**FAMILY ARRANGEMENTS PROTOCOL**

**INTRODUCTION**

Parents may make private family arrangements in respect of the care of their child for a variety of reasons. This may be a short term or long term arrangement.

Where the child is cared for by an immediate family member, the parent or person with parental responsibility can choose to make such an arrangement and this does not require the involvement of the Local Authority.

Where a child is cared for by a more distant family member or friend for over 28 days, this is Private Fostering and reference should be made to the appropriate procedures. Please see reference to Private Fostering guidance.

[https://sthelensgovuk.sharepoint.com/:f:/r/sites/WiderChildrensSocialCareTeam/Shared%20Documents/CSC%20Resources/Private%20Fostering?csf=1&web=1&e=H8kgoh](https://sthelensgovuk.sharepoint.com/%3Af%3A/r/sites/WiderChildrensSocialCareTeam/Shared%20Documents/CSC%20Resources/Private%20Fostering?csf=1&web=1&e=H8kgoh)

There may be occasions where a child is cared for by a family member or friend under S20 of the Children Act 1989. The family member or friend would be assessed as a Regulation 24 carer or Foster Carer, Connected Person.

Please reference [S20 Guidance .docx](https://sthelensgovuk.sharepoint.com/%3Aw%3A/r/sites/WiderChildrensSocialCareTeam/Shared%20Documents/CSC%20Resources/PLO%20Regional%20Toolkit/6.%20%20S20/S20%20Guidance%20.docx?d=w1da5829053f644a7893765e161f09099&csf=1&web=1&e=yClgxu)

**DEFINITION**

A parent or person with parental responsibility makes arrangements for their child or children to be cared for by a close family member for example, Grandparents, Aunt, Uncle, Sister or Brother.

The child or children will not be deemed children we look after however, where the Local Authority is involved with the child or children, safeguarding checks may need to be undertaken including Police, Health and other agencies involved with the family to ensure the relative is appropriate to care for the child or children. The Local Authority would not undertake a detailed assessment or connected carers assessment of the carers.

Where the child or children have an allocated social worker, visits will be undertaken, and review meetings of the plan will continue and will include the family member caring for the children as well as the parent or persons with parental responsibility. For example where a child is subject to a child protection or child in need plan.

The Local Authority will not have parental responsibility for the child or children. The parents will remain the only people who have parental responsibility, or where another person has been granted parental responsibility for the child by the Court. Only those with parental responsibility will be able to make decisions about the child or children, for example in respect of education or giving consent for medical treatments.

The parent or persons with parental responsibility will remain financially responsible for the child or children. The Local Authority would not provide regular financial assistance for their care but can make one off s17 payments if assessed as required.

The private family arrangement is voluntarily made between those with parental responsibility and the close family member. They can amend or end the arrangement at any time.

The carers will not be deemed foster carers for the child or children and will not receive support in their own right as carers.

The Local Authority will not place any restrictions in respect of the private family arrangement, and all arrangements for example family time, will be made between the parent, person with parental responsibility and the close family member caring for the child.

NB: Where a child is living with an SGO carer and alternative private family arrangements are put in place for whatever reason, consideration must be given to any SGO payments being made and these should cease if the arrangement is more than an emergency short term arrangement. This should be reviewed with the SGO team.

**EXAMPLES OF PRIVATE FAMILY ARRANGEMENTS**

* Parent or person with parental responsibility is in hospital for a period of time,
* Parent or person with parental responsibilities health is poor and they require support caring for the children,
* Parent or person with parental responsibility is in the army or in a job which requires them to work away for periods of time,
* Parent or person with parental responsibility is in custody,
* Breakdown of family unit, for example where a child moves to live with Grandmother following an argument with parents.

**PARENT DOES NOT HAVE CAPACITY TO EXERCISE PR**

Family members may wish to ‘step in’ to assist a parent and this may be appropriate for a short period of time subject to assessment however where the parent clearly does not have capacity to consent, they may be deemed as unable to consent to a Family Arrangement.

Where the parent is subject to a Mental Health Section, and there is no one else with parental responsibility, consideration needs to be given to whether the parent has capacity to consent to a family arrangement. Whilst this may be in the child’s best interests to provide consistency of care with people they are familiar with, we cannot assume that this would be the wish of the parent. If there is another parent with PR their views should be sought and agreement for any private family arrangement. Where there is another person with PR, it would ordinarily be their responsibility to ensure that appropriate arrangements are made for the child or children. In the event that the other parent is unaware or unable to exercise PR and where the Local Authority is made aware of the arrangements, it is the responsibility of the allocated Social Worker to seek the view of any other person with Parental Responsibility.

Where there are concerns that a parent does not have capacity, medical advice is required from the mental health professionals responsible for the care and treatment of the parent to advise on their assessment. A multi-agency approach is very important to ensure that the right information is shared / obtained at the earliest opportunity to ensure appropriate and timely plans are in place for the child or children.

In the event that the child is already living with a family member, advice from medical personnel responsible for the parent’s care and treatment is required as to whether they feel the parent can give agreement to the arrangement or not. This should remain under review. Views in respect of length of time the parent will be unable to care for the child/ren is also required.

Where the plan is for a family member to care for the child or children, advice from medical professionals responsible for the parents’ care and treatment should be obtained prior to any arrangement being put in place as there may be a view that the Local Authority has placed the child or children. In the event that the arrangement is required to safeguard the child or children due to the parent not having capacity to exercise PR for example already being subject to a Section under the Mental Health Act consideration should be given to the arrangement and whether S20 can be deemed appropriate. This will be informed by the length of time the parent will be unable to care for the child or children.

If this is a private family arrangement with a close family member, an assessment / viability of their suitability to care for the child/ren is required.

Where professionals identify that the parent does not have capacity to give consent, case law relating to not being able to obtain consent, the Local Authority is able to make appropriate arrangements for a child with a family member assessed as suitable to care for the child or children, pursuant to S20. Legal advice must always be sought in this situation.

Where there are no appropriate or suitable family members identified, and the parent does not have capacity, alternative care arrangements must be explored including friends or other connected person and foster care.

The permanence plan for the child or children must be considered under all circumstances, and Legal advice obtained as there are a number of factors which will need to be taken into account to agree the most appropriate way of supporting the family which may include S20 or may require proceedings. Family members may wish to seek a private order, and this should also be considered for the permanence plan for the child or children.

**CHILDREN WITH NO ONE TO EXERCISE PARENTAL RESPONSIBILITY**

Where a child or children move to live with a family member following the death of their parent(s) or person with parental responsibility and is allocated to a Social Worker subject to an ongoing assessment, Child in Need or Child Protection Plan, an assessment is required in respect of the appropriateness of the arrangements and what support is required. A referral may be received due to the death of the parent(s), and this should also be progressed to referral to assess the suitability of the arrangement.

Generally, Legal advice regarding children where both parents have died and there is no one with parental responsibility for them is as follows: -

Section 38(2) states that a Court shall not make an interim care order or interim supervision order under this section unless it is satisfied that there are reasonable grounds for believing that circumstances with respect to the child are as mentioned in section 31(2), namely:

A Court may only make a care or supervision order if it is satisfied –

1. That the child concerned is suffering, or is likely to suffer significant harm; and
2. That the harm, or likelihood of harm is attributable to –
3. The care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
4. The child being beyond parental control.

Where the above grounds are not met, the Local Authority may support the family member / carer under S17 and assist in respect of seeking private law proceedings to obtain a CAO or SGO.

It is also important to consider what harm or likelihood of harm the child or children would come to without parental responsibility being awarded to anyone. In respect of medical treatment, two doctors can agree to treat a child if there is no one with parental responsibility and it is deemed in the child’s best interests. Schools would accept the support of the Local Authority for a child.

The Local Authority has a duty to consider the least interventionist approach possible.

Case Law - Birmingham City Council v D; Birmingham City Council v M [1994] 2 FLR 502 in which the children were not suffering harm and the local authority attempted to establish a likelihood of harm on the basis that potential harm could be caused if there was no legal person to exercise PR on behalf of the children. This was completely rejected by the Court.

Case Law - Leicester City Council v AB and Others [2018] that refused to find threshold was met because the mother could no longer care for the child (she was terminally ill).

**SAFEGUARDING CONCERNS**

Where safeguarding concerns are identified in respect of any private family arrangement either on a temporary basis or due to the death of the parent(s), or there are concerns regarding the suitability of the identified family member’s ability to care for the child or children, this must be assessed, and appropriate procedures followed.

Where there are any restrictions imposed via a safety plan or the existing plan to safeguard a child this cannot be considered a family arrangement and S20 should be considered with the parent and family member.

**FINANCIAL ARRANGEMENTS**

As outlined above, under Private Family Arrangements, financial responsibility for the child or children remains with the parent or persons with parental responsibility.

The Local Authority can consider financial assistance as a one off payment under S17 to support the arrangement where this is assessed as being required and would prevent the child or children becoming looked after.

**PROTOCOL**

Where a child is living with a close family member under a private family member and there are no restrictions in place, a Private Family Arrangement Agreement should be completed. See copy of consent form below.



Where the child is not known, checks should be undertaken to ensure the identified close family member is suitable to care for the child and that the living arrangements are appropriate. A Child and Family Assessment will be completed if required.

If the carer is not a close family member, Private Fostering Arrangements should be considered, and an assessment undertaken. The Head of Service with responsibility for Private Fostering should be notified.

Consideration of any financial assistance required under s17 should be included in the Child and Family Assessment undertaken. Financial support will be provided by the parents or persons with parental responsibility. The financial arrangements for the child or children must be clarified and agreed as soon as possible after the child has moved the private family arrangement carer. Where the child has been residing with an SGO carer, a review of the circumstances of the child or children moving to an alternative carer must be undertaken and a decision made with the SGO Team regarding suspending or ending SGO payments.

Where any safeguarding risks are identified as part of the checks undertaken or the assessment completed, a case discussion will be convened with the responsible Head of Service to consider the arrangements.

Where there are any restrictions imposed as a result of safeguarding concerns, a case discussion will be convened with the Head of Service to consider the arrangements and whether S20 is required.

If a child is placed with a close family member by the Police due to a significant incident, this must be assessed immediately. Child Protection Procedure would be initiated and a discussion with Head of Service to agree the plan for the child or children.

Please note that Regulation 24 can only be considered where the arrangements are made in an emergency situation and not where the child or children have been residing with a close family member or connected person. It is therefore important that any arrangements are checked and assessed as soon as possible after the arrangement is identified. The Manager will liaise with the Fostering Service at the earliest opportunity to undertake a viability assessment.

A full genogram should be completed, and viability assessments completed as part of the initial involvement with the family.

Where the arrangement has been made due to the death of the parent(s) or person with parental responsibility and there is no one exercising parental responsibility, consideration must be given to the child’s permanence plan. Where threshold is not met for a care or supervision order, consideration and support regarding the carers seeking a private order should be given.

Checks and an assessment should be undertaken in respect of the carers.

Legal advice should be obtained via a case discussion, which should include Fostering and SW Assessment to consider the longer term plan.

Any application for a private order must be made by the carer prior to the child or children being transferred to SW Assessment.

Where a family member or connected person is caring for a child or children they should be supported to obtain appropriate benefits and S17 financial support can be made to assist with essential items to support the arrangement. Financial support can also be provided to the carers to seek legal advice, complete the application forms for a private order and the application fee to the Court.

Where there are concerns regarding the proposed care arrangements for the child following the death of a parent or persons with parental responsibility, a case discussion must be held immediately with the Head of Service to consider the plan for the children.