

THE FAMILY COURT sitting at Wolverhampton, Walsall, Telford and Dudley

AGREED LOCAL PROCEDURE 24th MAY 2022

ACCELERATED PROCEDURE FOR APPLICATIONS TO DISCHARGE CARE ORDERS

The procedure is an agreement between SMBC, DMBC, WCC, WMBC, BTW and SC and the Family Court sitting at Wolverhampton, Walsall, Telford and Dudley; it applies to specific applications to discharge care orders.

Purpose of the accelerated procedure

This procedure is designed to streamline and accelerate the court process upon an application being made to discharge a care order, and to reduce any unnecessary involvement on the part of Cafcass

The aims of the procedure are:

- a. To reserve the procedure for cases where the position has changed since the making of the care order and where the local authority, the parents and extended family agree that the family requires only universal services in order to safeguard the children concerned.
- b. To allow Cafcass to carry out a 'pre-proceedings management review', and recommendation as to suitability for the accelerated procedure thereby reducing the need for the court to appoint a Children's Guardian.
- c. For the court to make decisions at one hearing if at all possible.

The accelerated procedure applies where:

- a. The local authority issues the application to discharge the care order.
- b. 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 the application.
- c. The local authority files with the application, the documents listed in Appendix B.
- d. Where the local authority has held a Family Group Conference to ascertain the views of the extended family, unless there is good reason why it would be inappropriate to hold such a Conference.

Where the accelerated procedure does not apply:

- a. The local authority has reasonable grounds to believe that the application is likely to be opposed.
- b. Where there are likely to be difficult issues of law or fact.
- c. The discharge application is made by anyone other than the local authority – even though the application is unlikely to be opposed - unless accompanied by a supporting letter from the local authority.

The Court retains the discretion to determine whether the application lodged by the local authority is one which is suitable to be dealt with under the accelerated procedure or should otherwise be processed in the usual way.

The benefits of the accelerated procedure:

- a. a significant reduction in the overall time spent on the case by the Court, local authorities and Cafcass;
- b. the need for only one court hearing in many cases;
- c. a shortened discharge document (analysis) filed by the Children's Guardian (not anticipated to exceed 2 pages in length) where a Children's Guardian is appointed by the Court when the application is issued;
- d. dispensing with the attendance of the Children's Guardian at the final hearing if deemed appropriate by the Court;
- e. the local authority will file written consent from the parents, together with the minutes of the last child in care review including the recommendation of the Independent Reviewing Officer.

PROCEDURE

1 Pre-issue procedure

1.1 Where following a child in care review and a decision by the appropriate senior officer, it has been deemed internally by the local authority that the case is suitable for the accelerated procedure, a bundle will be prepared to include:

- (i) a certificate in the form set out in Appendix A;
- (ii) a paginated and indexed bundle consisting of copies of all the documents listed in Appendix B.

1.2 The local authority shall indicate in the application if it intends to invite the Court to dispense with service of the application upon any respondent(s) to the original care proceedings, with an explanation as to why, exceptionally, it is considered appropriate to dispense with such service.

1.3 Where required, the local authority lawyer will prepare an application for the disclosure of documents from the care proceedings into the discharge application.

1.4 The local authority lawyer will then send the core bundle to Cafcass for 'pre-proceedings management review' prior to issue and approval for the accelerated procedure.

1.5 Upon reviewing the bundle, Cafcass will provide the local authority lawyer with a letter of recommendation as to whether the case is suitable for the accelerated procedure, and their view on the appointment of a Guardian.

1.6 The letter of recommendation will be provided to the local authority lawyer **within two weeks** after receipt of the bundle by Cafcass.

1.7 Where safeguarding issues are identified in the Cafcass 'pre-proceedings management review', these will be raised by Cafcass with the local authority lawyer and social worker. The application will not be progressed while these matters are further considered.

1.8 If fresh information emerges during the review by Cafcass, the Cafcass officer should send that information to the other agencies involved without delay. Cafcass must advise the local authority lawyer where it is considered that there is further evidence relevant to the decision.

2. Issue of application

2.1 On receipt of the Cafcass letter of recommendation under the accelerated procedure, the local authority lawyer will make the application on the FPL Portal and upload supporting evidence, draft case management order and the letter of recommendation from Cafcass to the Court.

2.2 The local authority shall include a request within the draft case management order for HMCTS to refer the matter to the allocated Judge not less than five working days prior to the final hearing in order to consider:

- (i) whether the case remains suitable for the accelerated procedure;
- (ii) whether the attendance of the Children's Guardian, if appointed, can be dispensed with at the final hearing.

2.3 The application shall be made within fourteen days of receiving the letter of recommendation from Cafcass.

2.4 When the application with supporting documents is made Cafcass will receive automatic notification of the application from HMCTS.

2.5 The allocated lawyer will indicate in the application on the Portal that the case is considered to be appropriate for the accelerated procedure, and that both the local authority and Cafcass believe that the involvement of a Children's Guardian is not necessary, as a result of the 'pre-proceedings management review' by Cafcass and the letter of recommendation.

NB: It is important for local authorities to note that the court staff have been instructed not to accept applications under the accelerated procedure unless the pre-issue requirements above are complied with.

3. Post issue procedure

3.1 Upon the local authority lodging the application to discharge the care order, HMCTS will:

- a. issue, seal and return copies of the application to the applicant local authority for service on the appropriate parties, including Cafcass (where appropriate);
- b. at the gatekeeping stage the gatekeeper will contact the allocated Judge for consideration as to whether the application is one which falls within the accelerated procedure and give appropriate directions.

3.2 The Judge will, upon deciding that the application is appropriate for the accelerated procedure:

- a. consider if a guardian is required in light of the 'pre-proceedings management review' by Cafcass and the letter of recommendation;
- b. appoint a Children's Guardian where the Court deems it is necessary and further investigations are still required in respect of the application;
- c. direct the respondents to file and serve evidence in response to the discharge application by a specified date, where appropriate;
- d. direct the Children's Guardian to carry out the investigations set out in Appendix C to the accelerated procedure;
- e. direct the Children's Guardian to file and serve a short discharge document (analysis) (not exceeding 2 pages) by a specified date (unless that the court considers that a more detailed analysis is required);
- f. set the matter down for a final hearing with a time estimate of 1 hour, allowing a minimum period of 6 weeks for the Children's Guardian to file an analysis where one is required;
- g. review the file not less than 5 working days prior to the final hearing in order to consider whether the case remains suitable for the accelerated procedure, and whether the attendance of the Children's Guardian, if appointed, can be dispensed with at the final hearing. Any prospective Special Guardian or kinship carer should be invited to attend the final hearing unless the court determines to the contrary.

4. The Children's Guardian's duties if appointed by the Court.

4.1 The overriding duty of the Guardian is the duty to safeguard the interests of the child and to carry out the investigations and enquiries set out in Appendix C to the accelerated procedure.

4.2 If at any point during the Guardian's investigations, it is considered that the discharge application may not be dealt with appropriately under the accelerated procedure, the Guardian shall inform the Court of this view and the Court will set the matter down for a Directions Hearing to consider the relevant issues.

4.3 The analysis to be prepared and filed by the Guardian, as directed, shall follow the following format:

- a. the document shall not exceed 2 pages of A4 unless the circumstances are exceptional;
- b. the analysis shall set out, in brief, the nature and extent of their investigations and enquiries;
- c. the analysis shall advise on the best interests of the child and in particular, whether the Guardian supports the discharge application;
- d. the analysis may contain a request for the discharge of the appointment of the Children's Guardian on the ground that their continued involvement is not necessary to safeguard the child's interests;
- e. the analysis shall address only those items of the welfare checklist that are directly relevant to the particular circumstances of the child, provided that the Guardian confirms that all relevant matters have been considered; and
- f. The analysis must comment upon the proposed arrangements for the child to spend time with family members, including, where relevant, parents and siblings, and whether the prospective carers are able to manage such arrangements without the ongoing support of the local authority.

Dated

2022

Appendix A

Accelerated Procedure Certificate

In the Family Court sitting at Wolverhampton

Case Number

Local Authority

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 under the accelerated
procedure because it is unlikely to be opposed by any party;

AND

- (ii) copies of all the documents listed in Appendix B of the application to discharge care
orders- accelerated procedure, in so far as they may be relevant, accompany this
application.

Date:

Signature:

Appendix B

Documents to be lodged on issue in the Local Authority applications to Discharge a Care Order under the Accelerated Procedure

The application shall be accompanied by a bundle comprising copies of the following documents:

The previous proceedings, to include;

Judgment where available.
Agreed threshold document.
Care Order.
Care Plan.
Final analysis of the Guardian.

Current proceedings, to include:

1. Application to seek to discharge of the care order and details of any further order which should be made.
2. A brief relevant chronology.
3. Statement in support by the social worker to set out:
 - a. the reasons for the application and whether it is intended to apply for a child arrangements, special guardianship or other order, should the care order be discharged;
 - b. the current circumstances;
 - c. the current and proposed future arrangements for the care and upbringing of the child;
 - d. the concerns which led to the care proceedings;
 - e. any outstanding concerns;
 - f. the number of times the child has been seen by children's services in the 24 months prior to issue;
 - g. the current arrangements for the child's care and education;
 - h. any change in the child's circumstances since the conclusion of the care proceedings;
 - i. the views of relevant agencies;
 - j. the views of the parents and any future carer, with details as to whether the application is opposed, the reasons for the opposition and exhibiting the written consent to the application of the parents and the carers;
 - k. a consideration of the welfare checklist factors.
4. An assessment of the parents if relevant.
5. Child in Need plans, where relevant.

6. Where the Court will be invited to make an SGO, the SGO assessment together with the agreed support plan, to include confirmation that the local authority has offered to fund legal advice for the prospective Special Guardians, and whether such advice has been taken.
7. A signed consent from the parents and/or carers to the application being made and the orders sought.
8. A signed consent from the parents and the carers to the disclosure of the pre-proceedings information to Cafcass.
9. The minutes of the last child in care review including the recommendation of the independent reviewing officer.
10. The minutes of the last Family Group Conference, or an explanation as to why there has not been a recent FGC.
11. Certificate in the form set out at Appendix A.

Appendix C

Investigations and Enquiries to be carried out by the Children's Guardian under the Accelerated Procedure if appointed by the Court

The Children's Guardian will be required to:

- (i) consider all the documentation which accompanied or should have accompanied the discharge application on issue [see Appendix B];
- (ii) ascertain the child's wishes and feelings;
- (iii) visit the child in placement and observe the child with the current carers;
- (iv) ascertain the views of the parents and carers;
- (v) consider the factors in the welfare checklist and, in particular whether the child would be at risk of significant harm if the care order were to be discharged;
- (vi) consider in particular the proposed arrangements for contact between the child and any family members with whom the child will not be residing (in particular, where relevant, the child's parents and siblings), and whether the proposed carers will be able to promote safe and appropriate contact arrangements.