

Good Practice Guidance: Applications to Discharge Care Orders

1. Introduction and Purpose

1.1. This guidance applies to England only and its purpose is to:

- a) Outline the respective roles of Cafcass and Local Authorities in applications to discharge care orders made by the local authority
- b) Minimise delays in the Court's consideration of applications to discharge care orders

1.2. To address the issue of delay in straightforward discharge applications, several local areas have agreed protocols with the court for accelerated discharge applications. An example of an Accelerated Procedure is at Annex 1.

1.3. Where a local protocol is in place for accelerated discharge applications, the Local Authority should consider whether it would be appropriate to request that the court process the application in accordance with that protocol.

2. The Procedure

Actions for the Local Authority

2.1. Prior to making an application, legal advice will be sought on appropriateness of the discharge at this point in the child's life, and on the need for any supporting orders along with the discharge of the care order, for example Special Guardianship and Section 8 Orders.

2.2. The Local Authority will comply with Practice Direction 12A and the revised Public Law Outline when preparing the application.

2.3. The Local Authority will ensure the following are in place at the point of application:

- c) An account of the reasons for the application with reference to the concerns that led to the care proceedings.
- d) An assessment of the child's needs wishes and feelings in line with the welfare checklist and in particular if the child would be at risk of harm if the order were discharged.
- e) Ascertained views of parents, carers and significant others, including the view of the IRO.
- f) A chronology of relevant events since the original order was made.
- g) If appropriate, a post-discharge support plan including any targeted and specialist service referral to be made.
- h) Copies of the latest care plan and of the last court care plan if less than two years old.

Actions for the Cafcass Children's Guardian

- 2.4. The court will appoint a children's guardian under section 41 of Children Act 1989 unless satisfied it is not necessary, in all applications to discharge care orders
- 2.5. The Children's Guardian will work proportionately, in accordance with the triage process set out in section 3.1 of the Cafcass Operating Framework.
- 2.6. Where the local authority has carried out and co-ordinated sufficient assessments, the Children's Guardian should carry out sufficient enquiries to be able to provide the required independent evaluation of the local authority case. A short report could be provided to the court as soon as it is possible to do so.
- 2.7. The Cafcass Children's Guardian will:
- a) Meet the child to ascertain their needs, wishes and feelings and, if appropriate, to advise them, for example, about post-discharge support.
 - b) Discuss the case with the IRO and significant others in the child's life, including, if relevant, the previous Children's Guardian or their Cafcass line manager.
 - c) Adopt an approach that is open and transparent. Cafcass will raise any outstanding issues promptly to ensure the Local Authority can address any areas of concern quickly.
 - d) Undertake any specific tasks requested by the court.
 - e) Provide clear and concise advice to the court, having regard to the welfare checklist and the principle that the child's welfare is paramount.
 - f) Consider whether a supervision order would be an alternative to discharge of the care order
 - g) Carefully consider any aspects of the Care Plan that have not been addressed or implemented. Consider the quality of the proposed post-order support and plans.

Timetabling and Sharing Information

- 2.8. The Children's Service and Cafcass will:
- a) Have in mind at all times the principle that delay may be harmful to the child.
 - b) Consider whether to invite the court to depart from the case management directions set out in the Public Law Outline and dispense with a directions hearing and proceed straight to a final hearing
 - c) Consider whether to seek a direction from the court that the Children's Guardian need not attend the final hearing.

Outcomes

- 2.9. The Children's Service must hold reviews to consider its responsibility to the child:
- a) At the time of the discharge order and
 - b) Where it has ongoing responsibilities to the child, within six months thereafter.
- 2.10. Any follow up package of support should clearly be recorded and arrangements detailed within the discharge plan/s. Post discharge support may come from a range of

Local Authority providers, some of which may be within the universal provision. Some local authorities may choose to use the Common Assessment Framework (CAF) referral process as a way to harness support for young people post proceedings.

LEEDS COUNTY COURT

Local Practice Direction

Applications to Discharge Care Orders

Accelerated Procedure

Object

- 1 The procedure which follows is intended to speed up the court process in dealing with Leeds City Council (“the local authority”) applications to discharge care orders in appropriate circumstances.

What Are Those Circumstances?

2. The accelerated procedure only applies where:
 - 2.1 it is the local authority which makes the application;
 - 2.2 the local authority files a certificate on issue that the accelerated procedure is appropriate because the circumstances make it unlikely that the other parties will oppose it and Cafcass have provided written confirmation that they support the application;
 - 2.3 the local authority files on issue:-
 - 2.3.1 Final Care Plan and Care Order from previous care proceedings;
 - 2.3.2 Social Work Statement to include information set out in Appendix A;
 - 2.3.3 Letter from Cafcass which:
 - a) shall not exceed 2 pages unless strictly necessary;
 - b) shall set out briefly the nature and extent of their investigations and enquiries;
 - c) shall advise on the best interests of the child and, in particular, confirm that they support the discharge application;
 - d) shall contain a request to dispense with the need to appoint a Children’s Guardian on the ground that it is not necessary in order to safeguard the child’s interests;
 - e) shall not set out a consideration of each individual welfare checklist factor save in so far as a particular factor (e.g. risk of harm, special health/educational needs) demands it. Otherwise it will suffice to record that Cafcass has considered each of the factors in advising on the child’s best interests.

The Benefits

3. The perceived benefits of the accelerated procedure are:-
 - 3.1 a significant reduction in the overall time spent on the case by the court, local authorities and Cafcass;
 - 3.2 a short document from Cafcass (not anticipated to exceed 2 pages);
 - 3.3 the need for only one court hearing – the final hearing;
 - 3.4 the dispensation with the appointment of a Children’s Guardian;
 - 3.5 the obligation on the local authority to get its documentation ready BEFORE it issues the application so leading to much earlier disclosure without the need for a directions hearing attended by the parties, legal representatives, social workers and the Guardian;
 - 3.6 in order to secure uniformity of practice all such applications will be allocated to nominated District Judges.

Pre-issue Procedure

- 4.1 The Local Authority shall provide Cafcass with a proforma document set out at Appendix B together with:
 - 4.1.1 Final Care Plan and Care Order;
 - 4.1.2 LAC Review Minutes recommending discharge together with those for the previous LAC Review;
 - 4.1.3 Draft Statement of Social Worker
 - 4.1.4 Short Report from the allocated IRO confirming a) their agreement with the discharge, b) compliance with all SCR recommendations
 - 4.1.5 PNC Check from the police, where appropriate
- 4.2 The application shall be accompanied by:
 - 4.2.1 a certificate in the form set out in Appendix C;
 - 4.2.2 a paginated and indexed bundle consisting of copies of all documents listed at 2.3 above.

Post Issue Procedure

- 5.1. The Court Clerk will:-
 - 5.1.1 issue, seal and return copies of the application for service on the other parties and Cafcass.
 - 5.1.2 forward the case to a Nominated District Judge and place the court file and bundle before them for directions without the attendance at court of the parties or their legal representatives.
- 5.2. The Nominated District Judge will:-
 - 5.2.1 consider whether the case is fit for the accelerated procedure and, if not, to consider re-allocation to another judge (preferably the judge who made the care order);
 - 5.2.2 if satisfied that the accelerated procedure is appropriate, dispense with the appointment of a Children’s Guardian;

- 5.2.3 fix the time, date and venue for the final hearing before a nominated District Judge and direct that all parties attend;
- 5.2.4 dispense with the need for the Social Worker to attend the final hearing.

Cafcass – Duties

- 6.1 In undertaking its work under this Protocol Cafcass shall give due regard to:-
 - 6.1.1 all the documentation which accompanies the Proforma [see Appendix B];
 - 6.1.2 the welfare checklist factors and in particular whether the child would be at risk of significant harm if the care order were to be discharged.
- 6.2 The Local Authority will ensure that the information provided to Cafcass is lawfully disclosed under the Data Protection Act with the consent of all relevant parties having been obtained using the consent form found at Appendix D.
- 6.3 When considering the proposed discharge and documentation provided Cafcass should limit any discussions to the parents/children involved, the Social Worker and Independent Reviewing Officer.
- 6.4 Any work that Cafcass carry out under this protocol comes within their principal function of safeguarding and promoting the welfare of the child under section 12(1)(a) of the Criminal Justice and Court Services Act 2000.

This local Practice Direction is issued by His Honour Judge Hunt, Designated Family Judge for Leeds

Date: 30th August 2012

Appendix A

The Social Work Statement referred to at Paragraph 2.3.3 above shall set out the following:-

1. The reasons for the application.
2. The concerns which led to the care proceedings.
3. Any outstanding concerns.
4. The number of times the child has been seen by social care in the 24 months prior to issue.
5. The current arrangements for the child's care and education.
6. Details of any health issues and/or special needs that the child may have.
7. Any change in the child's circumstances since the conclusion of the care proceedings.
8. The views of the parents and significant others.
9. Up to date information from the child's school (attendance, lateness, presentation, academic progress).
10. In the case of a child under school age, up to date information from the health visitor.
11. Up to date information from other relevant services involved with the family (education welfare, CAMHS, YOT, drug service, mental health, learning disabilities).
12. Details of arrangements for contact.
13. Details of arrangements for any continuing post discharge support if relevant.

Appendix B

**LEEDS CITY COUNCIL - CHILDREN'S SOCIAL WORK SERVICE
ACCELERATED PROCEDURE FOR DISCHARGE APPLICATIONS: SUMMARY
OF CASE**

Name(s):.....

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Dob:.....

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Social

Worker:.....

Tel:.....

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Email:.....

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Team

Manager:.....

Tel:.....

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Email:.....

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Date of Care

Order.....

Final Care Order attached? Yes / No

Guardian

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Current Placement

type.....

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Carer/parent.....

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Address:

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Date placed.....

Date of last review:
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IRO.....
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Recommendation at last review? Yes / No

Proposed application plan.....

Any alternative orders to be sought? If so which.....

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Support Plan.....

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Details of review arrangements (if applicable)

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Details of contact arrangements.....

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Most recent PNC Checks attached? Yes / No

Original care plan (attached) reviewed and issues identified.....

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Guardian's report reviewed and issues identified

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Any anticipated significant current issues.....

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Signed:.....
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Date:.....
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Appendix C
Accelerated Procedure Certificate

Leeds County Court

Case No_____

Leeds City Council

Applicant

and

Respondent

and

Respondent

I, (name of solicitor for the local authority) certify :

- (i) that this local authority application to discharge the care order(s) made on _____ under case number _____ is suitable to be dealt with by way of the Accelerated Procedure because it is unlikely to be opposed by any other party and Cafcass have provided written confirmation that they support the application;

AND

- (ii) copies of all documents listed in 2.3 of the local Practice Direction (Applications to Discharge Care Orders-Accelerated Procedure) in so far as they may be relevant, accompany this application

Date:

Signature:

Appendix D
FORM OF CONSENT

Name of the Child(ren):

I,

(Please insert your full name including any other names by which you have previously been known. For women please insert married names including any married name no longer used, as well as maiden name)

hereby consent to the Local Authority and Cafcass undertaking checks and ascertaining any information recorded about me with the following agencies:

Names of all agencies with whom checks will be made:

I understand that the checks will be carried out against entries registered in my name and I confirm that my full name including any other names by which I have been known, are set out above.

I understand that any information obtained by the Local Authority or Cafcass as a result of these checks will be used for the purposes of preparation of a report in the case mentioned under the Children Act (1989) and if necessary, may be shared with children's services, Cafcass and the Court.

Signed: _____

Dated: _____

Date of birth:

Current address:

Previous address/es:

[Please insert your previous addresses over the last five years]