

## CHIEF EXAMINER COMMENTS WITH SUGGESTED POINTS FOR RESPONSES

JUNE 2021  
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 June 2021 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

This exam tests candidates' knowledge of the relevant law underpinning a question and understanding through application to the facts described in the case study. Some questions will test both knowledge and understanding, while some such as the procedure-based questions may only test knowledge.

Candidates wishing to achieve good results need to prepare by developing a good knowledge of the case study scenarios. They also need to have a good knowledge of law across the specification. And they need develop skills of reading and understanding the question, including the mark allocation. – what does the command word require.

## CANDIDATE PERFORMANCE FOR EACH QUESTION

### **Question 1** Private law

All candidates were able to answer, but level of detail is important to achieve full marks. This requires accurate citation, a good statutory definition and examples.

All candidate responses on parental responsibility were good and showed knowledge of the different positions of the natural mother and the unmarried father in relation to parental responsibility.

Candidates needed to specify the options for how contact might be achieved and relevant application for full marks.

Most candidates were able to identify 2 principles, but were not able to achieve full marks as either the description was not given, or there was no application.

To get full marks for each key principle candidates must:

1. Identify the principle
2. Describe what the principle involves, and
3. Explain how it might apply to the situation described in the scenario.

### **Question 2** – Emergency powers

Full marks required accurate citation, a description of the emergency protection order (EPO) and application – mother unable to care because....., father has no rights because... and local authority needs to take action because...Candidates skills in answering varied.

Generally, question re the parties was well answered.

Knowledge re the effect of an EPO was varied.

### **Question 3** – Initial intervention

Candidates who were well prepared were able to achieve full marks. Again, level of knowledge evidenced was the factor that affected level of mark achieved.

Knowledge of the assessment Framework that underpins the statutory duty of the Local Authority is key to understanding when/why initial intervention is undertaken. The level of knowledge displayed by some candidates was disappointing.

### **Question 4** – Permanent options

Whilst some candidates managed to provide a good answer, others lacked the knowledge to answer this question by describing the long term solutions for the child in this scenario where there was a willing relative.

### Question 5 – Care orders

Candidate knowledge of another key aspect of protecting children, agencies having a duty to work together, was evidenced but the detail required to achieve full marks was lacking.

Some candidates were able to provide excellent answers regarding the statutory ground for an interim care orders, whilst others failed to provide the clear and accurate detail required.

Good knowledge of the effect of an interim care order on parental responsibility was shown by all candidates.

### SUGGESTED POINTS FOR RESPONSES LEVEL 3 – UNIT 18 - THE PRACTICE OF CHILD CARE LAW

The purpose of this document is to provide candidates and learning centre tutors with guidance as to the key points candidates should have included in their answers to the June 2021 examinations. The Suggested Points for Responses do not for all questions set out all the points which candidates may have included in their responses to the questions. Candidates will have received credit, where applicable, for other points not addressed. Candidates and learning centre tutors should review this document in conjunction with the question papers and the Chief Examiners' reports which provide feedback on candidate's performance in the examination.

Question Number	Suggested points for responses	Max Marks
Q1(a)	<ul style="list-style-type: none"><li>• S3 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></ul>	4
Q1(b)	<ul style="list-style-type: none"><li>• The natural mother has automatic PR</li><li>• A father only has PR if married to the mother or registered as father on birth certificate after 1 December 2003.</li><li>• Tracey has automatic PR as she is Daniel's natural mother.</li><li>• Winston does not have PR as he was not married to Tracey.</li></ul>	4
Q1(c)	<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></ul>	4

	<ul style="list-style-type: none"> <li>• Contact can be direct (face to face) or indirect (letters and phone calls).</li> <li>• This order would specify what contact should occur – and Tracey would have to comply.</li> <li>• Initially in this case, it is likely to be indirect contact due to the possible concerns about Winston’s behaviour.</li> <li>• Credit that Winston must comply with an order if issued</li> </ul>	
Q1(d)	<p>Any <b>two</b> of the following:</p> <ul style="list-style-type: none"> <li>• <b>The paramouncy principle</b>, s1 Children Act (CA) 1989</li> <li>• The child’s welfare must be the court’s paramount consideration</li> <li>• Here, the court must consider what is in the child’s best interests, regardless of what his mother, Tracey, or father, Winston, wishes.</li> <li>• <b>The no delay principle</b> s1(2) CA 1989</li> <li>• Delay in resolving disputes concerning children must always be avoided as delay is prejudicial to a child’s welfare</li> <li>• Here Daniel’s life has changed significantly, and he will benefit from knowing as soon as possible, what is going to happen so time is of the essence.</li> <li>• <b>The no order principle</b> s1(5) CA 1989</li> <li>• The court should not make an order unless making an order would be better than making no order at all.</li> <li>• Here, it appears that an order will be necessary since Tracey’s relationship with Winston has broken down badly and it is unlikely that a mutually satisfactory arrangement can be agreed.</li> <li>• <b>Shared parenting principle/</b> presumption of parental involvement s1(2A) CA 1989</li> <li>• s.1(2)(A) CA 1989 (as amended by s.11 CFA 2014) - there is a presumption, subject to evidence to the contrary, that involvement of a parent in the life of a child will further the child’s development.</li> <li>• Application – the court will consider whether, based on what has happened to date, Winston should be involved in Daniel’s life.</li> </ul>	6
	<b>Question 1 Total</b>	<b>18 Marks</b>

Question Number	Suggested points for responses	Max Marks
Q2(a)	<ul style="list-style-type: none"> <li>• s44 Children Act (CA) 1989</li> <li>• An emergency protection order (EPO) an order to authorise the removal of a child to a place of or safety or to prevent the removal of a child from the place in which he is currently being accommodated, the common ground.</li> <li>• Here, Daniel’s mother is unable to care for him at the present time and, although Winston is his father, he does not currently have the right to take Daniel with him as he does not have parental responsibility</li> <li>• An EPO will give Kempston CC PR</li> <li>• Kempston CC should apply for an EPO to enable it to protect Daniel while it assesses the situation.</li> </ul> <p>Credit AORP e.g. police protection only lasts 72 hours, will allow Kempston CC to carry out further inquiries</p>	4
Q2(b)	<ul style="list-style-type: none"> <li>• Kempston CC will be the applicant</li> <li>• Every person with parental responsibility (PR) will be a respondent</li> <li>• Tracey will be a respondent – as his natural mother she has automatic PR</li> <li>• Applications for EPO’s are specified proceedings where the child will be made a respondent</li> <li>• So Daniel will be a respondent.</li> <li>•</li> </ul>	5
Q2(c)	<ul style="list-style-type: none"> <li>• An EPO will give confer parental responsibility on local authority to promote and safeguard child’s welfare.</li> <li>• Parental responsibility will be shared with the parent (in this case Tracey).</li> <li>• An EPO will last for 8 days but can be extended for a further 7 days.</li> <li>• So Kempston CC will have PR for Daniel – and can make decisions which his mother cannot currently.</li> <li>• Here It will enable Kempston CC to prevent</li> <li>• Winston from removing Daniel from his foster</li> <li>• Carer pending further decisions regarding his care.</li> </ul>	5
	<b>Question 2 Total</b>	<b>14 Marks</b>

Question Number	Suggested points for responses	Max Marks
Q3(a)	<ul style="list-style-type: none"> <li>• s.17 CA 1989</li> <li>• The general duty owed by Kempston County Council to Pallam is the duty to safeguard and promote the welfare of children in need in their area and</li> <li>• To promote the upbringing of such children by their families provided it is safe by providing support and assistance</li> <li>• A child in need is a child who: <ul style="list-style-type: none"> <li>• Is unlikely to achieve or maintain a satisfactory level of health or development unless he/she receives assistance from the local authority, or</li> <li>• Will suffer significantly impaired health or development unless he/she receives help from the local authority, or</li> <li>• Is disabled.</li> </ul> </li> <li>• In Pallam's case, there are concerns that his educational development requires significant support but his parents' are refusing to accept that this is the case and are not co-operating with the school.</li> <li>• Pallam is a child in need and Kempston County Council has a duty to provide the support he requires working with the school and with his parents.</li> </ul>	9
Q3(b)	<ul style="list-style-type: none"> <li>• A s17 assessment will be carried out in accordance with the Assessment Framework.</li> <li>• The assessment will consider Pallam's individual and developmental needs, Indrajit and Madhu's parenting capacity and family and environmental factors.</li> <li>• The aim will be to investigate concerns and, if confirmed, to identify the support that Pallam and his family require.</li> <li>• This assessment will be carried out by a social worker.</li> </ul>	4
	<b>Question 3 Total</b>	<b>13 Marks</b>

Question Number	Suggested points for responses	Max Marks
Q4	<p><b>Adoption</b> – the child becomes the child of adoptive parents.</p> <p>Adoptive parents have PR to exclusion of all others.</p> <ul style="list-style-type: none"> <li>• A permanent solution – the adopters treated as the child's natural parents and links with birth family terminated if closed adoption.</li> <li>• Here, adoption is not an option as Flora has family who wish to maintain contact.</li> </ul> <p><b>Special guardianship order</b> - semi permanent solution placing child with extended family.</p>	9

	<ul style="list-style-type: none"> <li>• Special guardian does have PR which can be exercised to exclusion of others.</li> <li>• Not as strong as adoption - can be varied or discharged.</li> <li>• This would be appropriate as Flora has an aunt, Kate, who has expressed a wish to look after Flora.</li> </ul> <p><b>Long term foster care</b> – the child is placed in foster care on a long-term basis. A solution where adoption is not appropriate.</p> <ul style="list-style-type: none"> <li>• This is not appropriate here unless Kate is not considered suitable as a special guardian.</li> </ul>	
	<b>Question 4 Total</b>	<b>9 Marks</b>

<b>Question Number</b>	<b>Suggested points for responses</b>	<b>Max Marks</b>
Q5(a)	<ul style="list-style-type: none"> <li>• Children Act 2004 and Working Together guidance recognised that it is difficult for any one professional to get a complete picture of a child and its circumstances and needs.</li> <li>• Local authorities are required to work with other agencies to promote the welfare of children like Jade.</li> <li>• Other agencies include educational personnel, health care professionals, the police and others.</li> <li>• When a range of professionals become involved and work together evidence from a range of sources can be collated and used to ensure the child is safe and their welfare is promoted.</li> </ul> <p>Here, information from Jade’s doctor, her father, the police and her nursery is providing evidence for Kempston CC that Jade does need protection.</p>	4
Q5(b)	<ul style="list-style-type: none"> <li>• s38 (2) CA 1989 /s33 CA1989</li> <li>• There must be reasonable grounds for believing that the threshold criteria (statutory criteria) exist.</li> <li>• The child is suffering or is likely to suffer significant harm, and</li> <li>• The harm is attributable to the care being given to, or likely to be given to the child if the order is not made, being less than reasonable, or</li> <li>• The child is beyond parental control.</li> <li>• Harm includes harm such as ill treatment, health concerns or developmental matters, emotional harm, neglect.</li> <li>• Significant harm is serious harm.</li> </ul> <p>Here there are reasonable grounds for believing that the threshold criteria are met – that Jade is at risk of significant harm (the injuries and changes in behaviour) and that this is due to the care being</p>	8

	given by Chloe being less than reasonable (Chloe is not prepared to tell Greg to leave as recommended)	
Q5(c)	<ul style="list-style-type: none"> <li>• Local authority will acquire parental responsibility (PR)</li> <li>• PR will be shared with Chloe</li> <li>• But LA has right to decide how Chloe exercises her PR</li> <li>• Under s34 CA 1989 LA has a duty to allow reasonable contact with parents</li> </ul> <p>So Chloe should be able to see Jade.</p>	4
	<b>Question 5 Total</b>	<b>16 Marks</b>