



**St Helena
Government**

Children Looked After

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1. Decision to Look After Child

1.1 The Decision

A child may not come into care without the express permission of a [Designated Manager \(Decision to Look After\)](#). (This includes out of hours)

Any decision to look after a child made outside office hours will be communicated by telephone or email to the Director within the next working day.

1.2 Considerations before a Decision to Look After is made

The decision to look after a child will only be made where those making the decision are satisfied that:

- Suitable appropriate alternatives have been fully considered;
- Appropriate consideration has been given to the necessity of Accommodation, the purpose and nature of the proposed placement;
- Whether the Accommodation provided should be via a Court Order or undertaken with Parental Consent. In considering this Children's social care should:
 - Identify whether, under the particular circumstances, it needs to share Parental Responsibility with the parent/carer;
 - Whether the parent is able to provide fully informed consent to an agreement for the child to be accommodated.
- Appropriate consultation has taken place;
- However, where the circumstances constitute an emergency, opportunities for consultation may be limited e.g. where a parent/carer is not available.

Before a decision is made to look after a child, consideration must be given to making arrangements with other extended family members or friends who might be prepared to care for the child without the need for the child to come into care.

Alternatively, the child may come within the definition of Privately Fostered after 28 days, in which case the [Private Fostering Procedure](#) will apply.

N.B. Any arrangements whereby the child is not regarded as Looked After would have to be agreed with the parent or a person with Parental Responsibility, and the social worker must be satisfied that such an arrangement is sufficiently secure to meet the child's needs and is supported by a Child in Need Plan.

If no such arrangement can be identified or such an arrangement would not meet the child's needs, the child's social worker, with their team manager, should consider:

- The child's immediate placement needs - including the child's views, the views of the parents, those with Parental Responsibility and any other person whose wishes and feelings the social worker should consider to be relevant - and whether a placement with a Connected Person may be possible;
- The timescales for the child's placement;
- A date for the child to return home or when the decision will be reviewed;
- The actions of support and work to be included in the Care Plan to enable the necessary change for the child to return home wherever possible.
- The obtaining of parental consent to look after the child and consent to medical care;
- Any impact on educational arrangements;
- The contact arrangements with birth parents, siblings, extended family and friends.

Where it is considered that Care Proceedings should be initiated to secure the child's placement, see also [Care and Supervision Proceedings and the Public Law Outline](#).

N.B. Any decision that a child should be the subject of Care Proceedings should have regard to the requirements of the Public Law Outline, and in particular the Pre-Proceedings Checklist which is set out in the [Care and Supervision Proceedings and the Public Law Outline](#) and be agreed by the Director of CASC.

All decisions made should be recorded on the child's electronic record, including the reasons for reaching the decision (see also [Recording Parental Consent](#)).

1.3 Voluntary Accommodation

There are many scenarios in which voluntary accommodation is used positively and these include situations of family support (e.g. [Short Term Breaks](#)) and where parents are unable to care for children, for whatever reason, and there are no agreed alternative family or friends to undertake this.

In accommodating a child under Section 32, it must always be borne in mind that the St Helenian Government does not have Parental Responsibility; only the parents/ those carers with Parental Responsibility can make decisions for the child. The parent/carer with Parental Responsibility can remove the child from Accommodation

at any time and any such request must be responded to promptly by children's social care, or it must otherwise take action through the court.

The parents/carers should be advised of any changes in the child's circumstances whilst the child is in St Helena Government's care.

It is therefore important to ensure that the parents/carers have full information about their continuing responsibilities as well as those of the local authority and that this is enshrined in the Care Plan and a written agreement.

1.3.1 Obtaining Parental Consent

A recent Court of Appeal hearing ([L B Hackney v Williams & Anor \[2017\] EWCA Civ 26](#)) confirmed that 'Consent' under any of the voluntary provisions was not a statutory requirement as such. It stated that the organisation has a duty to provide accommodation for children, (subject to a parent being able to legally object and / or remove) where the person who had been caring for them was 'prevented (whether or not permanently and for whatever reason) from providing them with suitable accommodation or care'.

This, therefore, supports children's social care in its duties towards children on those occasions where 'parental consent' cannot, for a variety of reasons, be obtained at the time of a child's accommodation or parents cannot effect care of the child themselves.

Nevertheless, with regard to previous court judgments on 'consent', it reflected that they were, 'in short, good practice guidance and a description of the process that the family court expects to be followed'.

Therefore, obtaining Parental Consent as a matter of good practice remains an essential part of Accommodating a child under this part of the Welfare of Children Ordinance . A number of court decisions have been particularly critical of UK local authorities' actions with regard to consent and great care needs to be undertaken to ensure parents have the appropriate capacity to do this.

Voluntary agreements are not valid unless the parent giving consent has capacity to do so, (in cases where the father also has Parental Responsibility, the consent of both parents should be sought). The consent needs to be properly informed and fairly obtained. Willingness to consent cannot be inferred from silence, submission or acquiescence - it is a positive action.

Detailed guidance on the obtaining of parental consent was given by the High Court in the case of *Re CA (A Baby)* (2012):

- The social worker must first be satisfied that the parent giving consent does not lack the mental Capacity to do so. Under the Mental Capacity Act 2005, a person is unable to make a decision if they are unable:
 - To understand the information relevant to the decision;
 - To retain that information;
 - To use or weigh that information as part of the process of making the decision; or
 - To communicate their decision.

The High Court in Re [S \(Child as parent: Adoption: Consent\) \[2017\] EWHC 2729 \(Fam\)](#) set out the relevant information that a parent would need to be able to understand, retain and weigh up in order to have competency to consent to the accommodation of a child:

- i. That the child will be staying with someone chosen by the local authority, probably a foster carer;
 - ii. That the parent can change their mind about the arrangements, and request the child back from accommodation at any time;
 - iii. That the parent will be able to see the child.
- If there is doubt about Capacity, no further attempts to obtain consent should be made at that time, and advice should be sought from a manager;
- If satisfied that the parent has Capacity, the social worker must be satisfied that the consent is fully informed:
 - Does the parent fully understand the consequences of giving such a consent?
 - Does the parent fully appreciate the range of choice available and the consequences of refusal as well as giving consent?
 - Is the parent in possession of all the facts and issues material to the giving of consent?
- If not satisfied that the consent is fully informed, no further attempt should be made to obtain consent on that occasion and advice should be sought from a manager and legal advice sought if thought necessary;

- If satisfied that the consent is fully informed, then it is necessary to be satisfied that the giving of such consent and the subsequent removal of the child from the parent is both fair and proportionate:
 - What is the current physical and psychological state of the parent?
 - If they have a solicitor, have they been encouraged to seek legal advice and/or advice from family or friends?
 - Is it necessary for the safety of the child for them to be removed at this time?
 - Would it be fairer in this case for this matter to be the subject of a court order rather than an agreement?

Whether a person has capacity can sometimes be difficult to determine, as some individuals have a learning disability or mental health problem but can present as being more 'able' than in fact they are. Equally, within the context of 'assessing capacity', social workers should approach with great care relying on voluntary accommodation agreements from mothers after giving birth, (especially where there is no immediate danger to the child and where probably no order would be made).

Where there is any concern about a parent / carer's capacity, the social worker should ensure they discuss this issue with their team manager, or that the parent has information from a legal adviser or professional advice

1.3.2 Recording Parental Consent

In *Re N (Children) (Adoption: Jurisdiction)* [2015] EWCA Civ 1112 good practice the President of the Family Division, Sir James Munby sets out his view in respect of good practice in the recording of parental consent to voluntary accommodation agreement:

- Wherever possible the agreement of a parent to the voluntary accommodation of their child, should be properly recorded in writing and evidenced by the parent's signature;
- The written document should be clear and precise as to its terms, drafted in simple and straight-forward language that the particular parent can readily understand;

- The written document should spell out, following the language, that the parent can 'remove the child' from St Helenian Government accommodation 'at any time';
- The written document should not seek to impose any fetters on the exercise of the parent's rights. Where the parent is not fluent in English, the written document should be translated into the parent's own language and the parent should sign the foreign language text, adding, in the parent's language, words to the effect that 'I have read this document and I agree to its terms'.

1.3.3 The use of voluntary accommodation prior to Court Proceedings

High Court Judgements have considered that in circumstances where the threshold criteria (for Care/ Supervision Orders) are met, (i.e. where a child is at risk of significant harm, or the likelihood of significant harm), then care proceedings should be issued without delay.

Nevertheless, voluntary accommodation may, in an appropriate case, have a proper role to play as a short-term measure pending the commencement of care proceedings, but the Courts have strongly advised that this should not lead to an unnecessary delay in the issuing of proceedings and plans for children must not be allowed to drift, (including those cases when children are placed with relatives under a voluntary accommodation agreement). Proceedings still need to be issued in a timely fashion.

Even where a parent/carer's legal adviser has established an agreement regarding the use of voluntary accommodation prior to either issuing Proceedings or progressing a timely plan and timetable of work for further assessment, these should be carefully adhered to by all parties. Any plan should be based on the child's welfare needs and avoid delay.

All such agreements should be undertaken in conjunction with the Children's social care Legal Services and include a clear (written) agreement and Care Plan with the outcome considered at an Our Children's Review to which the parents have been invited.

Where it is highly likely that proceedings will be required to determine a factual issue, or where complex medical evidence may become involved it is better for proceedings to be issued promptly allowing the court to manage the timetable of the court case and the parents to be able to access effective legal advice.

1.4 Actions required after a Decision to Look After is made

In relation to children where Care Proceedings are being considered to secure the child's placement,

In all cases, if it is agreed that the child should become Looked After, the child's social worker will draw up a draft Care Plan with clear timescales and a statement as to whether the child's needs would best be met in a family placement or residential care.

If a foster or residential placement is required, the relevant procedure to be followed, including the need to hold a Placement Planning Meeting

Where a decision is made to pursue a Looked After placement with a relative or friend (or the child's placement with a relative or friend is judged to be a Looked After placement), an immediate assessment of the relative/friend must be undertaken.

2. The Care Plan

2.1 The Care Plan - Contents

In all circumstances where a decision is made to look after a child, the child must have a Care Plan completed by the social worker and signed by the team manager, the contents of which include:

- The child's Placement Plan (setting out why the placement was chosen and how the placement will contribute to meeting the child's needs);
- The child's Permanence Plan (setting out the long term plans for the child's upbringing including timescales);
- The Pathway Plan (where appropriate, for young people leaving care);
- The child's Health Plan;
- The child's Personal Education Plan;
- The contingency plan;
- The date of the child's first Our Children's Review (**within 20 working days**);
- The name of the Independent chair.

2.1.1 The Care Plan Where the Matter is Before the Court

In addition to the above, a Care Plan should reflect that the court is required to consider the 'permanence provisions' of the Care Plan for the child:

- a. The provisions setting out the long-term plan for the upbringing of the child - to live with a parent/family member/family friend; adoption; or other long-term care; and
- b. The plan's provisions in relation to any of the following:
 - i. The impact on the child concerned of any harm that he or she suffered or was likely to suffer;
 - ii. The current and future needs of the child (including needs arising out of that impact);
 - iii. The way in which the long-term plan for the upbringing of the child would meet those current and future needs.

2.2 The Care Plan - Process

Where there is no recent Assessment in relation to the child, the Care Plan must provide for an Assessment to be completed.

The child's social worker is responsible for drawing up and updating the Care Plan in consultation with:

- a. The child;
- b. The child's parents and those with Parental Responsibility;
- c. Anyone who is not a parent but has been caring for or looking after the child;
- d. Other members of the child's family network who are significant to the child;
- e. The child's school or the education service;
- f. Health;
- g. Probation, if the child is known to them;
- h. Any other agency involved with the child's care.

The social worker should ensure that the child, those with Parental Responsibility and the carer understand the Care Plan and their role in contributing to its implementation.

One of the key functions of the Care Plan is to ensure that each child has a Permanence Plan by the time of the second LAC REVIEW. The Care Plan is subject to scrutiny at each Our Children's Review.

The Care Plan should include the arrangements made to meet the child's needs in relation to their:

- Emotional and behavioural development;
- The child's identity in relation to religious persuasion, racial origin and cultural and linguistic background;
- Family and social relationships; arrangements for contact with sibling(s) accommodated by SHG or any other jurisdiction; details of any previous private law order, in relation to a Looked After Child; details of any order in relation to contact with a child in care; arrangements for contact with parents/anyone with Parental Responsibility/ any other Connected Person;
- Social presentation;
- Self-care skills.

3. Timescales for Completion

A Care Plan must be prepared prior to a child's first placement, or, if it is not practicable to do so, within 10 working days of the child's first placement.

4. Approval of the Care Plan

Any final Care Plan taken before the Court within Care Proceedings must be endorsed and signed by the team manager.

All other Care Plans must be endorsed and signed by the social worker's team manager.

5. Circulation of Care Plan

The Care Plan must be circulated to the following people:

- The child;
- The parent(s);
- Providers/Carers - if no Care Plan has been drawn up prior to the child's placement, the social worker must ensure that the providers/carers understand the key objectives of the plan, and how the placement will help achieve these objectives;

- The Foster carers, where the child is in foster care. N.B. The Care Plan should be filed in the confidential section of the foster carer's file and returned to the child's social worker when the placement ends;
- The child's looked after review chair.

6. Other Required Plans, Documentation and Actions

6.1 Placement Plan

The child must have a Placement Plan at the time of the placement (this includes the parent's consent to the placement (if applicable) and the child's medical treatment). It should be completed as far as possible before the child is placed or, if not reasonably practicable, within 5 working days of the start of the placement.

The information to be included in the Placement Plan will include:

1. How on a day-to-day basis the child will be cared for and the child's welfare will be safeguarded and promoted by the appropriate person;
2. Any arrangements for contact between the child and parents/anyone with Parental Responsibility/any other connected person, including, if appropriate, reasons why contact is not reasonably practicable or not consistent with the child's welfare; details of any Contact Order; the arrangements for notifying any changes in contact arrangements;
3. Arrangements for the child's health (physical, emotional and mental) and dental care, including the name and address of registered medical and dental practitioners; arrangements for giving/withholding consent to medical/dental examination/treatment;
4. Arrangements for the child's education and training, including the name and address of the child's school/other educational institution/provider and designated teacher; maintaining any Education, Health and Care Plan;
5. The arrangements for and frequency of visits by the child's social worker; and for advice, support and assistance between visits;
6. The circumstances in which the placement may be terminated;
7. The name and contact details of the Reviewing Chair, , the social worker who will be visiting the child.

The Placement Plan will be recorded in the child's record on the electronic database.

Copies of the Placement Plan must be provided to the child (if of sufficient age and understanding), the parents and must be handed to the residential staff/carers before the child is placed. Where a child is placed in a foster placement, one copy should also be kept in the confidential section of the foster carer's file and returned at the end of the placement.

At the time of the placement, the residential staff/carers should also be given any additional information about details of the child's day to day needs which are not covered by the Placement Plan but are important to ensure that the staff/carers are in the best possible position to help the child settle in the new placement, for example any particular fears at night-time or the child's favourite toys.

6.2 Chronology

Whenever a new placement is made or the child moves placement, the child's Chronology should be updated.

6.3 Arrangement of LAC Review

The child's social worker must organise a looked after review within 4 WEEKS

6.4 Health Care

All children should have a looked after medical within 14 days of becoming a looked after.

. See [Health Care Assessments and Plans Procedure](#).

In addition, the social worker should inform the carer of any medication the child is taking, and ensure that a supply of medication is provided in a clearly labelled bottle with the child's name, required dosage and the time the medication is to be given.

6.5 Personal Education Plan (PEP)

The social worker should also liaise with the Designated Teacher so that a Personal Education Plan (PEP) can be completed as part of the Care Plan before the child becomes Looked After (or within 28 working days in the case of an emergency placement) and be available in time for the first Our Children's Review. See

6.6 Provision of Information

The child's social worker must provide the child and parents with written information about the placement.

The child and parents must also be provided with information about the complaints process