

Care Proceedings

Legal Aid for Care Proceedings

If you are a parent to the children subject of the court application then you will be automatically entitled to non-means and non-merits tested Legal Aid for the duration of the proceedings.

If you are another person (for example a grandparent or family member) who has parental responsibility for the children (by virtue of a Child Arrangements Order or Special Guardianship Order), then you will be automatically entitled to non-means and non-merits tested Legal Aid. However if at any point during proceedings the Order that entitles you to Parental Responsibility is discharged, then at that point we would need to update the Legal Aid Agency and undertake a means and merits tested legal aid application.

If you are another joined party or you have been invited to intervene in Care Proceedings (as an Intervenor) then please see our separate Fact Sheet.

Care Proceedings

The Children Act 1989 governs court proceeding where the Local Authority (Social Services) issue an application for a Care Order or Supervision Order. These cases are commonly known as Care Proceedings.

All Care Proceedings must be completed within 26 weeks from the day of issue. If the proceedings can be resolved before the expiration of the 26 week period then they should be. Any revision or extension of that timetable would have to factor in the welfare of the child to whom the application relates and the Court will have regard to the particular circumstances of the case. Any initial extension of the proceedings cannot be for more than 8 weeks (34 weeks in total) although the Court is able, if necessary, to keep extending proceedings by no more than 8 weeks at a time.

Set out below is information regarding the process of a typical court case. The details are taken from the Annex to Practice Direction 36C.

Abbreviations

“CMH” means the Case Management Hearing;

“FCMH” means Further Case Management Hearing;

“ICO” means interim care order;

“IRH” means the Issues Resolution Hearing;

“LA” means the Local Authority which is applying for a care or supervision order or a final order in other Part 4 Proceedings;

“OS” means the Official Solicitor

STAGE 1: Issue & Allocation

Day 1 (Day of issue)

1. The LA files the Application Form and Annex Documents and sends copies to Cafcass/CAFCASS CYMRU
2. The LA notifies the court of the need for a contested ICO hearing where this is
3. known or expected
4. Court officer issues application

Within a day of issue (Day 2)

1. Court considers allocation, and if appropriate, transfers proceedings in accordance with the President's Guidance on Allocation and Gatekeeping
2. LA serves the Application Form, Annex Documents and evidential Checklist Documents on the parties together with the notice of date and time of CMH
3. Court gives standard directions on Issue and Allocation including:
 - a) Checking compliance with Pre-Proceedings Checklist including service of any missing Annex Documents
 - b) Appointing Children's Guardian to be allocated by Cafcass
 - c) Appointing solicitor for the child only if necessary
 - d) Appointing (if the person to be appointed consents) a litigation friend for any
 - e) protected party or any non subject child who is a party, including the OS where
 - f) appropriate
 - g) Filing and service of a LA Case Summary
 - h) Filing and service of a Case Analysis by the Children's Guardian
 - i) Making arrangements for a contested ICO hearing (if necessary)
 - j) Filing and Serving the Parents' Response
 - k) Sending a request for disclosure to, e.g., the police
 - l) Filing and serving an application for permission relating to experts under Part 25 on a date prior to the advocates' meeting for the CMH
 - m) Directing the solicitor for the child to arrange an advocates' meeting 2 days before the CMH
 - n) Listing the CMH
 - o) Court officer sends copy Notice of Hearing of the CMH by email to Cafcass

STAGE 2: Case Management Hearing

1. Advocates Meeting to take place no later than 2 clear days before CMH
2. CMH to take place by Day 12 where the Court gives detailed case management directions, including:
 - a) Confirming allocation and/or considering transfer
 - b) Drawing up the timetable for the child and the timetable for the proceedings and considering if an extension is necessary
 - c) Identifying additional parties and representation (including confirming that
 - d) Cafcass have allocated a Children's Guardian)
 - e) Identifying the key issues
 - f) Identifying the evidence necessary to enable the court to resolve the key issues
 - g) Deciding whether there is a real issue about threshold to be resolved
 - h) Determining any application for an expert assessment (Part 25 application)
 - i) Identifying any necessary 3rd party disclosure and if appropriate giving directions
 - j) Giving directions for any concurrent or proposed placement order proceedings
3. Ensuring compliance with the court's directions
4. If a FCMH is necessary, directing an advocates' meeting and Case Analysis if required ;
5. Directing filing of any threshold agreement, final evidence and Care Plan and responses to those documents for the IRH
6. Directing a Case Analysis for the IRH
7. Directing an advocates' meeting for the IRH
8. Listing (any FCMH) IRH, Final Hearing
9. (including early Final Hearing)
10. Giving directions for special measures and/or interpreters
11. Issuing the Case Management Order
12. A FCMH is to be held only if necessary; it is to be listed as soon as possible and in any event no later than day 20 (week 4).

STAGE 3: Issues Resolution Hearing / Early Final Hearing

1. Court identifies the key issue(s) (if any) to be determined and the extent to which those issues can be resolved or narrowed at the IRH
2. Court considers whether the IRH can be used as a final hearing
3. Court resolves or narrows the issues by hearing evidence
4. Court identifies the evidence to be heard on the issues which remain to be resolved at the final hearing
5. Court gives final case management directions including:
 - a) Any extension of the timetable for the proceedings which is necessary
 - b) Filing of the threshold agreement or a statement of facts/issues remaining to be determined
 - c) Filing of:
 - i. final evidence & Care Plan
 - ii. Case Analysis for Final Hearing (if required)
 - iii. Witness templates
 - iv. Skeleton arguments
 - v. Judicial reading list/reading time, including time estimate and an estimate for judgment writing time
 - vi. Listing the Final Hearing
6. Court issues Case Management Order

STAGE 4: Final Hearing

Where necessary the Court will list the matter for a contested Final Hearing if the case cannot be concluded at Stage 3. The hearing can be anything from 1 day to 10+ days - The length of the hearing will vary, depending upon the number of witnesses required to attend the hearing.

Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Information up to date as at 13 May 2019.

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