**West Sussex – Practice Guidance**

IROs are qualified social workers with at least five years’ experience, and who have acquired the right skills to carry out this role.

**Guidance when Considering Discharge of a Care Order**

**Purpose**

This guidance outlines the steps to be taken when considering the Discharge of a Care Order as part of the care plan. The decision that the care plan is for discharge of the order must be made at a statutory (Looked After Child) Review.

This guidance should be considered in conjunction with West Sussex County Council’s re-unification guidance and permanency planning guidance.

**Discharge as Part of the Care Plan**

Discharge of a Care Order can become part of the Care Plan in two ways:

* Placing the child with one or both parents for a trial period and, if the placement is successful, the Council may apply to court for discharge; or
* Placing the child with a relative or other connected person as a family and friends foster placement, with the expectation that they will apply for a Child Arrangements Order or a Special Guardianship Order.

In either case, a Permanency Planning Meeting must be held, Chaired by the Permanency Planning Co-ordinator, and the decision that the care plan is for discharge of the order must then be agreed by the Group Manager and endorsed by the Independent Reviewing Officer (IRO) within a statutory looked after child (CLA) Review. The Group Manager will then advise the Court Progression Officer of the plan to discharge the care order and likely timescales to achieve this.

**When the Child is placed with a Connected Person**

If the child’s current carer agrees that they will apply for a Child Arrangements Order or a Special Guardianship Order, the Review must clarify whether this is dependent on the provision of support after the making of the order. Support may include, but is not limited to, financial support, and it may be provided by the West Sussex County Council (WSCC) or by any other agency. If support will be needed, the appropriate agency should give agreement in principle to provide it before the carers commit themselves.

Before the carer applies to court the Social Worker should:

* Update the assessment;
* Ensure that all other Review recommendations have been addressed; and
* Consult all persons whose views are likely to be significant (for example, the child, parents, other relatives, and key practitioners such as the child’s teacher and GP) and record their views.

If any person objects to the care plan, the Social Worker will establish what their concerns are and consider how to respond to them.

Each subsequent Review should monitor progress toward the application. If an application has not yet been made by the second Review, it should consider how to overcome any potential barriers.

**When the Child is Placed with a Parent**

When a child who is the subject of a care order is placed with a parent, the second Review after placement should discuss the timing of an application to discharge the order. Before the Review meeting the Social Worker will update the assessment. A decision to apply for discharge of the order must be based on an assessment that:

* Living in the parent’s household will now safeguard and promote the child’s welfare; and
* All identified risks (both those that led to the care proceedings and any further risks that have come to light since then) are now at an acceptable level.

The Review will identify the reasons why WSCC applied for a care order, as set out in the section 31(a) care plan. The Social Worker will report to the Review on how these issues have been addressed, including:

* The findings of fact when the order was made;
* The findings of any assessments since the order was made;
* Whether there were any issues around contact between the child and a significant adult and, if so, how they have been addressed;
* Whether any support services have been put in place and, if so, whether they have been used;
* The evidence of progress towards the objectives set out in the section 31A care plan;
* How long the family has been monitored, and whether this is long enough to be satisfied that any change has been consolidated;
* Whether any of the concerns at the time of the care proceedings are no longer relevant, for example because the child is older; and
* Any further issues relevant to the child’s welfare that have arisen since the order was made, whether they have been resolved and, if so, how.

The Review must confirm that the key issues at the time the care order was granted have been addressed or that they are no longer relevant.

If the Review recommends that an application should be made to discharge the care order:

* The Review must also consider what support will be made available to the family after the discharge, by whom and for how long;
* The Review recommendations, including the support to be made available, must be ratified by the group manager;
* If the application has not been made by the following statutory Review, the IRO will automatically issue an escalation;
* Further escalations to be raised at each subsequent Review if the application has not been made.

Before making the application the Social Worker should:

* Ensure that the social work file includes a copy of the section 31(a) care plan and the final care order;
* Ensure that all the Review recommendations have been addressed;
* Consult all persons whose views are likely to be significant (the child, relatives, key practitioners) and record their views; and
* Consult Legal Services to confirm the likely success of an application for discharge of the order.

If any person objects to the plan to discharge the order, the Social Worker will establish what their concerns are and consider how to respond to them.

**If Discharge of the Order is Not Appropriate**

If the child’s plan is for discharge of the care order, and a subsequent Review concludes that a date cannot yet be set for an application, it should consider:

* Why the situation is not improving;
* Whether the current standard of care of the child is acceptable;
* Whether the child’s situation is deteriorating; and
* Whether the placement should be regarded as unsuccessful and the child removed.

**Making the Application**

The decision to apply for discharge of a Care Order must be ratified by the Service Leader.

The Social Worker will:

* Draw up a copy of the standard letter before proceedings for signature by the group manager;
* Give a copy of the letter before proceedings to each parent and to anyone else who holds parental responsibility for the child;
* Identify the key professionals involved in the case and ask them to provide a letter or statement in support of the application to discharge the care order, or specifying their concerns about the decision; and
* Draw up a draft social work statement.

The Social Worker will notify Legal Services of the decision, and provide the following documents:

* A copy of the Care Order from the child’s file;
* The draft social work statement;
* Any recent assessments that have been undertaken;
* Any letters or statements received from key professionals; and
* Any further documents that provide supporting evidence for the application.

When a solicitor is allocated to the case, they will:

* Call up the files from archives;
* Identify any outstanding issues which may delay proceedings in court;
* Make any suggestions for amendments before making the application;
* Confirm that the Social Worker has requested a letter or statement from all key professionals;
* Identify all respondents to the application and confirm who is and is not consenting to the application;
* Send the Social Worker a memorandum advising that the case is or is not suitable to proceed to a court application.
* The allocated solicitor will lodge the application with the court and notify the Social Worker and court progression manager when the papers have been issued and are ready for collection. The Social Worker is responsible for ensuring that all the respondents are served with a full copy of the application and supporting documents.

**Serving the Application**

The allocated solicitor will advise the Social Worker about service of the application on the parties, including the time limit for service.

**The Court Proceedings – Council Application**

The court will consider whether to appoint a children’s guardian and set a date for the first directions appointment.

The allocated solicitor will notify the Social Worker and court progression manager of the date and time of the first hearing. The Social Worker must attend this hearing.

At the first directions appointment the court will:

* Decide whether the Council needs to file any further evidence in support of the application;
* Invite the child’s parents to make a written response to the application and set a date for this to be filed at court and served on the Council; and
* Set a date for the report of the children’s guardian to be presented to the court.

After the hearing the allocated lawyer will forward copies of any directions to the Social Worker and court progression officer. If the court has directed that statements be obtained from other professionals the allocated solicitor will request these and ensure that the Social Worker receives copies of them.

If the court has directed any further assessments the Social Worker will coordinate these.

When the Council has filed its final evidence, the parents will file their evidence in response and the children’s guardian will file his/her report.

If there is disagreement about the application the court may arrange an Issues Resolution Hearing to explore whether agreement can be reached and identify which issues must be decided by the final hearing.

**Responding to an Application by another Person**

When any person informs WSCC that they intend to take an action that may result in the discharge of a care order the Social Worker will immediately request a CLA Review to discuss the WSCC’s response. The Review may conclude that:

* That WSCC should make the application;
* WSCC should support the proposal and this route to discharge should be adopted into the child’s care plan; or
* WSCC should oppose the proposal; or
* WSCC does not have enough information about the prospective applicant and an assessment should be arranged to help decide whether to support the proposal.

If WSCC supports the application, then it should generally make the application. Any decision not to do so, for example because the support is dependent on the court making a Special Guardianship Order, must be recorded, with reasons, on the child’s file.

If WSCC opposes the proposal, the Social Worker should ensure that the prospective applicant understands this.

**Reference Points;**