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## **Leicestershire Policy**

### **Policy on Delegation of Authority**

#### **Decision making for looked after children**

### **Applies to- Children in Care**

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## LOOKED AFTER CHILDREN

### POLICY FOR DELEGATION OF AUTHORITY TO FOSTER CARERS AND RESIDENTIAL CARERS

## PURPOSE OF THE POLICY

This policy is to ensure that Leicestershire County Council complies with the statutory duty to ensure that decisions in respect of the care of children who are looked after are delegated as appropriate to carers and that there is a clear understanding / agreement in place regarding consents.

Delegated Authority refers to the arrangement for all or some of the responsibilities held by a person with 'Parental Responsibility' (PR) being met, in certain circumstances, by someone else who is caring for the child / young person for example foster carers, unless there is a valid reason not to do so.

Decisions on the delegation of authority will be made case by case taking into account the permanence plan for the child / young person and the legal framework for Parental Responsibility (PR) as defined in the Children Act 1989. It should seek to be a partnership between person/s with parental responsibility, carers and the local authority and care providers.

Where there is a lack of clarity about decision making children can miss out on opportunities to be included in everyday activities. It is important for children and young people to feel integrated into their foster home or residential home; and that they look to their carers to make day to day decisions for them, just as they would do if they were living with their parents.

All decisions about the delegation of authority should consider the views of the child / young person, taking account of their age and understanding.

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## What is delegated authority about?

- *Normalising the experience of children and young people in foster care and residential care (to minimise the impact on young people of feeling different due to complicated decision making).*
- *Inclusivity and treating foster carers/carers as part of the team around the child.*
- *Reducing the 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.*
- *Clarity and transparency.*
- *Better use of existing processes and roles.*

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## What it is not about

- *Blanket responses and approaches.*
- *Fashions and fads in foster care.*
- *Carers 'going it alone'.*
- *Excluding parents and encroaching on their rights.*
- *Excluding social workers.*
- *Carers being exposed or punished when things go wrong.*
  - *Reducing attention to assessing risk.*

The Key Principles as informed by the Fostering Network are attached to this policy.

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## LEGAL FRAMEWORK includes

- The Children Act 1989
- The Adoption Agencies Regulations 2005.
- The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review (2010/2015).
- The Care Planning and Fostering (Miscellaneous Amendments) Regulations 2015
- The Children Act 1989 Guidance and Regulations, Volume 4: Fostering Services (2010)
- The Care Planning, Placement and Case Review and Fostering Services (Miscellaneous Amendments) Regulations 2013.
- Fostering Services: National Minimum Standards (2011).
- Delegation of authority: Amendments to the Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review (July 2013).

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## Parental Responsibility (PR) –

Delegation in the context of the law on parental responsibility.

PR is defined in law at section 3(1) Children Act 1989 as '***all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property***'

Where the child is voluntarily accommodated under Section 20 of the Children Act 1989 the local authority does not have PR and therefore cannot restrict a person's exercise of their PR, including their decisions about delegation, unless there is a Care Order or interim Care Order or an Emergency Protection Order in place.

A child's mother will always have Parental Responsibility.

A child's father will share PR with the mother in the

following circumstances -

- he was married to the mother at the time of the birth or they subsequently marry.
- via a court order. For example Parental Responsibility Order or being named as resident parent under a Child Arrangement Order or Child Arrangement Order is made regarding 'contact' and Court makes an Order for Parental Responsibility.
- by entering into a formal agreement with the mother to share PR.
- Where an unmarried father's name is included on the birth certificate (either at registration of birth or re- registration) for children born after 1 December 2003.

The local authority does have PR where there is an interim or Care Order or an Emergency Protection Order in place. PR is shared with parents for any child who is subject of an interim or Care Order. The local authority however has the authority to restrict how parents may exercise their PR in respect of the child's care and is able to delegate authority to the carers of a child.

The foster carer never has Parental Responsibility.

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## DELEGATED AUTHORITY – DECISION SUPPORT TOOL

The Decision Support Tool is intended to assist carers, parents and social workers, prospective adopters and young people to communicate with each other regarding delegated authority and to prepare for the initial planning meeting, planning meetings and reviews. This tool will be updated as required.

It does not replace or replicate the Placement Plan, which is the legal requirement for recording the person responsible for consents and decisions. It should however aid good practice and should be viewed as an annex to the Placement Plan.

The Decision Making Support Tool takes account of the legal context for looked after children and Leicestershire County Council's policies and procedures.

When in doubt legal advice may be sought.

**The Placement Plan** – *(the required content is set out in Schedule 2 of the Care Planning Regulations 2010 and 2015).*

- Is a living document that can change over time and should be reviewed regularly as it forms part of the child's overall care plan.
- Covers all the areas necessary for the child / young person.
- Is clear and identifies the roles / consents/ decisions and tasks required to ensure the needs of the child / young person are met.

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## COMMITMENTS

### **Leicestershire County Council:**

- We will do all we can to help young people enjoy as normal a childhood and family life as possible.
- We will work with young people's parents, wherever possible, so they can make choices about delegation that support the best care for their child/ren. If appropriate we will invite parents to placement planning meetings.
- We will ensure that all staff (including young people's social workers) understand delegated authority, our local policy and their roles and responsibilities, and that Independent Reviewing Officers ensure that appropriate delegation happens and is supported.
- Decisions on delegation will be made on a case by case basis taking account of the needs of the child / young person and will consider potential risks for the child and foster carers. We will strive to be an organisation that is not risk averse, but which allows decisions to be taken at the right level.

- We will ensure that all appropriate day-to-day decisions are delegated to young people's carers, taking account of the child's permanence plan unless there is a good reason not to.
- We will encourage young people to take responsibility where appropriate, and will seek the views of the young person, taking account of their age and understanding.
- Where a decision must be taken by a social worker or manager we will endeavor to take the decision quickly, so young people do not miss out on opportunities.
- We will involve carers in care planning and longer term decisions (e.g. school choice), recognising the particularly significant role of foster carers who have made a long term commitment to the child.
- We will keep placement plans, including the delegation of authority, under review at each review of the young person's care plan.
- We will support and develop carers so they feel confident taking day-to-day decisions about the young people they care for and know where they can seek advice when they need it.
- We will promote our policy on delegated authority with the providers we place our children with and will honour our commitments whether a young person is placed in-house or with an independent provider.

**What we expect from carers:**

- To fully participate in care planning discussions;
- To take on authority for day-to-day decision-making competently and confidently; and
- To talk to your supervising social worker or manager about what development or support you might need (e.g. if you are new to fostering and/or have any concerns about day-to-day decisions being delegated to you).

**What we expect from young people, carers and providers we place our young people with:**

- Let us know if you think the way we are making decisions about you is not working. If you need support to understand how decisions are made, you can ask your carer, independent reviewing officer, your social worker or ask to speak to the children's rights officer.

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## IMPLEMENTATION

- We will communicate our delegated authority policy and any developments to our children in care council, Corporate Parenting Board and other relevant bodies;
- We will provide information on delegation to carers and staff which will include such areas as why delegation is important; what the legislation and statutory guidance says; respecting the carers' roles and supporting carers to take appropriate levels of authority; working with birth families to help them delegate appropriately; deciding when a child is mature enough to take particular decisions themselves.
- We will ensure that recording and local care planning processes support effective delegation and are not a barrier to it (e.g. making sure placement plan templates have space to include all the information required about delegation).
- We will ensure that carers have written authority to give consent to medical treatment where this has been delegated to them;

### **KEY PRINCIPLES – (informed by the Fostering Network)**

- 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.
- In practice this means working out, as far as possible, the areas in which decisions can be delegated before the need to take them occurs.
- Young people's views and feelings should be taken into account when discussing the issues in relation to delegated authority.
- Parents must be supported and informed so they can play as full a part as possible in their children's lives.
- Parents should be given all the information they need to reach a decision about delegation of authority. 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.



- Foster carers / carers should be enabled and supported to take everyday decisions about their looked after child where appropriate. In long-term placements this is even more important.
- Sharing information about day-to-day care and routines is essential but not enough in itself. Foster carer/s 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 receive this.
- A foster carer's span of responsibilities should take account of their wishes and feelings about undertaking the tasks involved.
- Decisions about delegation of authority should be based on good quality assessments of need and risk for the individual child and carer.
- Foster carer/s should be trained and supported to undertake appropriate risk assessments in areas in which they are authorised to make decisions.