Chief Executive HSC Board
Chief Executives HSC Trusts
Director of Social Care and Children – HSC Board
Directors of Children's Services HSC Trusts

Department of
Health, Social Services and Public Safety
www.dhsspsni.gov.uk
AN ROINN
Sláinte, Seirbhísí Sóisialta agus Sábháilteachta Poiblí
MÄNNYSTRIE O
Poustie, Resydènter Heisin an Fowk Siccar

CIRCULAR: CCPD 01 /10

DATE: 2 February 2010

GUIDANCE ON DELEGATED AUTHORITY TO FOSTER CARERS IN NORTHERN IRELAND

Background

1. Care Matters in Northern Ireland – A Bridge to a Better Future outlined a strategic vision for wide ranging improvements in services to children and young people in and on the edge of care. The strategy was consulted on between March and September 2007 and was endorsed by the Northern Ireland Executive in September 2009. One of the proposals within the strategy was that 'Approved foster carers should have more autonomy in relation to the everyday decisions about the children in their care'.
2. This circular sets out the guidance that Trusts are required to follow in considering the delegation of authority to foster carers including kinship and respite carers.

Legal Authority

3. Article 5 (8) of the Children (Northern Ireland) Order 1995 allows Trusts to arrange for some or all of its parental responsibility to be met by others where there is a Care Order:

'A person who has parental responsibility for a child may not surrender or transfer any part of that responsibility to another but may arrange for some or all of it to be met by one or more persons acting on its behalf'.

4. Some local authorities in England have delegated authority to foster carers of accommodated children and young people under their duty to safeguard and promote the welfare of the child. This is done under English legislation equivalent to Children (Northern Ireland) Order 1995 (Article 26(1)).

5. The Foster Placement (Children) Regulations (Northern Ireland) 1996, Regulation 5(6) sets out the requirement for a Placement Agreement, in all placements, to include the matters in Schedule 3. Amongst these are:

'Any arrangements for delegation of responsibility for consent to the medical or dental examination or treatment of the child'.

Overview

6. The delegated authority to foster carers will be individually agreed for each child. The guiding principle is that authority is delegated to foster carers in order that they can provide the child with a normal family experience. The extent of the delegation will vary depending on the type of placement, the legal status, the views of the child and their parents, and the experience of the foster carers.

Key Principles

7. The Key Principles underpinning this guidance are:

    - Parents should always be consulted about the areas of authority to be delegated and informed about agreements.
    - Social workers and foster carers should aim to create a good partnership working with the family.
    - The foster carers will be exercising the authority on behalf of the Trust and the responsibility rests with the Trust.

- Delegation of decision making powers will depend on the child's care plan.
- Children's and young people's views will be sought and taken into account depending on their age and capacity. The best interest of the child/young person will determine all decisions.
- The wishes and feelings of the foster carer should also be considered and recorded.
- Decisions regarding the level of delegated authority should be based on an assessment of need and risk for the individual child and foster carer.
- Where there are positive arrangements with the birth family and there are no issues in obtaining consent these arrangements should be allowed to continue.
- Areas to be considered when delegating authority are listed in Appendix 1

Process

8. The details of the decision making powers to be delegated must be agreed and circulated via the LAC Review process for the individual child. Most areas of decision making should be delegated to the foster carer once the plan for the child is confirmed as long term foster care or by one year in placement. In some cases ongoing legal proceedings may influence the timing of such delegation.

9. Some authority, e.g. consent to school day trips and photographs and educational initiatives such as Fostering Achievement, may be delegated at an early stage if it is felt to be in the best interests of the child /young person. This may be particularly relevant in the case of kinship foster care.

10. The LAC review chair will make recommendations, based on discussions at the review meeting, as to what authority should be delegated and

agreements will be signed by the Director or his/her nominee e.g. Head of Services for LAC or Fostering. Agreements must be in writing and guidance needs to demonstrate clearly and unambiguously that liability remains with the Trust and that the foster carer is acting on behalf of the Trust (Trust Authority to Delegate Consent is attached at Appendix 2).

11. The foster carer must receive a copy of the signed agreement and copies should be held on both the child's file and the foster carers file. Copies should also be made available, where appropriate, to the Child/Young Person, their School, Parents, GP, Dentist, Optician and Supervising Social Worker. There will be a need for a separate agreement regarding decision making for regular respite carers as authority to delegate may differ from the Child/Young Person's full time carer.

12. The foster carer will have the responsibility to keep the child's social worker informed about decisions taken under delegated authority and this will be covered in the agreement. This will normally be done in routine visits but in exceptional circumstances there may be the need for immediate consultation.

13. Foster carers will need to be prepared for the new responsibilities in relation to delegated authority and this should be included in their preparation training and discussed at the assessment stage. They may also need more specific training, for example, in relation to their role in parent/teacher reviews and administering of medicine.

14. The exercising of delegated authority should be considered at the foster carer's annual review.

Delegated Authority Summary

15. The following table summarises the areas of delegated authority which should be considered for each child or young person in foster care. More detail on the areas of delegated authority can be found at Appendix 1. The overriding principles are that:

    - All decisions must be made in line with the Care Planning process.
    - In the case of an emergency or where an unexpected opportunity arises the foster carer should act as a reasonable, prudent parent.

Foster carers should generally hold delegated authority for:	**In particular circumstances and following discussion they may hold delegated authority for:**	**Trusts will generally be responsible for:**
Routine medical visits to GP	Immunisations	Passports
Overnight stays	Body piercings	Decisions re contact
Holidays within the UK and Ireland	Non Routine medical treatment including general anaesthetic	Alcohol use
Regular trips to Republic of Ireland	Holidays/trips abroad	Smoking
Haircuts	Change of school	National Insurance Number
Visiting friends	Wider media activity	Use of contraception
School medical	Church and religious ceremonies	
Optician	Participating in hazardous activities	
Dentist		
School day trips*		
Meeting with school staff		
Sports clubs/organisations		
School photographs*		
Sex education		
Mobile telephones		
Consent to educational initiatives e.g. Fostering Achievement *		
* Responsibility for these areas should be delegated as soon as possible after placement		

Roles and responsibilities

16. When a child or young person becomes looked after, the child, parent and foster carer should be given the appropriate information leaflet regarding delegated authority and all their views sought before being placed before the LAC Chair for consideration.

17. Prior to each LAC review the issue of delegated authority should be discussed with the foster carer by the supervising social worker. They can identify areas where increased responsibility would improve the experiences of the young person and assess the carer's views and ability to assume the responsibility. The delegation of authority should be discussed at the foster carer's annual review and support given to enhance their role in relation to this.

18. The supervising social worker should work with the child's social worker on these issues. This should link with the UNOCINI Pathway Assessment and the carer's ability to meet the child's needs in the different domains.

19. The child's social worker should seek the views of the birth family regarding delegated authority. It is recognised that at times agreement to this will not be forthcoming and it will be the responsibility of Trusts to make the decision in the best interests of the child or young person. If the child is accommodated, work should be undertaken to help the birth parents accept that delegated authority for the foster carer is in the child's best interests. If there is continued refusal to consent to delegated authority for the foster carer then the Trust should consider whether this has a detrimental effect on the child or young person. If appropriate they may wish to consider an application for a Care Order.

20. If there is an application for a Care Order the Trust should submit proposals for delegated authority to the Court for consideration.

21. It is desirable and good practice for a meeting to take place between the child's parent, social worker, foster carer and supervising social worker to discuss delegation of authority. This promotes partnership working between all involved in the child's care.

22. It will be the responsibility of the LAC chair to ensure that the issue of delegated authority is discussed at each review meeting. In advance of the meeting the child's social worker should have discussed the issue of delegated consents with the parent, the child or young person and with the foster carer's supervising social worker. They should make a recommendation to the LAC chair who in turn will be responsible for making specific recommendations to the Director or his/her nominee e.g. Head of Services for LAC or Fostering.

23. The Director or his/her nominee will sign a delegated authority form and the foster carer will receive a copy. Copies should also be given to the birth parent and the child/young person if they are of sufficient age and understanding. In some cases it may be necessary to exclude placement address. In the case of consents for dental and medical treatment a separate form similar to the current CLA 3 should be signed. Alternatively a consent card similar to the Fostering Network's medical consent card could be used. Copies should be retained on both the child's and carer's files.

Withdrawal of Delegated Authority

24. There should be a clear process by which delegated authority can be withdrawn if concerns arise about the foster carer's capacity to discharge these functions. Any decision to withdraw delegated authority should be considered under the care planning review process and a recommended

course of action sent to the Director of Social Work for approval. The foster carer should be notified in writing and relevant documents returned to the Trust.

25. Delegation of authority arrangements must be reviewed on an ongoing basis via the LAC review system using a format specifically designed for the purpose (Appendix 2). When a placement ends authority will automatically revert to the Trust or parent.

Enquiries

26. Initial enquiries about this circular should be made to:

Gerry Mullan
Department of Health, Social Services and Public Safety
Child Care Policy Directorate
Room D2.19 Castle Buildings
Stormont
Belfast
BT4 3SQ

Tele: 028 90 522142
E mail: gerry.mullan@dhsspsni.gov.uk

Further copies of this circular may be obtained on the DHSSPSNI website.

APPENDIX 1

Areas to be considered when delegating authority to foster carers:

Social Care Issues

1. Overnight stays:

Foster carer should be able to make this decision as if it was their own child and act as a protective parent would. The guidance from the Child Care Policy Directorate (Circular CCPD 02/2009) lists the things a foster carer should consider in giving permission for overnight stays. The guidance clarifies areas of responsibility, a clear process of risk assessment and gives recommendations regarding the frequency of visits.

2. Holidays:

Most holidays will require consultation with Social Services for funding and discussion of contact arrangements. All holidays of more than 5 days duration should be agreed in advance and this should include discussion and as appropriate agreement with parent/s.

3. Regular trips to Republic of Ireland:

For many foster carers living close to the border or owning caravans/property in the Republic of Ireland the issue of regular day or weekend trips can raise difficulties. Whilst these involve crossing into different jurisdiction, general consent for this to happen should be given without the need to consult in advance on each occasion.

4. Haircuts:

Although there is no formal restriction on the authority of foster carers with regard to haircuts, this can be an issue of contention for parents. Good practice would include parents who are actively involved in the child's life in decision making in this area. This should be discussed and agreed at a LAC review and any cultural issues or likely objections taken into account.

5. Body piercings:

Unlike tattoos there is no legal age limit on when children or young people can give consent to body piercing. There is a general consensus that a young person

should understand the implications of making such decisions. It was felt that this was an area that should be discussed with young people as and when the issue arose.

6. Visiting friends:

As with overnight stays the foster carer should be able to act as a good parent in decisions re this.

Health Care Issues

7. Routine medicals:

Foster carers should sign consents for routine medicals e.g. school or LAC medicals. They should record details of medicals and inform the child's social worker. Although immunisations can be considered 'routine' many foster carers may have concerns re consenting to these given the controversy surrounding the issue. They should therefore be considered separately from other routine medical consents.

8. Non routine medical treatment:

The issue of non routine medical treatment is more complicated. Signing for surgical procedures is something that many foster carers do not want to do and yet there will be times when to have to bring "strangers" to a bedside to do so will be distressing for a child. Where possible the question of consent to more invasive procedures should be discussed on a case by case basis as some children may have longstanding medical conditions which require frequent medical intervention. In many circumstances the procedures requiring a general anaesthetic will be planned and will therefore allow for prior discussion and agreement as to who will sign the consent form.

The issue of consents to medical treatment is perhaps the area that most sharply focuses the need for risk assessment on the part of the foster carer. For example in the case of an accident resulting in a fracture, a delay in obtaining consent may not be in the child's best interests. Foster carers will need to assess risks in relation to emergency medical treatment and give consent where necessary.

A written format that provides evidence that foster carers can give consent in agreed areas such as routine procedures, procedures requiring anaesthetic; injections etc would be useful for all concerned. The CLA 3 form currently used

when foster carers take children away on holiday could be retained or the Fostering Network's Consent Card could be an acceptable alternative.

9. Optician:

Foster carers should be able to sign consent for routine examinations and spectacles.

10. Dentist:

Foster carers should be able to sign consent for routine examinations and treatment.

Education

11. School day trips:

Foster carers should be given delegated authority to approve day trips through school.

12. Trips abroad:

Trips requiring funding from the Trusts, and/or involving hazardous activities e.g. skiing, must be agreed in consultation with social services. Foster carers will then be able to sign the necessary consent forms.

13. Change of school -post primary transition:

The choice of post primary school will be discussed and agreed at a LAC review prior to transfer and foster carers should then be able to sign the consent form.

14. Change of school in other circumstances:

If the foster carer decides to move house or would like the child to attend another school, this will need to be agreed at a review meeting taking into account the impact on the child. The birth parents should be consulted. The foster carer could then be authorised to complete the practical steps to implement the agreed actions.

15. Meeting with School staff:

The foster carer should normally be the person to meet with school staff to discuss progress and share appropriate information with staff once the placement is longer than one year. The foster carer should report on school issues to the social worker and LAC review.

16. Accessing Educational initiatives:

The foster carer should access any educational initiatives for the child, such as Fostering Achievement, and keep the social worker and LAC review informed.

17. Sports activities/organisations:

Foster carers should be able to give consent to children participating in these activities whilst taking into account the child's religious and cultural background and identity. If appropriate the views of parents should be considered.

Other areas

18. Photographs:

Decisions on the type of photographs to which a foster carer can give consent should be formally agreed at a LAC review.

(a) School photographs

Foster carers should be enabled to give consent for formal school photographs. They should be encouraged to ensure children have school and group photographs taken as part of their life history.

(b) Wider media activity

Many children love to be able to take part in activities that may lead to publicity in the media. In most cases foster carers should be able to give permission for this to happen. Any restrictions, such as using only the child's first name, should be specified on the delegated agreement form. Foster carers need to be aware of confidentiality and sensitivity as issues may arise if such events or attendees are linked to different backgrounds or cultures.

19. Church and Religious ceremonies:

Foster carers have a responsibility to promote a child's religious and cultural needs and ceremonies which form part of this will be important to the child and family. (Code of Practice on the Recruitment, Assessment, Approval, Training, Management and Support of Foster Carers [DHSS] Appendix B 1:4)These should be discussed at LAC reviews and should be encouraged but as in the Sports etc (9) the views of the parent and interests of the child should be considered.

20. Participating in hazardous activities:

There was recognition that it is difficult to define “hazardous” activity and people’s individual views will vary and the age and ability of the child will be of relevance. The foster carer will be expected to act as a good parent and also ensure that the child or young person has the correct safety equipment, training and is using a recognised tutor or organisation etc. More unusual requests should be discussed at a review.

21. Sex education:

Ideally this is something that foster carers should be providing to the fostered child/young person as any good parent would. The content can be discussed and agreed at LAC review and foster carers personal views taken into account. They should be encouraged to work with the schools. Trusts should cooperate to develop a regional policy and guidance for foster carers on sex education.

22. Mobile telephones:

Foster carers should be responsible for making decisions regarding the possession and use of mobile phones as they do for their own children. They should receive clear guidance and agreement re the young people’s use of mobile phones and any particular restrictions should be specified at the time of placement or if concerns arise at a later stage.

Areas where foster carers cannot legally give consent

23. Passport:

Young people can apply for their own passport at age sixteen. Prior to this the Trust would have to apply. It is proposed that all children in care should have a passport which would be applied for by Trusts or the birth parent but should be held by the foster carer. Useful information can be found on the website below.

http://www.ips.gov.uk/passport/apply-child-care.asp

Information on obtaining an Irish passport can be found on the following website:

http://www.dfa.ie/home/index.aspx?id=254

24. National Insurance Number:

Trusts should ensure that all looked after young people receive their national insurance number without delay and that the information is given to both the

young person and the foster carer. Useful information can be found on the website below.

http://www.hmrc.gov.uk/manuals/nimanual/NIM39310.htm

APPENDIX 2

Children Looked After

TRUST AUTHORITY TO DELEGATE CONSENT

Name of Child: _____

Date of Birth: _____

Information System Number: _____

Legal Status: _____

Placement Address: _____

_____

_____

Name of Current Carer: _____

I (parent or Trust representative with parental responsibility): _____

authorise

Who is (status of Person): _____

To give consent for (name of child) in the following areas: _____

Overnight stays	Yes		No	
School day trips	Yes		No	
Longer school trips in UK	Yes		No	
Longer trips abroad with school	Yes		No	
Using computers in school	Yes		No	
Change of school	Yes		No	
School photographs	Yes		No	
School doctor	Yes		No	
Permission for school to give paracetamol, etc	Yes		No	
Meeting with school staff	Yes		No	

Medical consents (see form CLA9)	Yes		No	
Optician appointments/tests/glasses	Yes		No	
Sports or social clubs/organisations	Yes		No	
Joining religious organisations	Yes		No	
Participating in hazardous activities, e.g. rock climbing, skiing	Yes		No	
Haircuts	Yes		No	
Body piercings	Yes		No	
Photographs for publicity	Yes		No	
Other, please specify	Yes		No	

Agreed by parent:

Yes ☐ No ☐

Parents' Signature & Date: _____

Foster carers' Signature & Date: _____

Child's Social Worker Signature & Date: _____

Recommended by Chair of LAC Review
Signature: _____

Date of LAC Review Meeting: _____

Authorised by Director of Social Work/Nominee
Signature: _____

Date: _____

Copies sent to:

School	Yes		No	
GP	Yes		No	
Parent	Yes		No	

Foster carer	Yes		No	
Supervising Social Worker	Yes		No	
Child/Young Person	Yes		No	
Other, (please specify)	Yes		No	