Delegated Authority

Description

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Delegated authority gives power to foster carers to make decisions which would normally be made by those with parental responsibility. Delegated authority is confirmed by the child's social worker and is agreed at (or before) the placement planning meeting.

Foster carers should be given the maximum appropriate flexibility to take decisions relating to children in their care, within the framework of the agreed placement plan and the law governing parental responsibility. Except where there are particular identified factors which dictate to the contrary, foster carers should be given delegated authority to make day to day decisions regarding health, education, leisure, etc.

Foster carers are supported to make reasonable and appropriate decisions within the authority delegated to them, without having to seek consent unnecessarily.



Parental responsibility (PR)

Biological mothers automatically have PR; fathers have PR if their names are recorded on the child's birth certificate or if the parents were married at the time of the child's birth. PR can also be obtained through the courts. If a child is placed into foster care voluntarily (under section 20 of the 1989 Act), the local authority does not have PR and so agreement must be reached about what decision-making the parents will delegate to the local authority. The local authority should work with the parent(s) as far as possible to help them understand the benefits to their child of appropriate delegation of decision making to the local authority and foster carers.

If a child is subject to a care order, interim care order or emergency protection order, the parent(s) share PR with the local authority and the local authority has the authority to delegate decision making without consent of the parents. As far as possible, however, parents whose child is subject to a care, interim or emergency protection order should be consulted about their child's care and their views taken into account. Whatever the legal status of a child's placement, parents should be helped to understand the role of foster carers and the relevance of appropriate delegated authority, so that they can support the foster carers.

Some aspects of delegated authority cannot be delegated to foster carers; for example, foster carers cannot change the child's surname.

Voice of the child

As with all aspects of caring for children, the 'voice' (views, wishes etc.) of the child should be central to decision making. Where possible and appropriate to do so, children should be encouraged to participate in decision making and be able to make decisions for themselves.

If the child's wishes are contrary to those with parental responsibility, work should be done to find some resolution to the disagreement. The child's social worker would take the lead on coordinating this type of work and the foster carer(s) would be involved in these discussions by relaying the child's expressed wishes and by supporting the child through any perceived differences in opinions.

The age of the child, the risks presented to the child, and the capacity of the child to make certain decisions for themselves should be taken into account when discussing how much input the child can have in relation to particular aspects of delegated authority.

Timeliness of Clarifying delegated authority

Delays and missed opportunities for looked after children as a result of poor planning around delegation of authority can be a bar to children experiencing a fulfilled childhood and feeling part of the foster carer's family. Looked after children say that problems obtaining parents' and local authorities' consent to everyday activities can make them feel different from their peers, causing them embarrassment and upset. It is therefore very important to agree upfront who can make which decisions about a looked after child, and that this is understood by all key parties and reviewed regularly.

It is expected that delegated authority would be agreed, at the latest, at the placement planning meeting (five working days or earlier when the child has come to live with the fostering family). If a signed delegated authority form has not been provided by the time of the placement planning meeting, the foster carer or fostering social worker should send minimum of weekly reminders to the child's social worker (and the requests are recorded on the child's file). If the signed delegated authority form is not received within a month of the child coming to live in the fostering home, the fostering social worker's manager is asked to contact the child's social worker. If the manager does not get a timely response, the fostering manager will contact a local authority manager.

Care planning

The foster carers should understand what decisions about contact are delegated to them, in line with the child's care plan, and make those decisions in the child's best interests; if the foster carers aren't clear about this, they should ask their supervising (fostering) social worker for support.

It is important that foster carers know what authority they have to make decisions about everyday matters involving the child. Arrangements for delegating authority must be discussed and agreed as part of the care planning process, particularly at placement planning meetings, and agreements should be recorded in the placement plan.

The placement plan sets out any circumstances in which the foster carer must obtain the prior approval of the responsible authority or the parent/s before making decisions in relation to the child or the child's care. More generally, the placement plan should provide clarity about what authority the parents have delegated to the local authority, and how the day to day parenting tasks will be shared between the foster carer(s) and the local authority. 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 foster carer to notify the local authority that a particular decision has been made) should be clearly set out.

Arrangements for delegated authority should be given particular scrutiny when children are confirmed in long term or permanent placements, and attention given to how responsibilities are shared in order to reinforce and support the long term bonds and attachments which foster carers will be expected to build with the child. In all placements, particularly those that are long term or permanent, what is appropriate to delegate to the foster carer, and what the parent(s) are prepared to delegate to the local authority, may change. Agreements about delegation of authority should therefore be regularly reviewed through care planning and review meetings, taking into account the views of birth parent(s), the child, the foster carer and the legal status of the placement; any changes should be recorded in the placement plan.

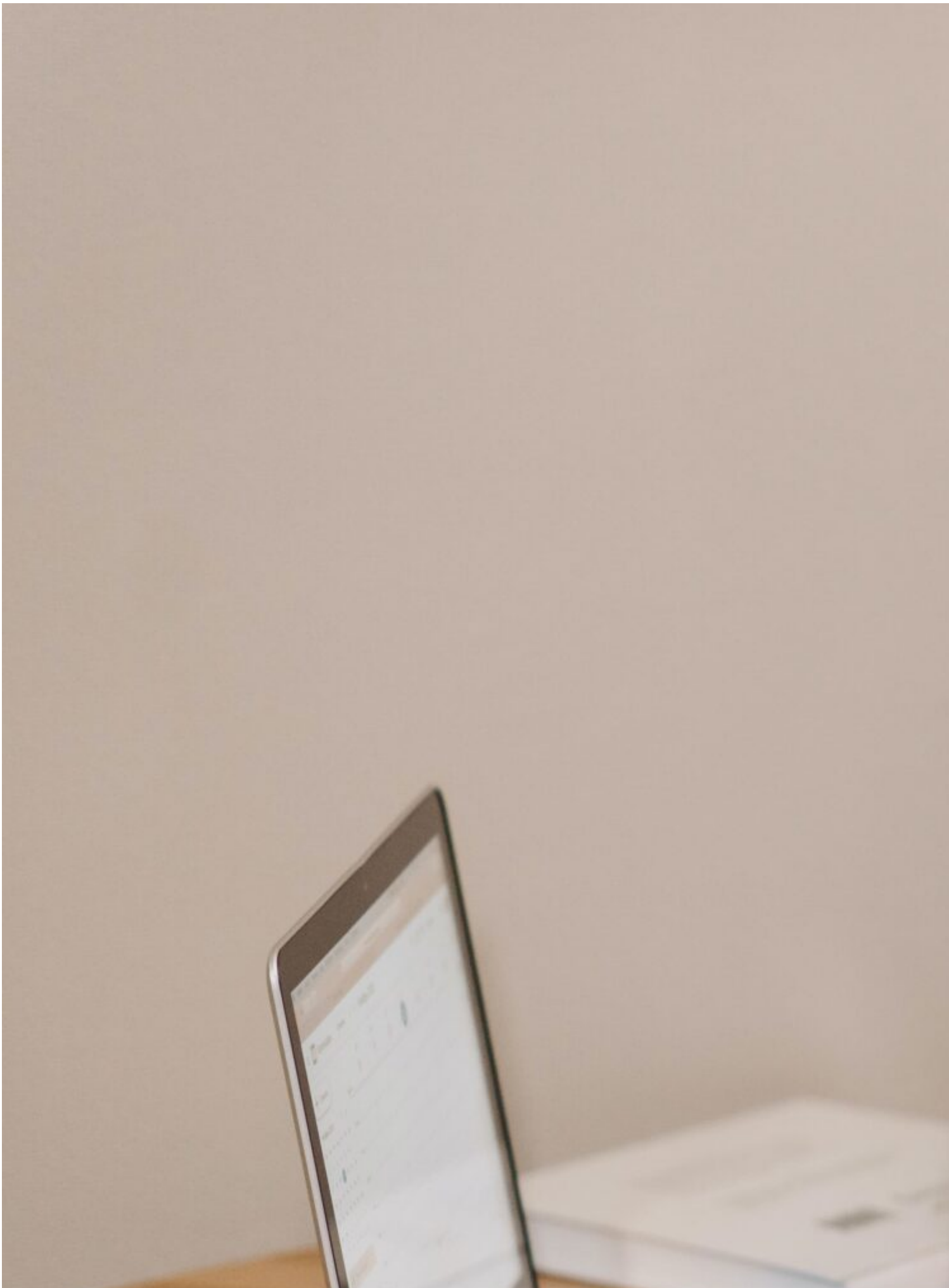
Decisions about children's health

Children's health is promoted in accordance with their placement plan and foster carers are clear about what responsibilities and decisions are delegated to them and where consent for medical treatment needs to be obtained.

Foster carers must be given, at the time a child is placed with them, written permission from a person

with parental responsibility to administer first aid and non-prescription medication, and to consent to any other form of medical or preventative treatment as may be agreed within a scheme of delegated authority. This should be recorded in the placement plan.

It should be noted that when children are over age 16, they may have the capacity to make their own medical decisions (if they are ‘Gillick competent’ i.e. if they are believed to have enough intelligence, competence and understanding to fully appreciate what’s involved in their treatment).



Backup carers

There is no requirement that when a looked after child visits or spends a holiday with their foster carer's friends or relatives that the individual must be approved as a local authority foster carer, as the child will remain formally placed with their usual foster carers.

That said, if the child regularly spends unsupervised time with particular friends or family of the foster carers (particularly if staying overnight), Sparks Fostering would request that the details of those individuals are shared so that a DBS (police) check can be carried out. These friends and family would also be assessed for the possibility of being able to offer respite or emergency care for the foster carers, when this is required.

Sleepovers

Difficulties obtaining permission for sleep-overs is often highlighted as a particular concern by looked after children. Looked after children should as far as possible be granted the same permissions to take part in normal and acceptable age appropriate peer activities as would reasonably be granted by the parents of their peers. There is no statutory duty for DBS (police) disclosures to be sought in relation to adults in a private household where a child may stay overnight or visit, or who the child may accompany on a holiday or on a school trip. DBS checks should not normally be sought as a precondition. The child and their carers should always be told of the criteria that will be used to make decisions about overnight stays, visits and holidays.

It should be normal practice for the responsible authority, in agreement with those with PR, to delegate to the child's foster carer day to day decision making about allowing a looked after child to stay overnight with friends, and to state this in the placement plan. Parents make judgements on whether or not there are known risks to staying in a particular household or visiting relatives, and similar judgements should normally be made for children in foster care by their responsible carers. Judgements should be based on a reasonable assessment of risks. In all cases foster carers should be made urgently aware of any individuals, addresses or areas which may place a child at risk, and this should also be included in the placement plan.

There may sometimes be exceptional reasons to require foster carers to seek the permission of either the responsible authority or a person with parental responsibility for the child, or to place specific restrictions on permitting a child to stay overnight with friends. When this is the situation, it should be based on clearly stated reasons which are necessary to safeguard and promote the child's safety or welfare in that child's particular circumstances. In such cases, the restriction should be clearly stated in the child's placement plan. Wherever practicable the child should be consulted over the issue and their views and feelings taken into account in reaching the decision. The restriction and the reasons for it should be fully explained to the child concerned unless, exceptionally, this would not be consistent with the child's welfare. Any restrictions should be reviewed regularly to ensure that they remain relevant.

In making decisions about whether or not to permit a looked after child to stay overnight with a friend or to have a holiday with their friends or with relatives of their foster carers, or to go on a school trip, foster carers and responsible authorities should consider the following factors:

- Whether there are any relevant restrictions contained for exceptional reasons in the child's care plan, including the placement plan.
- Whether there are any court orders which restrict the child from making a particular overnight stay, visit or holiday.
- Whether there are any factors in the child's past experiences or behaviour which would preclude the overnight stay, visit or holiday.
- Whether there are any grounds for concern that the child may be at significant risk in the household concerned or from the activities proposed.
- The age and level of understanding of the child concerned.
- What is known about the reasons for the overnight stay, visit or holiday.
- The length of the stay.

If in doubt about the appropriate decision or if there is reason to consider that a child may be at specific risk in staying in a particular household, the foster carers should consult the child's social worker (or the supervising social worker) for advice.

Foster carers should always have contact details for the household in which the child will be staying. They should also make contact with the household beforehand, as would any good parent, to assist in assessing the request and to confirm arrangements and to ensure that the household where the child will be staying have, in turn, the contact details of the foster carer(s).

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