



## 2023 UNIT SPECIFICATION

<b>Title:</b>	(Unit 18) The Practice of Child Care Law
<b>Level:</b>	3
<b>Credit Value:</b>	7

<b>Learning outcomes</b>	<b>Assessment criteria</b>	<b>Knowledge, understanding and skills</b>
<b>The learner will:</b>	<b>The learner can:</b>	
<b>1. Understand the legislative framework governing children proceedings</b>	<b>1.1</b> Analyse the key legislation relating to children proceedings	<b>1.1</b> Knowledge of key sections of the principal statutes and rules of court relating to children proceedings: <ul style="list-style-type: none"><li>• Children Act (CA) 1989;</li><li>• Children Act (CA) 2004;</li><li>• Human Rights Act (HRA) 1998;</li><li>• Adoption and Children Act (ACA) 2002;</li><li>• Family Procedure Rules (FPR) 2010;</li><li>• Crime and Courts Act (CCA) 2013;</li><li>• Children and Families Act (CFA) 2014, and impact of the devolution settlement in Wales.</li></ul>

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	<p><b>1.2</b> Analyse the key principles applicable to children proceedings</p> <p><b>1.3</b> Explain the concept of parental responsibility and how it is acquired</p> <p><b>1.4</b> Classify the “private law” orders available in children proceedings</p> <p><b>1.5</b> Apply an understanding of the legislative framework governing children proceedings to a given scenario</p>	<p><b>1.2</b> The key criteria applied by the courts when determining children proceedings:</p> <ul style="list-style-type: none"> <li>• “paramountcy” principle and welfare checklist (s1(1) CA 1989 &amp; s1(3) CA 1989);</li> <li>• the “no delay” principle (s1(2) CA 1989);</li> <li>• the “no order” principle (s1(5) CA 1989);</li> <li>• the “shared parenting” presumption (s1(2A) CA 1989);</li> <li>• Relevant case law; e.g. <u>G (Children)</u> [2005] EWCA Civ 1283.</li> </ul> <p><b>1.3</b> Parental responsibility:</p> <ul style="list-style-type: none"> <li>• definition of parental responsibility (s3(1) CA 1989);</li> <li>• who has parental responsibility and how it can be acquired (ss4 &amp; 4A CA 1989);</li> <li>• relevant case law e.g. <u>H and Another (Minors) (No 3)</u> [1991] 2 All ER 185, <u>C and V (Contact and Parental Responsibility)</u> [1998] FLR 392.</li> </ul> <p><b>1.4</b> The purpose and effect of the private law orders under CA 1989:</p> <ul style="list-style-type: none"> <li>• child arrangements order (s8 CA 1989, as amended by S12 CFA 2014);</li> <li>• specific issue order (s8 CA 1989);</li> <li>• prohibited steps) (s8 CA 1989);</li> <li>• special guardianship orders (ss14A-G CA 1989).</li> </ul> <p><b>1.5</b> Application to a scenario.</p>
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<p><b>2. Understand the concept of inter-agency working and the roles of the key personnel involved in the child protection process</b></p>	<p><b>2.1</b> Explain the concept of inter-agency working to safeguard and promote the welfare of children</p> <p><b>2.2</b> Explain the functions and responsibilities of the key social work personnel involved in child protection</p> <p><b>2.3</b> Explain the functions and responsibilities of the key legal personnel involved in children protection</p>	<p><b>2.1</b> Inter-agency working:</p> <ul style="list-style-type: none"> <li>• overview of the statutory duties requiring agencies to work together to promote children’s welfare and ensure that children are safeguarded; relevant provisions of CA 1989, CA 2004 and Working Together to Safeguard Children.</li> </ul> <p><b>2.2</b> Functions and responsibilities of key social work personnel:</p> <ul style="list-style-type: none"> <li>• role of a local authority children’s services department;</li> <li>• role of a child protection social worker.</li> </ul> <p><b>2.3</b> Functions and responsibilities of key legal personnel:</p> <ul style="list-style-type: none"> <li>• role of legal executives, solicitors and barristers in public law children’s proceedings;</li> <li>• ethical considerations that can arise when acting for local authorities, parents/family and children/children’s guardians e.g. conflict of interest, confidentiality;</li> <li>• the child as a client;</li> <li>• SRA Code of Conduct;</li> <li>• court structure and tiers of judiciary dealing with public law children proceedings introduced by the CCA 2013.</li> </ul>
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	<p><b>2.4</b> Explain the functions and responsibilities of the other key personnel involved in child protection</p> <p><b>2.5</b> Apply an understanding of the roles of the various professionals, parties and their advisers to a given scenario</p>	<p><b>2.4</b> Key functions of other professionals:</p> <ul style="list-style-type: none"> <li>• health visitors,</li> <li>• teachers,</li> <li>• police,</li> <li>• nature of expert evidence likely to be commissioned, subject to the provisions of s13 CFA 2014, in child protection enquiries from e.g. paediatricians, psychiatrists, psychologists;</li> <li>• role of CAFCASS and of the children’s guardian and the working relationship with the solicitor for the child.</li> </ul> <p><b>2.5</b> Application to a scenario.</p>
<p><b>3. Understand the duties which local authorities have to promote the welfare of children and to ensure that children are protected</b></p>	<p><b>3.1</b> Explain the obligations on local authorities to ensure early effective intervention where a child’s welfare is threatened</p> <p><b>3.2</b> Explain the preliminary investigations which a local authority should undertake when a child protection referral is received</p>	<p><b>3.1</b> Obligations of local authorities to children:</p> <ul style="list-style-type: none"> <li>• an outline of the key Every Child Matters principles;</li> <li>• obligations upon local authorities to explore all safe and appropriate alternatives before commencing court proceedings;</li> <li>• the common assessment framework; provision of services to children in need under s17 and s20 CA 1989.</li> </ul> <p><b>3.2</b> Preliminary investigations by a local authority:</p> <ul style="list-style-type: none"> <li>• outline of the key stages in a child protection investigation in accordance with the provisions of Working Together to Safeguard Children, and the Children</li> </ul>

This specification is for 2023 examinations

	<p><b>3.3</b> Analyse the purpose of and the procedure followed at a child protection conference</p>	<p>Act 1989 Guidance and Regulations – Volume 1 (Court Orders);</p> <ul style="list-style-type: none"> <li>• initial referral;</li> <li>• initial investigation;</li> <li>• s47 investigation;</li> <li>• use of core assessment.</li> </ul> <p><b>3.3</b> A child protection conference (CPC):</p> <ul style="list-style-type: none"> <li>• Inter-agency meeting convened to share information and ascertain if the child is at continuing risk of significant harm;</li> <li>• overview of likely participants and procedure at a child protection conference.;</li> <li>• how a child protection plan to monitor and support a child and their family will be implemented;</li> <li>• examples of the type of support that may be provided; e.g. appointment of key worker, core group;</li> <li>• consideration of the capacity in which lawyers attend a CPC and the lawyer’s role; i.e. acting for local authority, parents/family or child. Reference to relevant guidance; e.g. Law Society Practice Note (9<sup>th</sup> Jan 2013).</li> </ul>
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This specification is for 2023 examinations

	<p><b>3.4</b> Analyse the implications of a Letter Before Proceedings</p> <p><b>3.5</b> Apply an understanding of the duties which local authorities have to promote the welfare of children and to ensure that children are protected to a given scenario</p>	<p><b>3.4</b> Letter before Proceedings (LBP):</p> <ul style="list-style-type: none"> <li>• overview of the procedure set out in Children Act 1989 Guidance and Regulations Volume 1 (Court Orders);</li> <li>• LBP is a final attempt to engage the parents/family without commencing court proceedings;</li> <li>• LBP should set out the key concerns of the local authority and the consequences of non-engagement by the family and provide an opportunity for the parents/family and their legal representative to meet with the local authority.</li> </ul> <p><b>3.5</b> Application to a scenario.</p>
<p><b>4. Understand the procedure by which a care order or a supervision order is obtained</b></p>	<p><b>4.1</b> Analyse the grounds for obtaining a care order or a supervision order</p>	<p><b>4.1</b> Grounds for a care/supervision order;</p> <ul style="list-style-type: none"> <li>• burden and standard of proof in applications for care/supervision orders; i.e. burden on the applicant, and facts having to be proved on the balance of probabilities;</li> <li>• the ‘threshold criteria’ under s31 CA 1989, with particular reference to the definition of significant harm, the timing of the harm and the threshold for obtaining an interim care order;</li> <li>• relevant case law; e.g. Re B (Children) [2008] UKHL 35 and Re S-B (Care</li> </ul>

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	<p><b>4.2</b> Explain the procedure for obtaining a care order or a supervision order</p> <p><b>4.3</b> Analyse the effect of a care order and of a supervision order</p>	<p>Proceedings: Standard of Proof) [2009] UKSC 17.</p> <p><b>4.2</b> Procedure to obtain a care/supervision order:</p> <ul style="list-style-type: none"> <li>• Part 12 FPR 2010 and the accompanying Practice Directions, with particular consideration of PD 12A – Public Law Proceedings Guide to Case Management (The Public Law Outline) (PLO), subject to amendments under s14 CFA 2014 to s32 &amp; s38 CA 1989, and under CCA 2013;</li> <li>• relevant case law: e.g. Re S (A child) EWCC B44;</li> <li>• consideration of the documentation required to issue proceedings and the stages under the PLO;</li> <li>• summary of how the parties to applications for care/supervision orders fund their legal representation.</li> </ul> <p><b>4.3</b> Effects of care/supervision order</p> <ul style="list-style-type: none"> <li>• effect of the granting of a care order on an interim basis and as a final order; e.g. care order confers parental responsibility on the local authority, and will usually mean that the child is removed from the family;</li> <li>• effect of the granting of a supervision order on an interim basis and as a final order; e.g. child will usually remain placed within the family, and supervision order may be combined with a residence order;</li> <li>• duration of care orders and supervision.</li> </ul>
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	<p><b>4.4</b> Explain the local authority's duty to promote contact with a looked after child</p> <p><b>4.5</b> Apply an understanding of circumstances in which and the procedure by which a care order or a supervision order is obtained to a given scenario</p>	<p><b>4.4</b> Duty to promote contact</p> <ul style="list-style-type: none"> <li>local authority's duty to promote contact with a looked after child and the circumstances in which such contact may be suspended or terminated;</li> <li>s34 CA 1989, subject to amendment by s8 CFA 2014.</li> </ul> <p><b>4.5</b> Application to a given scenario.</p>
<p><b>5. Understand the options which exist for securing a permanent placement for a child</b></p>	<p><b>5.1</b> Analyse the effect of an adoption order</p> <p><b>5.2</b> Explain the circumstances in which a local authority will apply for a placement order and the effect of such an order</p>	<p><b>5.1</b> Adoption:</p> <ul style="list-style-type: none"> <li>overview of key provisions of ACA 2002 subject to amendments by CFA 2014; e.g. s46 and s67 ACA 2002, s3 and s9 CFA 2014;</li> <li>consideration to be given to the nature of adoption, and the impact upon the child's relationship with its birth family;</li> <li>child treated as natural child of the adoptive family, ending of parental responsibility held by birth parents;</li> <li>closed adoption - with no on-going contact - being the norm.</li> </ul> <p><b>5.2</b> Placement orders:</p> <ul style="list-style-type: none"> <li>overview of the circumstances in which a placement order is necessary, e.g. where the care plan for the child is adoption (s22 ACA 2002 subject to amendment by ss2 and 3 CFA 2014));</li> </ul>

This specification is for 2023 examinations



	<p><b>5.3</b> Explain the other options which exist to ensure permanency for a child</p> <p><b>5.4</b> Apply an understanding of the options which exist for securing a permanent placement for a child to a given scenario</p>	<ul style="list-style-type: none"> <li>• the effect of a placement order in authorising the local authority to place the child with any prospective adopters (s21 ACA 2002);</li> <li>• the interaction between applications for placement orders and care proceedings; e.g. timing of applications for placement orders; contact orders under s26 ACA 2002.</li> </ul> <p><b>5.3</b> Alternative options to adoption to achieve permanency and the rights and responsibilities of the local authority and the carers in such circumstances:</p> <ul style="list-style-type: none"> <li>• placement in long term foster care;</li> <li>• placement with family under a “private law” order e.g. a child arrangements order, and appointment of a special guardian.</li> </ul> <p><b>5.4</b> Application to a scenario.</p>
<p><b>6. Understand the interventions that are available to protect children who are in urgent need</b></p>	<p><b>6.1</b> Analyse the grounds for obtaining an emergency protection order</p>	<p><b>6.1</b> Grounds for emergency protection orders (EPO’s):</p> <ul style="list-style-type: none"> <li>• s 44 CA 1989, with particular reference to the differences between the “common ground” (s44(1)(a)), the “local authority ground” (s44(1)(b)) and the “authorised person ground” (s44(1)(c));</li> <li>• comparison between the “threshold criteria” for obtaining an emergency</li> </ul>

	<p><b>6.2</b> Explain the procedure for obtaining an emergency protection order</p> <p><b>6.3</b> Analyse the effect of an emergency protection order</p>	<p>protection order (EPO) and those required for a care/supervision order</p> <p><b>6.2</b> Procedure for obtaining an EPO:</p> <ul style="list-style-type: none"> <li>• Part 12 FPR 2010 and the accompanying Practice Directions, CCA 2013;</li> <li>• summary of how the parties fund their legal representation;</li> <li>• who represents the child and the role of the children’s guardian;</li> <li>• relevant case law; e.g. <u>X Council v B (Emergency Protection Orders)</u> [2004] EWHC 2015 (Fam) and <u>X (Emergency Protection Orders)</u> [2006] EWHC 510 (Fam).</li> </ul> <p><b>6.3</b> Effect of an EPO:</p> <ul style="list-style-type: none"> <li>• confers parental responsibility on the applicant, authorises/prevents child’s removal;</li> <li>• possible consequential directions made ancillary to an EPO; e.g. power to search, order for assessment of child, order excluding adult from premises, and provisions for contact;</li> <li>• duration of EPO;</li> <li>• availability of applications for extension/discharge</li> </ul>
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	<p><b>6.4</b> Explain the powers which the police have to intervene in order to protect children</p> <p><b>6.5</b> Apply an understanding of the interventions that are available to protect children who are in urgent need to a given scenario</p>	<p><b>6.4</b> Powers of police to protect children:</p> <ul style="list-style-type: none"> <li>• s46 CA 1989;</li> <li>• grounds for removal;</li> <li>• maximum duration of any removal; the duty to notify and provisions for contact.</li> </ul> <p><b>6.5</b> Application to a given scenario.</p>
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Additional information about the unit	
Unit aim(s)	The learner will understand the legislation governing children's proceedings in England and Wales and the role and importance of interagency working in child protection including interventions to protect children in urgent need. The unit also covers the procedural requirements for care orders and supervision orders and the options available for securing a permanent placement for a child.
Details of the relationship between the unit and other standards or curricula (if appropriate)	N/A
Assessment requirements specified by a sector or regulatory body (if appropriate)	N/A
Endorsement of the unit by a sector or other appropriate body (if required)	N/A
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	Chartered Institute of Legal Executives (CILEx)
Availability for delivery	1 <sup>st</sup> September 2013

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