

## Introduction

This paper has been produced to outline to children, parents, foster carers and social workers Foster Care Link's policy on consultation with children in foster homes, their families and others significant to the child.

## Statutory framework

Section 22 (4) of the Children Act 1989 states that before making any decision with respect to a child whom they are looking after or propose to look after or accommodate, the responsible authority should obtain and take account of the wishes and feelings of –

- (a) the child
- (b) her/his parents
- (c) any person who is not a parent of the child but who has parental responsibility for her/him
- (d) any other person whose wishes and feelings the authority consider to be relevant

Before making the decision the authority must give due consideration, having regard to her/his age and understanding, to such wishes and feelings of the child and the wishes and feelings of others that they have been able to ascertain.

The National Minimum Standards for Fostering Services 2011 requires fostering services to ensure that children's opinions, and those of their families and others significant to the child, are sought over all issues that are likely to affect their daily life and their future (Standard 1).

Further requirements are imposed by the Standards include:

- The need to ensure carers understand the importance of listening to the views of children in their care
- The need to train and support carers in listening and responding to children's views
- Ensuring that children's opinions and views are ascertained on a regular and frequent basis
- That suitable means are provided (frequently) for children with communication difficulties to make their wishes and feelings known regarding their care and treatment
- That children in foster care know how to raise any concerns and complaints and receive prompt feedback on any concerns or complaints raised

## The Importance of Listening to Children

All staff and carers need to be aware of the importance of listening to the views of children.

At its most fundamental level, the need for the child to be heard is a basic human right and has been enshrined in the UN Convention of the Rights of the Child.

- “ 1 *State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
- 2 *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or appropriate body, in a manner consistent with the procedural rules of national law”.* Article 12.

While these rights extend to all children, the needs of looked after children make them all the more important.

At a practical level, children entering foster care will usually be placed with strangers in an unknown environment. However well the child's needs may have been assessed and however well the child and carer may have been prepared for the placement, both will have limited information about the other.

The carer will need to learn for example, the child's dislikes and likes, any fears or anxieties they may have and their usual routines. The best way to obtain this information will be to ask the child.

Workers and carers who demonstrate to children their willingness to listen are more likely to engender trust and establish a good relationship with the child. The child will also be made to feel safer and will be much more likely to express their feelings.

The child who feels listened to is also more likely to talk about their past and what has happened to them. This may result in a disclosure of prior abuse that the child has never before been able to articulate.

Listening to a child may also be the only means of gathering evidence or information about various aspects of their lives. This might be in terms of a disclosure as mentioned above, but it could also be feedback on how contact with a birth parent has gone where this was unsupervised.

The importance of listening to children cannot be overemphasised. It is a skill that Foster Care Link expects all social workers to develop, practice and employ.

## **Consultation with Children**

Ascertaining the wishes and feelings of children will be one of the main priorities of workers and carers in Foster Care Link.

How this will be done will be determined by a number of factors including:

- The age and understanding of the child
- Any communication difficulties the child has
- The child's willingness to participate in the process
- The specific issue under consideration

The following general principles should nevertheless always be applied:

- Consideration need to be given to who is the most appropriate person to consult with the child
- The most appropriate form of consultation should be identified on a case by case basis (eg direct discussions, the use of play or art therapy, the child writing their views down, the use of audio, video or information technology)
- Where necessary specialist help should be provided (eg interpreter or sign language interpreter)
- The child should be helped to identify someone to help them put their views across or to speak for them such as a parent, carer advocate or independent visitor
- Workers should check carefully with the child that they have understood their views correctly
- Children should understand what will happen to any information they provide
- The child should understand how much weight will be given to their views and what are the other factors that might influence any decision to be taken
- Where it is not possible to accede to a child's wishes the reasons for this must be clearly explained to the child
- The child's views must always be recorded as must the consideration given to these views and why decisions that conflict with them have been taken
- Children should be encouraged to contribute to their own case records
- The child must know how to challenge any decisions reached or to make a formal complaint

*"Children should feel that they have been properly consulted, that their views have been properly considered and that they have participated as partners in the decision-making process. However, they should not be made to feel that the burden of decision-making has fallen totally upon them, nor should they feel forced to attend meetings if they choose not to do so. The reasons for this choice should be explored so that they are given real opportunities to understand the good reasons for taking part in meetings."* The Children Act 1989 Guidance and Regulations Volume 3 (HMSO).

## Consultation with the Child's Family

The general principles for consulting with children outlined above also apply to consultations with the child's parents, family and friends.

Workers will also need to bear in mind specific responsibilities to seek the views of others, in particular parents or those with parental responsibility, at specific times such as:

- When choosing or changing a placement
- During care proceedings
- When considering an application for the use of secure accommodation
- When changing a child's care plan
- When considering the placement of a child for adoption

Workers must always have in mind the ongoing nature of parental responsibility. The duty to consult with parents and others who hold parental responsibility remains in

place regardless of the plan and regardless of the level of contact there is with child or social services.

A Care Order may allow the authority to restrict the level to which parents may exercise their ongoing parental responsibility, but unless parents and other holders of parental responsibility have made a declaration that they no longer wish to be consulted, the duty to consult remains up to the point of discharge from care.

The extent to which the views of family members will influence outcomes will vary from case to case and also be determined in part by the child's legal status.

The implications of a Care Order are outlined above. Where the child is accommodated under Section 20 of the Children Act 1989, the child's social worker should be working with the parents in the child's best interests and their views will, subject to the child's views (if of sufficient age and understanding) and the child's safety, be respected wherever possible.

The views of parents and other family members, or even the need to seek these views will not be allowed to prevent Foster Care Link from fulfilling its primary duty to protect the child.

If necessary Foster Care Link will expect the placing authority to instigate child protection procedures and consider the need for a court order to override such views and secure the welfare of the child.

Care and discretion will be needed where parents are separated or there are disputes within the family. Such disharmony should not be allowed to get in the way of fulfilling the duty to consult. This may be of particular relevance when considering the use of a relative or friend as a carer.

In such and other similar circumstances the views of all those involved should still be sought but special care will need to be taken when considering the weight to be given to the views expressed and the information obtained.

## **Consultation with Others Significant to the Child**

Neither the Children Act nor the National Minimum Standards define what is meant by the term 'others significant to the child'.

Guidance is provided in Volume 3 of the Children Act Guidance and Regulations, which suggests the following may need to be consulted:

- The relevant health authority
- The child's GP
- The appropriate local authority (where the placing authority propose to place a child in the area of another authority)
- The local education authority
- The child's current and previous schools
- The child's extended family and friends

# CONSULTATION POLICY



- A Children's Guardian
- Former and current foster carers and officers in charge of residential units

This list is not exhaustive and social workers should consider the need for consultation with others on a case-by-case basis.

The child's social worker should ensure that the child and her/his parents understand why there is a need to consult, what the consultation process involves and as far as possible obtain their consent. Where such consent is not forthcoming, the worker will need to discuss with their manager whether the proposed consultation will still go ahead, seeking legal advice if necessary.

## **Day to Day Consultation**

Foster Care Link will seek to ensure that the views of children in foster care and their families are ascertained on a regular basis and not just as part of a formal consultation process in specific circumstances.

Social workers and carers have a responsibility to ensure that they seek the views of children on all matters affecting them, including day-to-day matters and that children's views are not taken for granted.

The extent to which such consultation is undertaken and the methods used will vary from placement to placement but Foster Care Link will seek to ensure that the following minimum standards are met for each child in foster care:

- Social workers ascertain the views and opinions of children each time they have contact with the child
- Social workers record these views and opinions on the child's file
- Foster carers facilitate contact between the child and their social worker whenever reasonably asked to do so by the child
- In the absence of the child's social worker placing authorities ensure that an alternative worker is made available for the child to have contact with whenever reasonably requested by the child
- All children are consulted with on a routine basis by carers on day to day matters affecting their lives
- Where there is disagreement between the child and the carer, the carer records this and notifies the child's social worker at the earliest practical opportunity

## **Consultation in Specific Circumstances**

### ***Child Care Reviews***

Social workers must consult with a range of people prior to a child's review. These include:

- The child
- Her/his mother and father
- Her/his carers
- Her/his independent visitor

# CONSULTATION POLICY



- Her/his GP and/or health visitor
- Her/his school
- Any other interested person

Not all of these people will need to attend the review and it is therefore important that their views are recorded on the review form in order that any implications for the care plan can still be considered by the review in their absence.

The views of the child, those with parental responsibility, carers and independent visitors will be sought prior to every review by use of a LAC Consultation Paper.

The Consultation Paper questions are central to all children regardless of age, though the child's ability to think through and respond to the questions will clearly be related to their age and understanding.

Feedback from children has indicated that it is usually helpful if they are offered support and assistance in completing the Consultation Papers. A parent, carer or social worker could give this although care must be taken that it is the views of the child that are recorded.

Social workers may also assist parents or carers in completing their Consultation Papers, again taking care that the views of the parent or carer are accurately recorded.

Reviewing Officers will also ensure that all, but in particular children, are supported in putting forward their views at reviews. If necessary, children or parents will be encouraged to make use of a third party to speak for them, such as the social worker or a friend or relative.

## ***Foster Carer Reviews***

When undertaking a review of a carer's registration, Foster Care Link will always seek and take into account the views of any child that has been cared for by the carer since approval of the most recent review.

This will usually be by way of the child completing a standard feedback form. The child may need assistance in recording these views and should be given re-assurance as to the purpose of this consultation exercise and what will be done with the information provided.

## ***Discharge from Accommodation***

Anyone with parental responsibility may remove a child from accommodation under Section 20 of the Children Act 1989 unless the child is aged 16 or 17 and wishes to remain accommodated (Section 20 (10)).

Foster Care Link expects placing authorities to ascertain the wishes and feelings of all children before they are discharged from accommodation and no child aged over 16 should be discharged from accommodation without their prior freely expressed consent.

## ***Medical Consent***

Children aged 16 and over are presumed in law to be competent to give or withhold their own consent to surgical, medical or dental procedures including associated procedures such as investigations, anaesthesia or nursing care.

Courts have held that children aged under 16 will be deemed to be competent to give valid consent if they have sufficient understanding and intelligence to understand fully what is proposed.

There is therefore no specific age when a child becomes competent to consent to treatment. It depends both on the child and the seriousness and complexity of the treatment being proposed.

The views of children should always be sought before any surgical, medical or dental treatment is administered.

While it will remain good practice to involve the family in decision making, if a medically judged competent child of any age specifically requests that this should not happen, then this request should be respected unless the child is suffering or likely to suffer significant harm.

## **Children with Communication Difficulties**

Foster Care Link will seek to ensure that children with communication difficulties are provided with means to make their wishes and feelings known regarding their care and treatment .

Such needs should be assessed prior to or at the point of placement and detailed in the Child's LAC Essential Information Record.

The LAC Care Plan and Placement Plan Part 2 will detail how these needs are to be met, including the provision of interpreters and specialist equipment.

Attention will be paid to ensuring that these facilities are available to the child on a day to day basis wherever possible.

## **Complaints**

Foster Care Link will ensure that all children in foster care know how to raise any concerns or complaints.

All children will be given a copy of Foster Care Link's Children's Guide at the point they first enter foster care. The Guide contains information on how a child can secure access to an independent advocate and about how to complain.

All Foster Care Link foster carers will hold copies of the Guide and provide one of these to each child at the point of placement.

It is the responsibility of the child's social worker to ensure that the child also receives a copy of the placing authority Children's Guide.

# CONSULTATION POLICY



Complaints will be investigated in accordance with Foster Care Link's or the placing authority's complaints policy and children will receive prompt feedback on any concerns or complaints raised.

## **Foster Carer Training**

Fostering services are required to ensure that foster carer's are trained and supported in listening and responding to children's views.

All carers will receive basic training in communicating with children as part of their preparation to foster.

Further relevant training will be provided as part of Foster Care Link's ongoing training programme.

Supervising social workers should ensure that they pay attention to the training needs of carers and other members of their household, addressing these in the appraisal of training and development needs which must be documented in the annual review report.

Social workers should encourage carers to make use of any available training opportunities run by Foster Care Link or external agencies.