
Cabinet Member for Children and Young People

30th June 2015

Name of Cabinet Member:

Cabinet Member for Children and Young People - Councillor Ruane

Director Approving Submission of the report:

Executive Director for People

Ward(s) affected: All

Title: Delegation of Authority Policy for Looked After Children.

Is this a key decision?

No

Executive Summary:

This report seeks approval of the Delegation of Authority Policy by the Cabinet Member for Children and Young People.

Delegated authority is the term used when the responsibility for making day to day decisions about a child has been passed to the foster carer or residential care workers. This can include decisions around activities, haircuts and overnight stays amongst other things.

The Council has a legal duty to have a published policy setting out their approach to the delegation of authority to foster carers and residential workers caring for children the local authority is responsible for. The guidance stipulates that this policy should be signed by the Director of Children's Services and the Lead Member for Children.

In Coventry the Looked After Children Services and the Family Placement Service recognise that importance to improve practice around delegated authority in order to help young people to achieve and thrive in care. The policy for delegation of authority to carers has been revised in partnership with carers and residential care workers. Staff and carers will be trained in embedding the policy in the day to day practice over the next 3 months and thereafter as part of the workforce development plan.

The Department for Education issued statutory guidance in 2013 and this has been updated in 2015. This requires that each local authority to have a published policy setting out their approach to the delegation of authority to foster carers and residential care workers caring for children the local authority is responsible for. The guidance stipulates that this policy should be signed by the Director of Children's Services and the Lead Member for Children.

Recommendations:

The Cabinet Member (for Children and Young People) is requested:-

- 1) To approve the delegation of authority policy appended to this report
- 2) To note that the policy will also be considered by the Education and Children's Services Scrutiny Board (2)

List of Appendices included:

Appendix 1 - Delegation of authority policy.

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

Yes on 2nd July 2015

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Delegation of Authority Policy for Looked After Children.

Context (or background)

- 1.1 Delegated authority is the term used when the responsibility for making day to day decisions about a child has been passed to the foster carer or residential care workers. This can include decisions around activities, haircuts and overnight stays amongst other things. There is a general agreement that it is extremely important to improve practice around delegated authority in order to help young people to achieve and thrive in care.
- 1.2 The Care Planning and Fostering (Miscellaneous Amendments) Regulations 2015 amend the Care Planning, Placement and Case Review Regulations 2010 with respect to the review of the delegation of decision making about looked after children to their carers. The Department for Education issued statutory guidance supporting the changes in regulation in 2013. This requires each local authority to have a published policy setting out their approach to the delegation of authority to foster carers and residential workers caring for children the local authority is responsible for. The guidance stipulates that this policy should be signed by the Director of Children’s Services and the Lead Member for Children.
- 1.3 This policy (see appendix 1) has been revised to take account of Department for Education guidance and in particular the need to maximise, wherever possible, the authority for day-to-day decision making that is delegated to carers and residential homes, particularly where the placement is intended to be long term.
- 1.4 The key elements of the policy are:
 - Authority for day-to-day decision making about a looked after child should be delegated to the child’s carer(s), unless there is a valid reason not to do so.
 - A looked after child’s placement plan should record who has the authority to take particular decisions about the child. It should also record the reasons where any day-to-day decision is not delegated to the child’s carer.
 - Decisions about delegation of authority should take account of the looked after child’s views. Consideration should be given as to whether a looked after child is of sufficient age and understanding to take some decisions themselves.
 - Foster carers and residential child care workers are appropriately consulted and involved in decision making for children.
- 1.5 Managing the relationship between a looked after child’s parents (or other carers with parental responsibility), the local authority, the foster carer(s) or the registered manager of a children’s home is challenging, particularly as those providing the day-to-day care do not hold parental responsibility (unless the child is living at home). It is essential that wherever possible, the most appropriate person to take a decision about the child has the authority to do so, and that there is clarity about who has the authority to decide what.
- 1.6 This policy addresses the issue of timely decision making and diminishes the delays that looked after children experience in obtaining consent to everyday activities which can make them feel different from their peers and cause them embarrassment. Whatever the permanence plan, the carer should have delegated authority to take day-to-day parenting decisions which enables them to provide the best possible care for the child.

1.7 Decisions about delegation of authority must be made within the context of:

- the child's permanence plan which sets out the plan for achieving a permanent home for the child;
- the legal framework for parental responsibility (PR) in the Children Act 1989

Decisions about the care of a looked after child are likely to fall into three broad areas All decisions should always take account of the wishes and feelings of the child, their parent/s and their carer:

- I. Day-to-day parenting. All decisions this category are delegated to the child's carer (and/or the child if they can take any of these decisions themselves). Where day-to-day parenting decisions are not delegated to the carers, any exceptions and reasons for this should be set out in the child's placement plan within their care plan.
- II. Routine but longer term decisions, e.g. school choice. Decisions in this category will require skilled partnership work to involve the relevant people. The child's permanence plan will be an important factor in determining who should be involved in the decision.
- III. Significant events, e.g. surgery. Decisions in this category are likely to be more serious and far reaching. Where the child is voluntarily accommodated the child's birth parents or others with parental responsibility should make these decisions. Where the child is under a care order, decisions may be made by the birth parents or others with parental responsibility, which includes the local authority, depending on the decision and the circumstances.

2. Options considered and recommended proposal

2.1 It is recommended that the Cabinet Member (for Children and Young People) approves the proposed delegation policy.

3. Results of consultation undertaken

3.1 The policy has been developed in consultation with the foster carers, residential care workers and social workers.

4. Timetable for implementing this decision

4.1 If approved, the policy would be effective immediately and training to raise awareness and support implementation is in place. This will be monitored through care planning meetings such as Placement Planning meetings and Looked After Reviews, management oversight and supervision.

5. Comments from Executive Director, Resources

5.1 Financial implications.

No financial implications

5.2 Legal implications

The child's parents do not lose Parental Responsibility (PR) when the child is looked after. Where the child is voluntarily accommodated under section 20 of the Children Act 1989 the local authority does not have PR. The local authority does have PR where there is a care order or emergency protection order. The foster carer never has PR.

Where a child is being voluntarily accommodated, the child's care plan, including delegation of authority to the local authority or child's carer, should (where the child is under 16), as far as is reasonably practicable, be agreed with the child's parents and anyone else who has PR. If the child is 16 or 17 the care plan should be agreed with them. A local authority cannot restrict a person's exercise of their PR, including their decisions about delegation, unless there is a care order or an emergency protection order in place.

Where a child is subject to a care order or emergency protection order, the local authority should, wherever possible and appropriate, consult parents and others with PR for the child. The views of parents and others with PR should be complied with unless it is not consistent with the child's welfare.

Where a parent is unable to engage in the discussions about delegation of authority for whatever reason, or refuses to do so, the local authority will need to take a view. If the local authority has a care order, then they can exercise their PR without the parent. Where the local authority does not have PR they can still do what is reasonable in the circumstances for the purpose of safeguarding and promoting the child's welfare.

There are some decisions where the law prevents authority being delegated to a person without PR. These include applying for a passport (a child aged 16 or over who has the mental capacity to do so can apply for their own passport). 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). 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.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Services to looked after children meet the objectives of the Council's plan in particular protecting and supporting our most vulnerable people through keeping children and adults safe from harm and giving our children the best start in life

The policy complies with the statutory requirements of legislation and supports the council's Corporate Parenting duties. The policy supports the local authority's duty to safeguard and promote the child's welfare in that, wherever possible, the most appropriate person is enabled to take a decision about the child has the authority to do so, and that there is clarity about who has the authority to decide what.

6.2 How is risk being managed?

Delegations of authority will be agreed through care planning processes and will be endorsed by managers in line with the policy. These will be reviewed through supervision and the care planning meetings by the "Team around the Child" e.g. Placement Planning meetings and the Looked After Reviews which will minimise and mitigate key risks that are identified.

6.3 What is the impact on the organisation?

The local authority complies with the statutory requirements for ensuring there is a policy which enables the most appropriate person to have the clarity and authority to take a decisions about the child, where ever this possible within the contest of the legal frameworks for children looked after. This policy addresses the issue of timely decision making and diminishes the delays that looked after children experience in obtaining consent to everyday activities which can make them feel different from their peers and cause them embarrassment.

6.4 Equalities / EIA

The policy applies to all children who are looked after.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

Social workers work extensively across key partner agencies to support the interests of looked after children and ensure a coherent multi-agency approach. On-going partnerships will be required to ensure services are focused on meeting the Council's continuing statutory duties and priorities for looked after children.

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