



Good Practice Guidelines

**THE SCHOOL AND THE
FAMILY TODAY**

2014

The purpose of this publication is to provide Home School Liaison Teachers & Schools with a best practice approach on policies regarding children living with parents married and unmarried, children of separated parents, same sex parents, non biological parents and children in care.



The information in this booklet is not to be considered legal advice. Legal advice should be obtained from a legal professional. While every effort has been made to ensure that the information is accurate, no responsibility can be accepted for any error or omission. The Booklet is a guide only.



Acknowledgements

I am highly indebted to a number of people who have been instrumental in helping make the completion of this booklet a success. I wish to express my sincere gratitude to my own South Inner City cluster of HSCL's, Margot Doherty from Treoir for her support and guidance, Carol Finlay from Dublin City Council, GLEN, the HSE and other community members.

Thank you all.

Ann-Maire Waddock



Defining Parent

The definition of “Parent” in the Education Act (1998) includes “foster parent, a guardian appointed under the Guardianship of Children Acts (1964 to 1997), or other person acting in loco parentis who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts (1952 to 1998) or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter.”



Married parents

In a married family situation (as recognised in the Constitution), both parents have equal responsibilities in relation to the child and, therefore, have the same rights of involvement in the child’s education and access to relevant information about the child’s progress.

Separated or divorced parents

Separated or divorced parents will still have rights regarding access to information about their child’s education as they fall within the definition of “parent” governing both the Education Act 1998 and the Education (Welfare) Act 2000. A father granted guardianship under the Guardianship of Children Acts 1964 to 1997 will also come under this definition.

In the event of a marital breakdown, the parent with full or joint custody of the child would be considered responsible in some matters but may not have exclusive rights over the upbringing of the child. It would be appropriate, therefore, for both parents to have access to information about his or her child's education. It would be prudent for the principal teacher to advise the parent assigned as primary carer that information has been given to the other parent.

(Information from - Primary Education Management Manual, Thompson Round Hall, Section 3)

Others

Other people for example: foster parents or a HSE person who has responsibility for a child under a Care Order, may acquire parental rights in relation to a child's education if they come within the definition of "parent", (acting in loco parentis).



Non biological parents

Non biological parents can include: same sex households, a mother's new husband or a cohabiting parent who is not the biological father, grandparents and other relatives (acting in loco parentis).

Guardianship: A non biological parent cannot be appointed guardian by the court or by agreement of the natural parents as per the Guardianship of Infants Act, 1964 (as amended). A person can be appointed a Testamentary Guardian in a will.

Unmarried Mothers

A mother always has guardianship rights and generally has full custody in relation to her child. At present, an unmarried father has no automatic rights in relation to a child. However, he may apply to the court for an order granting such rights under the Guardianship of Infants Act 1964 (as amended) or by a Statutory declaration signed with the mother in front of a Peace Commissioner. He will then come within the definition of “parent”.

Unmarried Fathers



Where unmarried fathers are legal guardians of their children they have a right to make decisions in respect of their children. Often schools and other institutions are not aware that fathers can have these rights and therefore do not include them in their policies. In addition parents can assume they have rights when they do not. Having the fathers name on the birth certificate does not give him rights, see above. There can be confusion, about a diverse number of situations regarding children and the school,

such as who can collect children from school, who can receive school reports, registering a child's name in school etc.

This booklet will look at various situations in detail but firstly we will establish what the word guardian means, as the school will often send letters home with “Dear Parents & Guardians”.



What does Guardianship mean?

Guardianship is the collection of rights and duties which a parent has in respect of her/his child. A guardian has a duty to maintain and properly care for the child and has the right to make decisions in the major areas of the child's life e.g. choice of religion, of school, adoption, consenting to medical treatment and passports, decisions about leaving the country etc.

Guardianship should not be confused with custody.

Who can be a guardian?

Where a child's parents have not married each other, only the mother is automatically a guardian of her child.

If the father's name is on the birth cert this does not give him any guardianship rights in respect of his child.

A father who has been appointed a joint guardian by a court or by statutory declaration can have his joint guardianship rights removed by court order if the court is satisfied that this is "in the best interest of the child".

Where a parent dies

All parents who are guardians, but especially mothers who are sole guardians, should make a will appointing guardians of their children to act on their behalf in the event on their death. This is called Testamentary Guardianship. Where a parent who is a guardian dies without making a will any person with a proper interest can apply to the local district court to be appointed a guardian.



Access and Custody of children whose parents are not married to each other

Access is the right of a child and a parent who do not live together to spend time together. Where the parents cannot reach an agreement the non-resident parent may apply to the local district court for an access order. The court may set the time, place and duration of access. As with all cases involving children, any decision made by the court will be made “in the best interest of the child”.

A grandparent or any person related to a child including by adoption, or who has acted as a parent, may apply for leave to apply to the local district court for access to the child.

Custody is having the responsibility for the day-to-day care of a child. The mother of a child born outside marriage has sole custody of her child, that is, she is the only custodian. Where both parents agree, it is possible for them to share custody of a child on an informal basis.

It is possible for a child’s father to apply to the court for sole or joint custody of his child. However, there would have to be compelling reasons for removing a child from the custody of her/his mother.

(Information from- Treoir, ‘Information Pack for parents who are not married to each other)

Same Sex Parents

Children being parented by parents of the same-sex are in a similar position legally to those of unmarried parents, however the non-biological parent in a same sex relationship has no means to acquire guardianship other than through testamentary guardianship.



A consultation with HSCL teachers from Dublin's South Inner City Cluster was carried out and the following answers emerged as the best practice approach to the questions below:

| REPORT CARD | | |
|-------------|---------|-------|
| Name: | Subject | Grade |
| Age: | | |
| Address: | | |
| Class: | | |

School records

Q Whose name goes down on record cards?

A Mother and father

Q Should schools have a space on their application form requiring the parent with custody to make it known to the school if the other parent has guardianship rights or not?

A Yes

Q In the case of unmarried parents should the father provide the school with a copy of his guardianship form and make a personal request to receive all correspondence along with the mother from the school?

A Yes, as the school can only know when they are informed by the parent. The school will facilitate such correspondence to the parent.

Q Does a school register a student's name according to what's on the birth certificate? Does the school ask for a copy of the birth cert?

A Schools do ask for a birth certificate and the child's name will be registered as per his/her birth certificate. In the case of International students a copy of their passport/visa is required and the name is registered as the same.

Q What happens if the father is a guardian and he wants his name on the school register and the mother disagrees?

A If there is a guardianship order both parents are entitled to have their names on the register therefore the school could not agree to the mother's request.

Q Can a joint guardian change a child's surname on the school register ?

A In general school records should not be changed. The guardian may request the school to amend the child's name as per their birth certificate, if this was not done at the initial registration .

Domestic Violence Orders

A safety order is an order of the court which prohibits the violent person from further violence or threats of violence. It does not oblige the person to leave the family home. If the person lives apart from you it prohibits them from watching or being near your home.

A barring order is an order which requires the violent person to leave the family home. The order also prohibits the person from further violence or threats of violence, and from watching or being near your home.

A safety order can last up to 5 years and a barring order up to 3 years. These orders can be renewed by applying for a further order before the previous one has expired.
(Information from- Citizen's Information)

A Protection Order: You can apply for a protection order while you are waiting for the court to decide on your application for either a safety or barring order. A protection order prohibits the violent person from further acts of violence or threats of violence. It does not require the violent person to leave the home. This is a temporary order but will have immediate effect.

If you get any of the above court orders and the violent person breaks it, then the Gardaí can arrest and charge that person.

Q Should school records show if there is a Domestic Order in place and against whom.

A Yes, it is up to the parent to make the school aware of any domestic violence orders in place. The school must keep in mind their obligation to comply with the Data Protection Acts 1998 and 2003



Information to parents from schools:

Q Who should receive school reports where parents are living apart?

A In principle both parents should receive reports and may be sent to both addresses if provided on the application form or requested. The school should acknowledge and give both parents their right to information.

Reports will go to legal guardians, foster carers or the HSE residential care home of the students unless an alternative agreement has been made beforehand.

Q How can a non-biological parent be included in the information sent to parents from school?

A They may be appointed to receive information by a legal guardian.

However some schools openly invite all parents including non biological parents through school texts, letters, orally, e-mail or by open invitation through the school web page. Otherwise they may ask to be included with the guardians consent .

School meetings/involvement

Q Who can attend parent/teacher meetings?

A Both parents are invited, however they may appoint someone to attend on their behalf giving consent to the school to share information with a third party. The parent/ guardian of the student must inform the school prior to the meeting either verbally or in writing giving consent to the school to share information with a third party.

Schools generally like to see the person who has the most responsibility and parenting of the child. The school will need to know the relationship of the third party person to the child.





Q Will schools facilitate separate parent teacher meetings for parents?

A Rather than it being an obligation the school will facilitate an alternative meeting if requested. A school may request that a third party be present (perhaps another teacher) to make notes as to what is being said. Perhaps one parent is not facilitating homework etc. A written plan could be agreed on with the parents' consent. This format does require extra resources so may not always be possible. Alternatively the school can send out a written report from the child's class teacher.

Q In a same-sex headed family situation who should be invited to parent-teacher meetings?

A The legal guardian or if the school knows both parents very well they may make a different arrangement. It may be the parent who has the most contact with the school.

Q In a same-sex headed family with whom should the school consult in matters relating to a child/children of the family?

A The legal guardian unless she/he instructs otherwise.

Q Where the father is a guardian, the relationship ends and the mother wants the father removed from everything; attending school plays, parent-teacher meetings and receiving school reports - what happens?

A Both are invited unless the mother can provide the school with evidence as to reasons why the father should be excluded such as a court order.



Collecting children from school

- Q Who can collect children from school?
- A The persons who are named on the enrolment form, child minders or the person nominated with the legal guardian's written permission. It is important to notify the school of any changes.
- Q Does the father have to be a guardian to collect his child from school?
- A No, the father does not have to be a guardian to collect his child, he can be nominated by the mother. This is dealt with in the enrolment form or as per changes made with the school due to arising circumstances.
- Q Can a father who is a guardian collect a child from school against the mother's wishes?
- A Generally no, unless he has a court order for access that includes collecting the child from school.
- Q Do schools need a template form for parents to fill out in relation to who picks up the child from school and if these arrangements need to be changed to inform the school.
- A Yes

Consents

- Q Who should sign consents for school trips within Ireland, outside Ireland, medical treatment, school activities, sport trips, RSE programmes, school retreats, etc....
- A We recommend that there is one designated person (who is a guardian) to sign all consent forms. This person's name must be on the enrolment form.

Q In a same-sex headed family situation who can sign consent for school activities but not invasive medical treatments?

A Legal guardian or name on enrolment form.

Q What consents (as above) can non-guardians sign?

A None, unless the custodial parent has given permission to the school for this person to sign.

The name on the enrolment form is the person who should sign forms.

Q Should schools organize a student's passport?

A In the past students may have acquired their first passport when going on a school tour abroad. Schools should not organise a student's passport.



Emergencies

Q What is deemed an emergency in school?

A It may be classified as an unforeseen or sudden occurrence, especially of a danger demanding an immediate remedy or action for the welfare and safety of the child.

Q Who is contacted in the case of an emergency?

Does it have to be a legal guardian?

A The first point of contact should be the legal guardian. If the school cannot make contact with this person they will make contact with whoever the student may suggest.



Foster Care Students

Fostering is caring for someone else's child in one's own home. It is providing family life for a child who for one reason or another cannot live with his own parents. It can be either on a short or a long term basis.

(Information from—Fostering is caring book, The Irish Foster Care Association)

Q Do the biological parents lose their guardianship when the child goes into foster care?

A If the guardians have placed the child into care voluntarily no, if the child is in care through a court order the foster parents share guardianship with the HSE.

Children in Residential Care

The primary carer for a child in residential care begins with the **KEY WORKER**, also referred to as the **SOCIAL CARE WORKER**. This person looks after the day to day issues of the child. The **SOCIAL WORKER**, is responsible for the overall care plan of the child.

Q Are there any HSE guidelines in place for the role of the school in relation to children in residential care?

A No, not specifically.

Q Who will attend parent teacher meetings?

A The key worker working within the residential care home with the child.

Q In the case of an emergency who is the main contact person?



A If a student is in residential care the key worker is the first point of contact. The key worker should then inform the Social Worker in the HSE and they will make a decision as to who in the family should be contacted as they will know the family background best.

Q Who is responsible for informing the school when the student is sick?

A The child's key worker in the residential care home should inform the school.

Q When the student is sick and needs to be picked up from the school who from the house should come and pick them up?

A The child's key worker in the residential care home.

Q Who will sign permission slips for outings, insurance forms, injections given in school etc.

A The key workers in the residential care home can sign for the student so long as it is not for a passport or invasive medical treatment. Only the guardian or in certain circumstances the HSE can sign for invasive and other treatments e.g. injections.

Q What is the status of the parents when a child is in care?

Voluntary Care

A In cases where parents are unable to cope due to illness or other problems they may agree to their children being taken into the care of the HSE. This is known as voluntary care. In these cases while the HSE has care of the children it must consider the parents' wishes as to how the care is provided. The parent remains the child's legal guardian.

The HSE is obliged to maintain these children for as long as their welfare requires it. At present there are over 5,000 children in care in Ireland, the majority of whom are in voluntary care.

Care Orders (Involuntary care)

If a child is in need of care and protection and is unlikely to receive it at home, then the HSE must receive them into care. This may happen for example, in the case of an orphan or an abandoned child. There are a number of procedures which the HSE can use when dealing with children who are at risk or who are in need of care. The HSE may apply to the courts for a number of different orders. These orders give the HSE a range of powers (including decision-making), about the type of care necessary and about access to the children for parents and other relatives.

The following is a summary of those orders:

- Emergency care order - maximum of 8 days in care.
- Interim care order - maximum of 28 days in care but may be extended.
- Care order - can continue up to age 18
- Interim special care order - maximum of 28 days but may be extended.
- Special care order - maximum of 6 months but may be extended.
- Supervision order - maximum of 12 months but may be renewed. (The above orders mean moving the child from the home, except for the supervision which order does not).

In general, the various orders involve the child being received into care by the HSE. A **supervision order** however, involves the child being visited and monitored in their own home by the HSE.

Q What communication are the parents entitled to from the school taking their legal status into account?

A Reports can be sent to the key worker and they may pass them on to the parents.
Parents are entitled to school reports and it is good practice that they remain involved in their child's life if recommended.

Q Whose name goes down on school records?

A The child's name and the names of their parents as per the birth certificate. If the child is in care the key worker/ social workers name should be given to the school.
In daily practice you would use the name the child wants.

Q When the student has a "child in care review", is a representative from the school required to attend these meetings from an educational perspective?

A The student will have a review once a year. If everything is going well for the student a school representative will not have to attend. However if there is a problem regarding school life they may require the school to attend to have an input to help solve any issues.

Q Is the school entitled to any information as a result of these meetings?

A If it has a direct impact on the school or it is relevant the school should be informed.

Q What are the roles and responsibilities of the residential care home in relation to the students' education?

A The same as for any parent.

Parental Status and school communication entitlements *

A) Parents married to each other & living together

Parental Status: Mother and Father have equal guardianship and custody rights over the child unless a court order specifying otherwise exists, e.g., a care or supervision order. Where necessary the school should seek a letter from the parent's solicitor confirming the content of the relevant section of any such court order to clarify its impact [if any] on the school.

Both parents are entitled to: (Unless there is a court order to the contrary). To be consulted in regard to educational welfare of child/notice of formal parent teacher meetings/copies of school reports notice of meetings with NEPS, SENO etc./notice of in-school/after school programs/notice of school closures/notice of preparation meetings for the various sacraments/other meetings. One letter / communication to both parents will suffice.

(B) Parents married to each other, separated & living apart

Parental Status: In addition to **(A)** above, parents may have an 'informal arrangement' as to the custody of and access to their child/ren.

Where necessary, schools should request details of any such arrangement. 'Living apart' includes situations where couples who have separated continue to live under the same roof as well as situations where one or other has left the family home.

Both parents are entitled to:

Information as set out in **(A)** above.

A separate letter/communication should be sent to each parent.

(C) Parents married to each other, living apart with a 'Separation Agreement' in place

Parental Status: In addition to **(A)** above, the 'Separation Agreement' will detail any formal arrangement between the parents in relation to custody and access.

Custody of the child normally rests with the parent with whom the child primarily resides. Parents may also have joint custody. Both parents remain guardians of the child.

Both parents are entitled to:

Information as set out in **(A)**.

A separate letter/communication should be sent to each parent.

(D) Parents married to each other, living apart & either one or both is in a new relationship

Parental Status: In addition to **(A)**, the fact that either parent is in a new relationship or has remarried has no impact on the guardianship or custody rights of the natural parents. New partners have no statutory rights in relation to the child but may have a role with regard to collection from school etc.

Communications from the school to new partners should be limited to that which is agreed between the parents or that which has been provided for by a court order.

Both parents are entitled to:

Information as set out in **(A)**.

A **separate** letter/communication should be sent to each parent.

No letter/communication should be issued to new partners, unless there is express agreement between the parties or unless such is provided for in a court order.

(E) Parents unmarried & living together or living apart

Parental Status: The school should co-operate with the arrangements in place between the parties regarding the child unless a dispute arises. The natural mother only has automatic right of guardianship. A natural father can apply to the court seeking an order granting him guardianship, custody and access rights

Alternatively, the natural mother can agree by statutory declaration to grant the father such rights whereby he is appointed guardian. The school should seek a copy of the statutory declaration. Should the natural mother and father subsequently marry each other, both then have equal guardianship and custody rights as set out in **(A)**.

Parental Entitlements:

The natural father does not have an automatic entitlement to the information set out in **(A)**

A letter/communication goes to the natural mother and to the father if he is in possession of either a court order or a statutory declaration.

(F) Parents unmarried & in new relationships

Parental Status: The natural parents' rights are as set out at **(E)**. New partners have no statutory rights in relation to the child but may have a role with regard to collection from school etc. Communications from the school to new partners should be limited to that which is agreed between the natural parents or that which has been provided for by a court order.

Parental Entitlements:

The natural parents are entitled to the information as set out in **(E)**. A letter/communication goes to the natural mother and to the father if he is in possession of either a court order or a statutory declaration. No letter/communication should be issued to new partners unless there is express agreement between the parties or unless such is provided for in a court order.

A school should be aware of its obligation to comply with the Data Protection Acts 1998 and 2003, in particular when handling 'sensitive' information regarding families.

* Parental Status & Access to school Communication; CPSMA website at www.cpsma.ie.

Comments

* In the past we have noticed that the mood and behaviour of international students can change if they have a court date pending on their status. HSCL's or teachers find it helpful if they are informed of this to have a more sympathetic approach to the student.

* It was suggested that at information evenings prior to the child starting in the school parents are made aware of their obligation to keep the school informed of any changes in the family.

* It was suggested that a designated teacher's name is given so that parents may discuss matters confidentially.

* The Civil Partnership Act (2010) does not give the non biological parent any Legal guardianship rights to the child.





Useful Contacts

Treoir

www.treoir.ie

14 Gandon House, Lower Mayor Street, IFSC, Dublin 1

LoCall: 1890 252 084 Phone: 01 6700120 Email: info@treoir.ie

Treoir is the National Specialist Information Service for unmarried parents and their children providing clear and up-to-date information free of charge to parents who are not married to each other and to those involved with them. 'Information Pack for parents who are not married to each other'.

GLEN

www.glen.ie

2 Exchange Street Upper, Dublin 8

Phone: 01 6728650 Email: info@glen.ie

GLEN - Gay + Lesbian Equality Network - GLEN is a leading NGO with a track record of success in delivering positive change for lesbian, gay, transgender and bisexual people (LGBT) in Ireland.

One Family

www.onefamily.ie

2 Lower Pembroke Street, Dublin 2

Phone: 01 6629212 Fax: 01 6629096 Email: info@onefamily.ie

Ask One Family Help Line LoCall: 1890 662 212

Offer support, information and services to all members of all one-parent families, to those experiencing an unplanned pregnancy and to those working with one- parent families.

Families, Fathers & Friends

www.fathers.ie

11A Glenaulin, Chapelizod, Dublin 20

For appointments please contact: 086 321 6644 or use the appointments page Office hours: 10 am- 6 pm Monday to Friday (available on mobile outside office hours)

Provides specialised counselling, mediation, information, advice and educational workshops for Men, Women and Adolescents, provides supports that help unmarried, separated and divorced fathers and their extended families play a full and active role in the upbringing of their children.




Booklets

Fostering is caring: The Irish Foster Care Association, The Pharmacy Corner, Mayfield Terrace, Ballinteer, D.16


The Irish Foster Care Association (IFCA) was formed in 1981. Its aim is to promote and support foster care. It helps to co-ordinate the work of all those interested in foster care and it provides a forum to promote, more effectively, the welfare of children already in foster care, and those who may, one day, avail of or require foster care.

http://www.hse.ie/eng/services/Find_a_Service/Children_and_Family_Services/Fostering/Fostering_is_caring_.pdf

The Children's Book about Foster Care: Department of Health And Children, Government of Ireland 2003



The educational needs of children and young people in foster care are given high priority and they are encouraged to attain their full potential. Education is understood to include the development of social and life skills.

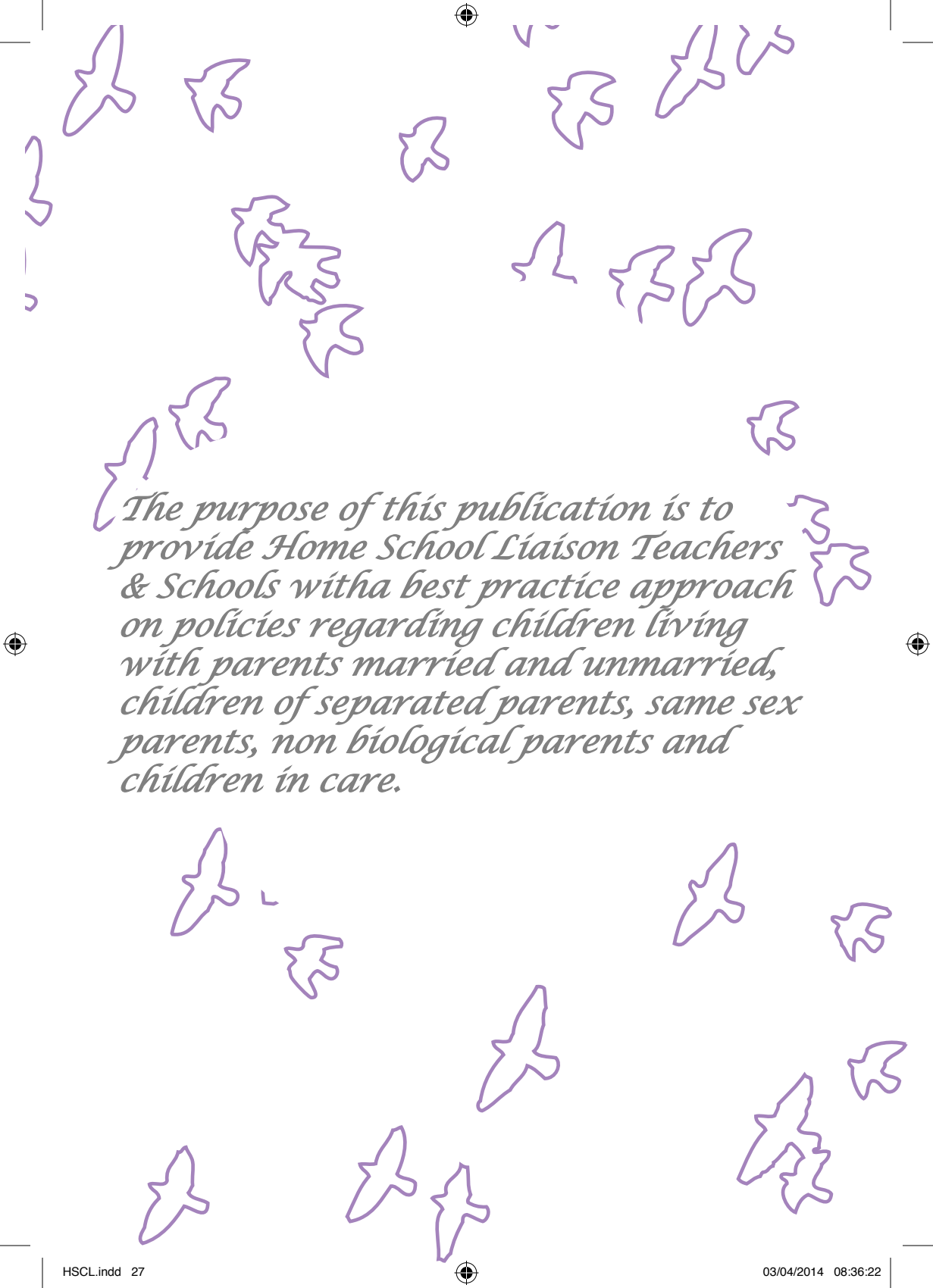


<http://www.thehealthwell.info/search-results/childrens-book-about-foster-care-2003>

Images: www.zcool.com.cn / www.all-free-download.com

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