked after children are appropriately delegated to foster carers and that there is a clear understanding of when consent needs to be obtained in relation to the child's care and from whom.

The policy explores the issues that can arise out of decision-making and sets out how these can be resolved through placement planning processes in a manner that promotes a high standard of care for LAC and good working relationships between foster carers, parents and social workers.

1.2 Issues around decision-making for LAC

Failure to adequately address the issues arising from who makes what decisions about the care of LAC can lead to disruption of placements and an inability of carers to forge good relationships with and care adequately for children.

- Children in foster care are often marked out as different from their peers because decision-making for their care is more complicated, with carers often having to seek permission from social workers for ordinary activities like school trips. On occasion, this can lead to children missing out on activities because permission cannot be sought in time.
- Because of the split in decision-making between parents, foster carers and social workers it is not always clear who is responsible for what decision. This can lead to conflict between the parties and is likely to have a negative effect on the care of the child.
- Foster carers may feel that either they are being left to cope alone or that they are excessively restrained by the need to constantly seek permission to carry out basic caring responsibilities.
- Parents may feel that they are being locked out of decision-making and may be unclear about who is taking decisions about the child's care. This may lead them to refuse to delegate authority and thus undermine the placement.

- Social workers often have different styles of working, with some delegating more authority than others and this can lead to inconsistencies of practice, especially where there is a change of social worker.

1.3 How this policy will improve decision-making

- Delegated authority will be fully discussed, agreed and recorded at the start of every placement and foster carers, parents and children (where appropriate) will have an opportunity to contribute to this process.
- Where possible, the most appropriate person will be authorised to make decisions about the child's care, reflecting the child's permanence plan, the role of that person in the child's life and the importance of the decision, with all parties fully aware of what decisions each person can make.
- A robust framework of delegated authority will be in place for each looked after child that clearly states what decisions foster carers are able to take themselves and those for which further instructions must be sought from the social worker.

This is to:

- Safeguard and promote the welfare of the child
- Enable foster carers to provide high quality care for the child
- Reflect the wishes and feelings of parents where this is consistent with the child's welfare and recognise their continued role in the child's life
- Facilitate the implementation of the child's care plan
- Enhance the relationship between the child and the foster carer
- Promote good working relationships between foster carers, Fostering Supervising Social Worker and parents
- Speed up decision-making processes so that the child can have a normal family life whilst in foster care.
- Decision-making for looked after children will be a consistent practice that balances the need for continued parental involvement, children's services oversight of placements and flexibility for the foster carer to provide care for the child.
- Decisions on delegation of authority will be on a case by case basis and will take into account the permanence plan for the child, the child's needs and the best manner in which these needs can be met within placement. Clear arrangements for seeking permission where required will be agreed in advance.

2 Legal framework

2.1 Parental responsibility

Parental responsibility (PR) is a concept that was introduced by the Children Act 1989 and is defined as “all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to that child and his property”.

This covers the child’s care and upbringing and the right to make long-term decisions about the child’s future, and it is aspects of PR that are delegated to foster carers for the duration of the placement.

Only those who hold PR for the child will be able to delegate authority to foster carers but ultimately they will remain responsible for the child:

- A child’s mother will **always** have parental responsibility
- Fathers will share parental responsibility with the mother if:
 - he was married to the mother at the time of the birth or they subsequently marry.
 - through a court order
 - by entering into an agreement with the mother to share parental responsibility
 - for children born after 1st December 2003, he jointly registers the child’s birth with the mother
- If a father does not hold parental responsibility, he will still be considered the child’s parent for the purposes of the Children Act and will be entitled to be consulted on any plans for the child and to have reasonable contact. However, he will not be entitled to remove a child from voluntary accommodation.
- Local authorities do not acquire PR for any child who is being accommodated by voluntary agreement; parents must specifically delegate authority for matters such as consent to medical treatment as part of the agreement to accommodate.
- Local authorities share PR with parents for any child who is the subject of a court order, but have the authority to limit how parents may exercise their PR in relation to the child’s care and can delegate directly to foster carers.

2.2 Duty to delegate authority

Hounslow has a duty to ensure foster carers have authority to make day to day decisions on the child’s care but by law, anyone who is caring for a child can do what is reasonable at the time to safeguard and promote the child’s welfare. This means that in an emergency, foster carers can take decisions without authority being delegated in order to protect the child as long as Hounslow is notified of the event immediately after.

The expectation must be that the assessment and approval of 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. Any skills gaps should be urgently addressed so that foster carers are able to carry out their parenting role effectively.

For the purposes of the Education Act 1996, "parent" includes anyone who has day to day care for the child so foster carers are able to fully engage with schools on the child's behalf and will be legally responsible for their attendance and behaviour.

There are some decisions where the law prevents authority being delegated to a person without PR. These include:-

1. Applying for a passport (a child aged 16 or over who has the mental capacity to do so can apply for their own passport).
2. 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).
3. A 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.

These can only be consented to by those holding PR.

Delegation of authority for decision making must be fully discussed and clearly recorded in the child's placement plan prior to the placement starting. Any required changes to delegated authority should be considered at the child's statutory LAC review.

There should be a clear record as to what decisions have been delegated to the carer, which decisions have been retained by the parents or Hounslow (where a care order is in place), and by what process foster carers should obtain consent on those aspects of care decisions that have not been delegated.

It is the general rule that all decisions for the child's care will be delegated to the foster carer in any event. If any of these decisions are not delegated to the foster carer but are retained by the parents or Hounslow, the reason for this must be noted on the record of delegation attached to the placement plan.

For example, Hounslow may retain authority for a child or young person to have overnight stays or have contact with certain people if their behaviour or history suggests they may be at risk of abuse or exploitation. Equally, a parent may retain the authority for deciding on whether the child has their hair cut.

2.3 Effect of the child's permanence plan

Social workers should consider the type of placement and its likely duration when deciding on what decision-making powers to delegate to foster carers. All foster carers will need to be authorised to take ordinary decisions on the child's day to day care, but where the foster carer is looking after the child on a permanent basis, it is likely that longer term decisions such as school choices can be delegated to the carer. Delegation should reflect the increased role of the carer in the child's life.

Similarly, where rehabilitation is the likely permanence plan, parents will probably wish to retain a high level of control over decision-making and this may be supported by Hounslow in order to develop their parenting capacity.

2.4 The child's role

The views of the child should be taken into account when deciding on what decision-making authority will be delegated to foster carers. Children may have strong views on this as it can affect their ability to live a normal life.

Older children should be encouraged to take responsibility for decision-making in their own right where they are considered competent to do so as this will help them develop vital life skills they will need on leaving care.

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. For example, they may have strong views about the often contentious issue of haircuts, and if the child is of sufficient age and understanding, it may be decided that they should be allowed to make these decisions themselves.

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?
- 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?

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.

Local authorities should, where appropriate, consider seeking the child's views on their preferred decision maker.

3 Planning processes

It is vital that the delegation of authority for decision making is dealt with within the LAC planning processes; delegation should be agreed and recorded at the Placement Planning Meeting and reviewed regularly within the statutory LAC review.

3.1 Roles and responsibilities

Children's social workers should:

- Seek the views of parents and children
- Ensure parents sign their consent to delegating authority on the Placement Planning meeting agreement form.
- Record agreements on the delegated authority record (see appendix 1)
- Provide parents, carers and supervising social workers with information on the legal aspects of delegating PR
- Ensure arrangements remain flexible and seek changes where necessary.

Supervising social workers should:

- Chair the discussion on delegation of authority in the Placement Planning Meeting.
- Be part of the discussion on delegated authority
- Ensure foster carers are aware of what agreements have been made and that they have the right skills and training to carry out the agreed tasks
- Monitor the foster carer's use of delegated authority and discuss any difficulties
- Liaise with the LAC social worker around any difficulties or in negotiating any required changes to delegated authority.

The IRO should:

- Be consulted on arrangements for delegated authority where required
- Review all arrangements for delegating authority at each statutory LAC review
- Make recommendations on changes to arrangements where this is in the child's best interests
- As part of the review process, meet with the child and parents prior to reviews to seek their views on delegated authority arrangements
- Ensure arrangements are able to meet the child's needs and help Hounslow to meet corporate parenting responsibilities.

3.2 Prior to placement

Social workers should explain to parents the nature of the decisions that need to be delegated to foster carers and to discuss parental consent to this. This is to ensure parents are able to make informed decisions and to encourage them to engage with the process.

Where children are of sufficient age and understanding, social workers should also include them in any discussion of delegated authority as they may have their own views regarding who should make decisions about their care.

Following these discussions, it should be clear what the main areas of contention may be and where agreement can be reached. Social workers should also discuss with their supervisor whether any key decisions about the child's care must be retained by children's services, depending on the child's needs and circumstances.

Social workers should discuss the matter of delegating authority with the foster carer's supervising social worker to look at any issues around the carers level of experience, the specific needs of the child and what areas of delegated authority are likely to be covered at the Placement Planning Meeting.

Social workers should have particular regard to delegation of authority where the child is living with a family and friends carer. There may already be an agreement in place between the carer and the parent on issues around the child's care and these should be respected where they are consistent with the child's welfare.

3.3 Placement Planning meeting

This meeting should be used to finalise and record agreements on delegated authority. Sharing information and a discussion on the child's routines that takes place at the meeting should allow participants to identify what areas of decision-making are likely to arise during the placement and will need to be formally delegated to foster carers.

As far as possible, agreement should be made on any issue that is likely to arise so that the child's experience of care can be as normal as possible. Tasks agreed within the placement plan should have corresponding authority delegated.

The Care Planning, Placement and Case Review (England) Regulations 2010 (as amended) require that each looked after child's placement plan 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.

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.

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

3.4 Statutory review

The statutory LAC review will be crucial to ensure that the agreed framework of delegated authority is able to meet the child's needs and support the placement and care plan. The IRO should check each agreed delegation to see if it remains relevant or whether changes are needed.

It is likely at the first review that issues that had not been anticipated at the start of the placement have since arisen, requiring a decision; IROs must ensure that these matters are raised and discussed and agreed at the review meeting.

3.5 Recording

Decisions relating to delegated authority should be recorded on the child's placement plan.

Specific parental consent to matters such as medical treatment must be signed on the Placement Plan. Any extra consent required for individual children should also be recorded on this record.

The record should clearly state the name of the person to whom authority is delegated and the decisions they can take along with any associated actions, for example notifications to Hounslow.

Where authority is not delegated for a decision, the reason for this should be recorded. Where it is known that consent for a decision will be needed in the future, consent can be sought in advance.

Immediate changes to delegated authority that take place between LAC reviews in response to emergencies should be recorded in the case notes on the child's case record and discussed at the following LAC review meeting.

Changes to delegated authority that are agreed at the statutory LAC review should be recorded by the IRO in the minutes of the review meeting.

3.6 Changes to delegated authority

As children's circumstances change, so will the nature of the decisions about their care, and consequent changes to delegated authority need to be discussed and agreed at the child's statutory LAC review. Changes are likely to be required in the following circumstances:

- As the child gets older, and is preparing for adulthood and leaving care, responsibility for some decisions will need to be passed to them.
- Where a short-term placement becomes more long-term or permanent, more responsibility for day to day tasks and decision-making should be passed to the carer to reflect their increased involvement in the child's life.
- Where parent's roles are changing, for example if rehabilitation is likely or a move to permanence is decided on, there will need to be a corresponding change in how they share responsibility for decision-making.

4 Decisions for delegation

4.1 Manner of delegation

There are different levels of decision-making for LAC ranging from routine decisions around daily care to major decisions such as medical interventions. For some children, decision-making processes may be complicated by matters such as their legal or immigration status or specific medical needs.

Signed, explicit consent is needed from those with PR for activities such as medical treatment and interventions or applications for passports and must be signed by parents or social workers. Signed consent for matters such as school trips can be delegated to foster carers.

Other aspects of care have implicit consent based on the placement agreement and care plan that sets out the regime for caring for the child, but agreement on these must be recorded on the placement plan.

Most daily decisions will be taken by the foster carer, but it must be made clear when new situations arise whether the foster carer will need to refer back to the social worker for a decision and how this process will be carried out in a timely way.

There should also be agreement on how foster carers will keep social workers and parents informed where they have had to make emergency decisions in order to safeguard the child.

4.2 Health

- Foster carers should be given a signed consent record from parents for routine medicals, immunisations, dental, optician and general treatment.

- If the child is subject to a care order and parents do not sign their consent, it may be signed by the Service Manager on behalf of children's services.
- If the child is accommodated under section 20, parents must sign their consent so that routine medical checks and treatment can take place. If parents cannot be persuaded to sign their consent, this should be reported to the Service Manager.
- Only an Assistant Director can give consent for non-routine treatment for children who require specialist medical interventions and are subject to care orders.
- Foster carers may consent to any emergency treatment as the person who has care of the child but must try to gain consent in advance if possible and inform Hounslow of any consent given immediately after.
- Young people aged 16 and 17 can provide their own consent to medical treatment if they are deemed to have the capacity to do so under the Mental Capacity Act 2005. If it is thought they do not have the capacity to make the decision due to temporary impairment, the decision should be made by Hounslow or by their parents depending on their care status.
- Young people aged 12-15 may give consent to medical treatment if they are thought to be Gillick competent or meet the Fraser guidelines in specific relation to contraception.

4.3 Education

- Decisions on what school the child attends and whether they should change schools can only be taken within the statutory care planning process.
- Foster carers should be able to engage fully with the child's school and take routine daily decisions in order to make the child's education as normal as possible. Carers should have authority to sign consents for school trips and out of school activities, attend meetings, sign Home/School agreements and to maintain contact with the school and discuss the child's progress.
- Young people who are not of compulsory school age may be able to take some steps around their education, for example applying for a place at college, otherwise foster carers or social workers should counter-sign applications.
- School trips abroad or that involve hazardous activities should be discussed with social workers and parents first.

4.4 General decisions

- In order to ensure LAC enjoy a normal childhood, decisions on overnight stays and visits to friends should be delegated to foster carers where appropriate and in line with the division's policy on overnight stays for LAC.

- Holidays should be discussed with parents and social workers in advance as these may affect contact arrangements. If the child requires a passport, staff should refer to the divisional policy on passport applications for LAC. Children's services should be notified of any proposed holiday dates and anyone with PR must consent to the child being taken abroad.
- Where possible, foster carers should have authority to organise the child's haircuts but this must be discussed in advance with parents as there may be religious or cultural aspects that need to be taken into account.
- Foster carers should be able to take photographs of the child so that there is a record for the child of their time in placement. However, authority needs to be delegated to the foster carer to consent to other photographic or media activity, for example school photographs or publicity materials for clubs etc. When deciding on this, social workers must have regard for any safeguarding aspects that may be compromised in respect of the child. This should be discussed at the outset of the placement.
- It is important that decisions about allowing the child access to mobile phones and social networking sites is discussed and agreed in advance in the context of e-safety and the child's history and presenting problems. Foster carers may need to limit a child's use of mobiles or social networking sites in order to implement house rules or due to safeguarding concerns. In general, longer term foster carers will be delegated more responsibility to make these decisions for the child.

5. Timeliness

Where a particular decision is not delegated to a child's carer and rests with the local authority, there must be 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).

6. Local policy on delegation of authority

This policy sets out Hounslow's approach to the delegation of authority to foster carers and residential workers caring for children who Hounslow is responsible for.

This policy will be signed by the Director of Children's and Adults' Services and the Lead Member for Children.

Efforts will be made to ensure that all practitioners (including foster carers) involved with looked after children are aware of the policy and abide by it.

This policy takes account of government guidance and in particular the need to maximise, wherever possible, the authority for day-to-day decision making that is

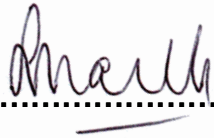
delegated to looked after children's carers, particularly where the placement is intended to be long term. In all cases the issue of timely decision making should be addressed.

Hounslow's policy is not intended to take the place of children's placement plans, which should take account of the child's individual circumstances when detailing how authority for decision-making is to be distributed. Children's placement plans should, however, take account of the principles set out in Hounslow's policy, as well as of the statutory guidance.

Signatories to this policy



..... **Lead member for Children's Services**



..... **Director for Children's and Adults' Services**

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