



## CHIEF EXAMINER COMMENTS WITH SUGGESTED POINTS FOR RESPONSES

NOVEMBER 2023

LEVEL 3 UNIT 18 – THE PRACTICE OF CHILD CARE LAW

### Note to Candidates and Learning Centre Tutors:

The purpose of the suggested points for responses is to provide candidates and learning centre tutors with guidance as to the key points candidates should have included in their answers to the November 2023 examinations. The suggested points for responses sets out a response that a good (merit/distinction) candidate would have provided. Candidates will have received credit, where applicable, for other points not addressed by the marking scheme.

Candidates and learning centre tutors should review the suggested points for responses in conjunction with the question papers and the Chief Examiners' **comments contained within this report**, which provide feedback on candidate performance in the examination.

### CHIEF EXAMINER COMMENTS

5 candidates or fewer completed this exam. For this reason, Chief Examiner comments on overall and question-specific performance has not been included as the data is too limited for meaningful trend analysis.



**SUGGESTED POINTS FOR RESPONSE**

**NOVEMBER 2023**

**LEVEL 3 UNIT 18 – THE PRACTICE OF CHILD CARE LAW**

Question Number	Suggested Points for Responses	Marks (Max)
1(a)	<p><b>Parental responsibility (PR)</b></p> <ul style="list-style-type: none"> <li>• S3(1) CA 1989</li> <li>• “All the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.”</li> <li>• Examples: enables the parent a say in matters such as medical issues, education, living arrangements</li> <li>• Credit reference to PR required in this case to make decisions re Benjie and Connie’s education.</li> </ul>	4
1(b)	<p><b>Eligibility for parental responsibility (PR)</b></p> <ul style="list-style-type: none"> <li>• An unmarried father does not have automatic parental responsibility.</li> </ul> <p>An unmarried father can acquire PR:</p> <ul style="list-style-type: none"> <li>• By being named on birth certificate of child born after 1 December 2003</li> <li>• By entering a PR agreement with the mother</li> <li>• By applying for a PR order from the court</li> <li>• By obtaining a CAO with residence</li> <li>• By marrying the mother</li> <li>• Leroy does not have PR as not named on birth certificates/not married to Venus</li> <li>• Leroy should apply to the court for a PR order (as unlikely that Venus would agree to a PR agreement)</li> <li>• Credit a mother has automatic PR</li> </ul>	6
1(c)	<p><b>A child arrangement order (CAO)</b></p> <ul style="list-style-type: none"> <li>• A child arrangements order (identification)</li> <li>• An order which sets out <b>with whom</b> a child should live, spend time, or otherwise have contact, and <b>when</b> a child is to live, spend time or otherwise have contact</li> <li>• Contact can be direct contact (visits) or indirect contact (phone calls, letters etc)</li> <li>• This order would specify when Leroy can see Benjie and Connie and Venus must comply</li> </ul> <p>Credit AORP e.g. child’s welfare is key consideration</p>	4
<b>Question 1 Total:14 marks</b>		



Question Number	Suggested Points for Responses	Marks (Max)
2(a)	<p>A <b>child protection conference</b> is an inter-agency meeting, attended by all professionals involved with the child and family</p> <p>Its aim is to share information and to decide how best to safeguard and promote the welfare of the child</p> <p>A Section 17 risk assessment will be carried out and a child protection plan will be agreed</p> <p>Here, Hayley has not cooperated with relevant agencies and there are serious concerns about Ricky’s developmental needs – his health, education and emotional needs are not being met</p> <p>Hayley’s parenting capabilities appear to be continuing to need improvement, and for this she will need support .</p>	4
2(b)	<p>The purpose of a <b>child protection plan</b> is to ensure the child is safe and their welfare is promoted and to allow the local authority to monitor and support child and its family</p> <p>The plan should identify/ the nature and source of the harm and the support required</p> <p>Appoint a key worker</p> <p>It will ensure reviews occur to confirm that improvements take place</p> <p>In Noah’s case, it should confirm his educational and health needs and identify what support is required from the school and also what support needs to be given to Patsy to improve her parenting skills</p>	5
2(c)	<p>If the child protection plan does not result in the improvements required, the following steps should be taken by Kempston County Council:</p> <ul style="list-style-type: none"> <li>· Legal advice should be obtained</li> <li>· It should communicate with Patsy and Noah (if considered of sufficient age and understanding) with a letter before proceedings</li> <li>· It should explain concerns and actions required to avoid court proceedings</li> <li>· It should advise Patsy to get legal advice</li> <li>· It should invite Patsy to a pre-proceedings meeting to discuss the concerns and possible actions</li> <li>· It should then provide a revised care plan – stating agreed actions</li> <li>· It should state the outcome if the actions are not followed</li> <li>· If no improvement occurs, Kempston County Council should issue proceedings</li> </ul>	7
<b>Question 2 Total: 16 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
3(a)	<p>s.38 CA 1989</p> <p>The grounds for an interim care order are that there are reasonable grounds for believing that the threshold criteria exist, that is:</p> <ul style="list-style-type: none"> <li>• the child is suffering (or likely to suffer) significant harm and</li> <li>• the harm attributable to the care given being below the standard of care a reasonable parent would provide.</li> <li>• Significant’ means the harm is considerable or important</li> <li>• ‘Harm’ includes both impairment of health, and also of development</li> <li>• Here, Mia has suffered sexual abuse, which is very serious, and is harm that is likely to affect her health and her development</li> <li>• This harm is due to inadequate care given by her mother, who was aware of the abuse but did not take action to prevent it</li> <li>• In Mia’s case the threshold criteria are met</li> </ul>	7
3(b)	<p>The key stages in an application for an interim care order are:</p> <p><b>Stage 1</b> Issue and Allocation</p> <ul style="list-style-type: none"> <li>• Application filed by Local Authority</li> <li>• Application reviewed by court and relevant action taken</li> <li>• Application and supporting documents (for example a social work chronology, a genogram etc.) returned to local authority for service on respondents</li> <li>• Date set for court hearing</li> </ul> <p><b>Stage 2</b> Case Management Hearing</p> <ul style="list-style-type: none"> <li>• Advocates meeting to discuss issues and draft order for consideration</li> <li>• Court hearing to identify key issues and evidence required</li> <li>• The timetable for the child considered</li> <li>• This hearing can be used as a final hearing</li> </ul> <p><b>Stage 3</b> Issues resolution hearing</p> <ul style="list-style-type: none"> <li>• To confirm issues to be decided</li> </ul> <p><b>Final hearing</b></p> <ul style="list-style-type: none"> <li>• Experts may give evidence.</li> <li>• To decide any issues not already agreed by parties</li> </ul>	10
<b>Question 5 Total: 17 marks</b>		



Question Number	Suggested Points for Responses	Marks (Max)
4(a)	<p>An Emergency Protection Order (EPO) provides short term protection by:</p> <ul style="list-style-type: none"> <li>• authorising the removal of a child to a place of safety or</li> <li>• preventing the removal of a child from a place where they are currently accommodated</li> <li>• Here, it could prevent Hannah from taking Rory out of hospital (1), or it could enable the local authority to place him in accommodation where he is safe .</li> </ul>	4
4(b)	<p>s.44(1)(a) CA 1989</p> <p>The statutory ground for applying for an EPO in this case is the common ground</p> <p>This ground applies where there is:</p> <ul style="list-style-type: none"> <li>• Reasonable cause to believe that the child is likely to suffer significant harm unless he is moved to accommodation provided by or on behalf of the applicant or</li> <li>• Reasonable cause to believe that the child is likely to suffer significant harm if he does not remain in his current accommodation.</li> <li>• Here, it is unsafe for Rory to return home as he has experienced violence from Sam and there is further risk Charlie needs to remain in hospital as long as necessary and then needs to be discharged to accommodation where he is safe, not his home.</li> </ul>	4
4(c)	<p>If an EPO is applied for in this case, Charlie will be represented by:</p> <ol style="list-style-type: none"> <li>1. A children’s guardian who will be appointed by the court. The court will ask CAFCASS to allocate and the guardian will usually be a social worker with experience of working with children and families . Their role is to: <ul style="list-style-type: none"> <li>• Advise court of course of action in best interests of child</li> <li>• Meet and talk with child and family</li> <li>• Advise child in an age-appropriate way</li> </ul> </li> <li>2. A solicitor appointed by the children’s guardian who represents the child in court . Their role is to provide legal advice and advocacy for the child . The solicitor must also represent the child’s best interests .</li> </ol>	6
<b>Question 4 Total: 14 marks</b>		

Question Number	Suggested Points for Responses	Marks (Max)
5	<p><b>Options for permanent placement</b></p> <ul style="list-style-type: none"> <li>• <b>Adoption</b> – the child becomes the child of adoptive parents</li> <li>• A permanent solution - adoptive parents have PR to exclusion of all others</li> <li>• Cuts any ties to blood relatives</li> <li>• If Fred and Willa became adoptive parents this would give official status to current position.</li>   <li>• <b>Special guardianship order</b> - semi permanent solution placing child with extended family ie Fred and Willa</li> <li>• Special guardian does have PR which can be exercised to exclusion of others</li> <li>• Does not cut ties to blood relatives</li> <li>• Not as strong as adoption - can be varied or discharged</li>   <li>• <b>Child Arrangements Order (CAO)</b> - an order to decide who a child lives with and who a child should have contact with</li> <li>• David and Ivy would have to apply for CAO to see girls if no agreement reached with Fred and Willa</li>   <li>• Conclusion/Advice – SGO - with reasons</li> </ul>	9
<b>Question 5 Total: 9 marks</b>		