

CHANGING A CHILD'S NAME

Principles

A child's given name and family name provides their legal identity and is a fundamental part of a child's history, culture and heritage. Brighton and Hove Council Children's Services is committed to preserving children and young people's birth names however in particular circumstances there are significant reasons for a child or young person to be "known as", i.e. that they retain their birth name on formal records but are referred to in day to day interactions by another name.

It is not envisaged within this policy that there will be circumstances within which a child or young person would need formally to change their legal name, and that the starting point in any such process will be a child becoming 'known by' an alternative name, rather than legally changing it.

In terms of general law, those under 16 can only change their name with the permission of all those who hold parental responsibility. Once a young person is aged over 16 they can change their name by Deed Poll or simply become 'known as' for their new name.

The requirement then for permission by all those who hold parental permission has particular implications for children for whom PR is shared between parents and the Local Authority as a result of a Care Order.

Section 33 (7) of the Children Act 1989 tells us;

While a Care Order is in force with respect to a child, no person may-

- a) Cause the child to be known by a new surname or:*
- b) Remove him from the United Kingdom*

Without either the written consent of every person who has parental responsibility for the child or the leave of the court.

The task for the social worker is then to establish with the child and young person the reasons for their wish, and to seek the view of the child's carer and any other relevant professionals in order to come to a view as to whether;

- The child wants to be known by a different family name
- Whether this change is considered to enhance the child's welfare
- Whether all who hold PR are in agreement and, if they are not, if the child welfare issues are clear, whether they should seek legal advice to establish whether there are grounds to seek the leave of the court.

Whilst the child's wishes and feelings are significant factors, they are not the determining factors, A decision to change a child's name must consider

whether being known by a new family name will enhance the child's welfare. This means that we have to establish for ourselves as holders of PR and corporate parents, whether we consider that such a change will enhance the child's welfare on the basis of our wider understanding of the child's world in order to decide whether we are in support of the child's expressed wish in addition to seeking the views of anyone else who share's PR for the child or young person.

Legal Status

Child Arrangement Order (formerly Residence Order)

Carers who obtain a Child Arrangement Order share parental responsibility with the child's parents (where the Order concerns the arrangements which relate to whom the child will live). Child Arrangement Orders) are most often used when there is a high level of ongoing family contact. Because of this a name change at the making of a Child Arrangement Order should rarely be considered as it is specifically prohibited once an order is made, without the written permission of every person who shares PR or the permission of the Court. Once the Residence Order is made, the Local Authority have no further decision making role in relation to the child or young person.

Special Guardianship

Carers who obtain a Special Guardianship Order gain parental responsibility for a child but they can only change a child's name with the court's permission or with the written consent of all who hold PR for the child or young person. Because a Special Guardianship Order is not a life long order, a name change at the making of a Special Guardianship Order should not be routinely considered. Once the SGO is made, the Local Authority role does not extend to decision making about the child or young person.

Long Term Foster Care

These placements do not have any legal permanence. In the majority of cases it will be inappropriate for foster children to take on their foster carer's surname however this is a matter for assessment in relation to a child or young persons individual circumstances, wishes and feelings.

Adoption

Children who are adopted will assume the family name of their adopters at the point of the Adoption Order being made. Prior to the Adoption Order being made, they cannot be known by their adoptive family name and so must retain their birth family name on records and in daily usage.

Children who are adopted can have their given name changed at the point of adoption order within the provisions of the law. The law does not prohibit

changing the child's given name at this point however in practice our starting position is that we do not support change of given names and most children only change their family name, to that of their adoptive family.

This policy and practice position is rooted in our understanding of the adopted child having a dual identity; as a member of a birth family and of an adoptive family, and of the need for the child to be raised by adoptive parents who are able to support a child to integrate that dual identity over the course of their development which requires that they accept and value the whole of the child which includes the names they were given at birth.

Agreement to a name change is however considered in exceptional circumstances;

- Where the given name is sufficiently distinctive to allow for a child to be traced by birth family members who it is believed would seek to disrupt the child's life in their adoptive family.
- Where there is already a child in the adoptive family with the same name

The law allows for adopters to add middle names and it is for the adopter to decide whether, after the adoption order is made, their child is known by a middle name that they have chosen. Once an adoption order is made, the Local Authority have no mandate for involvement in a child's life above or beyond that which they hold for all children in the community.

Carers who want to Change a Child's Surname.

In SGO/CAO /RO this will not be supported unless there are safety reasons to protect the child and the Local Authority are of the view that the child's welfare demands this. Once the child is subject to an SGO or RO the carers may do this at a later stage with the written consent of those with whom they share PR or with the permission of the Court; this is different from doing this with Departmental support.

In Foster Care this will not receive Departmental support unless there is a clear child welfare rationale for doing so. In these circumstances work should be done with the child, if age appropriate to explore their wishes and feelings and their understanding of why the change is necessary and the significance to them and their family and carers of doing so

Where it is assessed that the child wants to be known by a different name, and where this is assessed to be in the child's best interests, the Local Authority must seek the written consent of those who also hold PR for the child. If this is not provided, legal advice should be sought.

Usual LAC care planning and processes apply to any such plan or decision.

In Adoption This will be agreed within the adoption application.

Adopters who want to Change a Child's Given Name.

In Adoption This will not be agreed or receive Departmental support unless there are very specific reasons for considering a name change for a child:

- Where a given name has been misspelled on the birth certificate
- Where the given name is distinctive and may lead to the child being put at risk by being traced

Where it is considered that either of these concerns apply, the consideration to a name change will be given by the Child's Social Work Team Manager in discussion with the Adoption and Permanence Team Manager. Following this discussion the child's social worker will produce a brief report for Head of Service for Looked After Children setting out the rationale for name change. The report should demonstrate that there has been consultation with the child or young person (where the child is of sufficient age and understanding to participate),

with all those who have PR for the child (or efforts to do so are recorded) and with the Independent Reviewing Officer for the child or young person.

The Head of Service for Children in Care and Adoption and Permanence will ensure that the decision to change a child's name is proportionate to the assessed risks of the child being identified by birth relatives once placed for adoption.

In the first instance, the use of the child's second or middle name should be considered if they have one, before a new name is chosen.

Where an entirely new name is to be chosen, the identified adopters for the child should be included in the decision making process once agreement has been given by the Head of Service to the plan.

In Adoption Disruptions

Children who experience adoption disruption, where the relationship with their adoptive family has broken down irretrievably, may wish to revert to their birth name. This may be supported once lifestory work has been completed and reunification work has been exhausted. The Independent Reviewing Officer will oversee any such planning and work with a child in these circumstances. The adoptive parents retain PR for the child and the birth family or anyone who held PR prior to the adoption order being made no longer have any legal relationship with the child.

Therefore, it is the written consent of the adopters which must be sought, and if that is not forthcoming, legal advice should be sought, given the child is Looked After.