

## CHIEF EXAMINER COMMENTS WITH SUGGESTED POINTS FOR RESPONSES

JANUARY 2022

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 January 2022 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

Performance for this session was mixed. Candidates who were well prepared were able to show both knowledge of the relevant law and understanding through application of the relevant law to the situations described scenarios in the pre-release case study.

They had also successfully developed the skills to answer exam questions as they had clearly read and understood the questions and were able to show their knowledge and understanding.

Candidates are advised to ensure that they should:

1 Provide evidence of **knowledge** of the relevant law in their answers (key citation, definitions and explanations) AND

2 **Understanding** of knowledge through application to the situation in the case study and providing advice

As marks are awarded for both knowledge and understanding (KUS) AS shown through application. The examiner can only assess a candidate and give credit on their written answer, so it is important to provide sufficient evidence of both knowledge and understanding.

Candidates should therefore ensure that they have:

1 Good knowledge of all the topics covered by the specification as any topic can be examined, and so selective learning may put a candidate at a disadvantage.

2 Good working knowledge of the case study that is pre-released.

3 Developed the exam skills required – the ability to read questions carefully and to answer as instructed, and to do this by showing knowledge and application in their answer.

These skills can be further developed by reference to previous CE reports which comment on specific topics.

1a	Statutory powers of police	Good knowledge of the police powers to be used in an emergency.
1b	Emergency protection order	Variable performance. It is important to be able make the links in a process – so initially that the police will use emergency powers, but then the local authority may have to take action. And why?
1c	Protection of child's interests	Performance for this question was disappointing. The key factor in protecting a child's interests is to give them a voice in proceedings via a special guardian and solicitor.
2a	Interim care order	Performance for this question was disappointing with a number candidates failing to show KUS .
2b	Procedural stages	This is a practice exam and so questions such as this should be expected. This has been a topic in previous exam and commented on in previous CE reports.
3a	Placement order	Candidates were able to identify the order.
3b	Grounds for a placement order	Candidates either knew the grounds for a placement order and could explain them, or did not.
4a	Initial procedure following referral	Again, a question on procedure that should be expected and therefore studied.
4bi	Assessment framework	Most candidates were able to explain the Assessment Framework, which is a key aspect that underpins child care law, and were able to apply to the situation.
4bii	Key professionals	Candidates able to identify relevant professionals.
4c	Child in need	Candidates generally able to show KUS, though with different levels of detail on a child in need, another key aspect of child care law.
5a	Child arrangements order	Candidates were able to identify the order, and to provide additional information.
5b	Factors to be considered	Performance showed a good level of understanding of relevant factors.

## CANDIDATE PERFORMANCE FOR EACH QUESTION

Performance varied across the questions.

In contrast to June 2021, care orders produced the weakest performance, whilst private law (the last question) produced the strongest performance.

### Question 1 Emergency powers

Generally satisfactory performance with 7 of the 10 candidates achieving a pass or above.

### Question 2 Care orders

Topics that have been examined in previous exam series but were poorly answered. Candidates were either able to answer, and answer well, or showed little knowledge and understanding.

**Question 3 Permanent interventions**

Again, candidates either had the knowledge and understanding to answer, or they did not.

**Question 4 Initial interventions**

Generally well answered.

**Question 5 Private law**

The last question on the paper produced the best performance with 9 candidates achieving a pass or above.

**SUGGESTED POINTS FOR RESPONSE**

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

Question Number	Suggested Points for Responses	Max Marks
<b>1(a)</b>	<p><b>Powers of police</b></p> <ul style="list-style-type: none"> <li>• Section 46(1) CA 1989</li> <li>• Power to take children into police protection if situation requires urgent action</li> <li>• If the police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm the officer can either:               <ul style="list-style-type: none"> <li>• Remove the child to suitable accommodation and keep him/her there, or</li> <li>• Take such steps as are reasonable to ensure the child's removal from any hospital, or other place in which he/she is being accommodated, is prevented.</li> </ul> </li> <li>• Here the police needed to remove Isha from her home and to take her to hospital and then to safe accommodation as there was no responsible adult present to care for them</li> </ul>	<b>5</b>
<b>1(b)</b>	<p><b>Ground for an Emergency Protection Order (EPO)</b></p> <ul style="list-style-type: none"> <li>• Kempston County Council should apply for an EPO because the police protection will only last for a maximum of 72 hours</li> <li>• Common ground</li> <li>• Reasonable cause to believe that a child is likely to suffer significant harm unless he is moved to accommodation provided by 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 the hospital wishes to remain treating Isha for several days and it appears that further decisions may have to be made concerning her care</li> </ul>	<b>5</b>
<b>1(c)</b>	<p><b>Representation of the child</b></p> <ul style="list-style-type: none"> <li>• Children's guardian will be appointed by court</li> </ul>	<b>5</b>

	<ul style="list-style-type: none"> <li>• Advises court of course of action in best interests of child</li> <li>• Meets and talks with child and family</li> <li>• Advises child in an age appropriate way</li> <li>• Appoints solicitor to give advice and to represent child in court</li> <li>• Solicitor must also represent best interests of child</li> <li>• Isha is only 18 months old. She will not be able to express her feelings and give her instructions to the solicitor to represent her best interests. She appears to have no family other than her mother and so needs a children’s guardian to ensure her best interests are identified and protected.</li> </ul>	
<b>Question 1 Total:</b>		<b>15 marks</b>

Question Number	Suggested Points for Responses	Max Marks
<b>2(a)</b>	<p><b>Interim care order/supervision orders</b></p> <ul style="list-style-type: none"> <li>• S33 CA 1989</li> <li>• An interim care order places the child under the care of the local authority</li> <li>• The local authority will share PR with the parents</li> <li>• But the local authority will make the day to day decisions and will have the right to decide how the parents exercise their PR</li> <li>• Ultimately a care order can last until the child is 18</li> <li>• Credit relevant reference to the “threshold criteria and s31 CA 1989</li> <li>• In Isha’s case her mother has failed to care for her as expected and she is likely to come to harm if she remains in her mother’s care (1), so she needs to be placed under the LA’s care for her own protection.</li> </ul>	<b>7</b>
<b>2(b)</b>	<p><b>The stages in an application for an interim care order</b></p> <ul style="list-style-type: none"> <li>• Stage 1 - Issue and Allocation</li> <li>• Application filed by LA</li> <li>• Application reviewed by court and relevant action taken</li> <li>• Application and supporting documents returned to local authority for service on respondents</li> <li>• Date set for court hearing</li> <li>• Stage 2 - Case Management Hearing</li> <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>• Stage 3 – issues resolution hearing</li> <li>• To confirm issues to be decided</li> <li>• Final hearing</li> <li>• To decide any issues not already agreed by parties</li> </ul>	<b>10</b>
<b>Question 2 Total:</b>		<b>17 marks</b>

Question Number	Suggested Points for Responses	Max Marks
<b>3(a)</b>	<b>A placement order</b> <ul style="list-style-type: none"> <li>• s21 Adoption of Children Act (ACA) 2002</li> <li>• A placement order</li> </ul>	<b>2</b>
<b>3(b)</b>	<b>Grounds for making a placement order</b> <ul style="list-style-type: none"> <li>• S31(2) CA 1989</li> <li>• Threshold criteria – reasonable grounds to believe that the threshold criteria – statutory criteria – are met</li> <li>• Child is suffering or is likely to suffer significant harm, and</li> <li>• Harm is attributable to the care being given to, or likely to be given to, the child being below the standard of care that a reasonable person would give, and</li> <li>• Parents’ consent should be dispensed with</li> <li>• Here, Baby A has been abandoned and this could have caused significant harm he had not been found. The parents have not been traced so parental consent is not possible and should be dispensed with</li> </ul>	<b>6</b>
<b>Question 3 Total:</b>		<b>8 marks</b>

Question Number	Suggested Points for Responses	Max Marks
<b>4(a)</b>	<b>Procedure after initial referral</b> <ul style="list-style-type: none"> <li>• The school should confirm concerns in writing within 48 hours</li> <li>• Written acknowledgement should be given by LA within 1 working day</li> <li>• An initial assessment should be made</li> <li>• A decision should be made on whether further action is required regarding Tom</li> </ul>	<b>4</b>
<b>4(b)(i)</b>	<b>Assessment framework</b> <ul style="list-style-type: none"> <li>• Child’s developmental needs</li> <li>• Examples – health, education emotional and behavioural development etc</li> <li>• Parenting capacity</li> <li>• Examples – basic care, emotional warmth, stability</li> <li>• Family and environmental factors</li> <li>• Examples – Family history and functioning, housing etc</li> <li>• Application – e.g. Tom’s development and social skills are likely to be affected unless support is provided by the school and social services</li> <li>• The assessment will be carried out by a social worker</li> </ul>	<b>8</b>
<b>4(b)(ii)</b>	<b>Other professionals involved</b> <ul style="list-style-type: none"> <li>• Teachers</li> <li>• Educational psychologist</li> <li>• Health professional</li> </ul>	<b>2</b>
<b>4(c)</b>	<b>Child in need</b> <ul style="list-style-type: none"> <li>• s17(10) CA 1989</li> <li>• A child in need is a child who is unlikely to achieve or maintain a satisfactory level of health or development unless he receives assistance from the LA, or</li> </ul>	<b>6</b>

	<ul style="list-style-type: none"> <li>• A child who will suffer significantly impaired health or development unless he receives assistance from the local authority, or</li> <li>• A child who is disabled</li> <li>• Here, Tom’s individual and educational development will be affected if he continues to be excluded from the school</li> <li>• Tom is a child in need</li> </ul>	
<b>Question 4 Total:</b>		<b>20 marks</b>

Question Number	Suggested Points for Responses	Max Marks
<b>5(a)</b>	<p><b>A child arrangement order (CAO)</b></p> <ul style="list-style-type: none"> <li>• A child arrangements order</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 (face to face) or indirect (letters and phone calls)</li> <li>• This order would specify what contact should occur, including overnight stays – and Kate would have to comply</li> </ul>	<b>4</b>
<b>5(b)</b>	<p><b>Welfare checklist factors</b></p> <ul style="list-style-type: none"> <li>• <b>Ascertainable wishes and feelings of child (considered in light of age and understanding)</b></li> <li>• How much weight is placed on a child’s wishes depends on child’s age and maturity. (Credit reference to the Gillick test of competence)</li> <li>• Application – here the children are 12 years old and 11 years old so their views will carry some weight</li> <li>• <b>Child’s physical, emotional and educational needs</b></li> <li>• Court will consider a range of factors including relationships and the effect of having no contact</li> <li>• Application – Harriet and Oscar have been brought up by both parents until recently and the limited contact with their father is having an effect on them.</li> <li>• <b>Likely effect on child of change in circumstances</b></li> <li>• Courts are reluctant to upset the status quo</li> <li>• Application – Harriet and Oscar have had to deal with the change created by their parents splitting up and this has led to far less contact with their father. Allowing an increase in contact might have a positive effect - in reversing slightly the change they have found difficult</li> <li>• <b>Child’s age, sex and background</b></li> <li>• Age is relevant in weight given to expressed wishes; sex is relevant if a teenager; background increasingly important due to multicultural relationships</li> </ul>	<b>6</b>

	<ul style="list-style-type: none"> <li>• Application – The children are growing older and Oscar in particular would benefit from contact with his father.</li>   <li>• <b>Capability of parent</b></li> <li>• How capable are the parents in meeting the child’s needs</li> <li>• The parents appear to have some differing views on parenting, but they each seem capable and the children appear to get on well with them both</li>   <li>• <b>Any harm the child is at risk of suffering</b></li> <li>• Harm may be physical or emotional. It may include harm through witnessing domestic violence</li> <li>• If Kate does is not prepared to be more flexible, the limited contact with Laurence could have an emotional effect on the children</li>   <li>• <b>Powers of the court</b></li> <li>• The court has the power to make various orders</li> <li>• Here, the appropriate decision may be to make a CAO with some allowance for overnight stays and holidays</li> </ul>	
<b>Question 5 Total:</b>		<b>10 marks</b>