

**LEVEL 3 - UNIT 18 – THE PRACTICE OF CHILD CARE  
SUGGESTED ANSWERS – JANUARY 2018**

**Note to Candidates and Tutors:**

The purpose of the suggested answers is to provide candidates and tutors with guidance as to the key points candidates should have included in their answers to the January 2018 examinations. The suggested answers 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 by the suggested answers.

Candidates and tutors should review the suggested answers in conjunction with the question papers and the Chief Examiners' reports which provide feedback on candidate performance in the examination.

**Question 1(a)**

Under s.17(1) Children Act (CA) 1989, Kempston County Council has a duty to safeguard and promote the welfare of children in need in their area. This duty involves responsibility to promote the upbringing of such children by their families, provided it is safe, by providing support and assistance.

A child in need is defined in s.17(10) Children Act 1989 as a child who:

- is unlikely to achieve or maintain a satisfactory level of health or development unless he/she receives assistance from the local authority; or
- will suffer significantly impaired health or development unless he/she receives help from the local authority; or
- is disabled.

In the case of Corine and Lamar Samuels there has been an initial referral. It has been decided that further action is required because there are concerns about Corine and Lamar – their withdrawal from group activity, their appearance, their hunger and their tiredness. Corine and Lamar are children in need, so an assessment is required to confirm these concerns and identify the support and care required

**Question 1(b)**

The Assessment Framework for carrying out a s.17 assessment involves looking at 3 key areas:

1. Child's developmental needs.  
This area involves looking at aspects such as the child's health, education, and emotional and behavioural development.
2. Parenting capacity.  
This area involves considering what the parent provides in terms of basic care, emotional warmth and stability.

3. Family and environmental factors

This area involves consideration of the wider environment and factors such as family history and functioning and housing.

**Question 1(c)**

The assessment process under s.17 involves obtaining information from:

- the family; and
- other professionals such as teachers and health care professionals; and
- the child themselves, whose wishes and feelings should be identified and taken into account.

The assessment must be carried out by a social worker and needs to identify whether the child is a child in need and, if so, what services and support are needed to improve the child's welfare. Based on the information, a children in need plan will be devised.

In this case, the County Council needs to confirm the current concerns regarding Corine and Lamar and to decide appropriate support. Aretha's parenting skills also need to be considered to identify the advice and support that she may need. Aretha's relationship with Jason, and its impact on the children, will need to be assessed.

**Question 2(a)**

Parental responsibility (PR) is '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.' s.3(1) CA 1989

Therefore, parental responsibility gives the parents the right to make decisions concerning a child's education, medical issues and living arrangements.

**Question 2(b)**

As an unmarried father, Tyrone does not have automatic parental responsibility, but he may have acquired PR by:

- being named on birth certificate of a child born after 1 December 2003; or
- entering a PR agreement with the mother; or
- applying for a PR order from the court; or
- by obtaining a child arrangements order; or
- by marrying the mother.

Tyrone does not have PR as he is not married to Aretha and is not named on the children's birth certificates.

Tyrone should apply to the court for a PR order (as it seems unlikely that Aretha would agree to a PR agreement).

## **Question 2(c)**

Tyronne should apply for a child arrangement order (CAO).

A CAO is an order which sets out **with whom** a child should live, spend time, or otherwise have contact, and **when** a child is to live, spend time or otherwise have contact with those persons.

This order would specify when Tyronne can see Corine and Lamar, and Aretha must comply.

## **Question 2(d)**

Two factors from the Welfare Checklist that the court must consider are:

### **The ascertainable wishes and feelings of the child (considered in light of age and understanding).**

The court must consider how much weight is placed on a child's wishes and this depends on the child's age and maturity, the Gillick test of competence. Here, Corine is 9 years old and so her views may have some influence. Lamar is only 6 years old, so his wishes will have less influence.

### **The likely effect on the child of a change in circumstances.**

The courts are reluctant to upset the status quo. Corine and Lamar have had their lives unsettled by their parents break up, but this has been minimised until recently by regular contact with their father.

Other factors that could be considered are:

### **Child's physical, emotional and educational needs**

The court will consider a range of factors, including relationships and the effect of having no contact with a parent. Here, Corine and Lamar appear to have a good relationship with their father and are upset because visits to Tyronne are not happening frequently.

### **Child's age, sex and background**

Age is relevant in assessing the weight to be given to the wishes of the child. Sex is relevant if the child is a teenager. Background is increasingly important in multi-cultural relationships. Here, the children are quite young and have remained living with their mother, but contact with their father is important, especially for Lamar as he gets older.

### **Capability of parent**

The court will consider how capable the parents are in meeting the child's needs. Aretha is currently not caring for her children in a way that meets their needs. But Tyronne is able to provide appropriate care when they visit.

### **Any harm the child is at risk of suffering**

Harm may be physical or emotional harm. Here, the children are suffering physical harm, as they are not eating or sleeping properly. There also appears to be concern about Jason's impact on the children. The children could be suffering emotional harm from not seeing their father, Tyronne, as frequently as they have been used to.

### **Powers of the court**

The court will consider the range of orders available to it. Here, a child arrangements order, to ensure continuing contact with Tyronne, would be appropriate.

### **Question 3(a)**

When applying for an interim care order, it must be shown that there are reasonable grounds for believing that the threshold criteria exist, s.38(2) Children Act 1989. The threshold criteria, s.31(2) CA 1989, involve asking:

- 1 is the child suffering (or likely to suffer) significant harm; and
- 2 is the harm attributable to either:
  - the care given being below the standard of care a reasonable parent would provide; or
  - the child being out of control.

In this case, Sophie is only 14 years old, but she is missing school, is thought to be drinking alcohol and possibly using drugs. It also appears that she may possibly be becoming involved in sexual activities. She is, therefore, likely to suffer significant harm.

Her father has tried to deal with the problems but been unsuccessful. Sophie is out of control.

An interim care order allowing children's services to place her with a foster family would be appropriate.

### **Question 3(b)**

The Parties to proceedings if an interim care order is applied for are:

- the local authority will be a party as the applicant;
- Paul will be a respondent, as every person with PR is a respondent;
- Sophie will be a respondent, as the child will always be a respondent.

### **Question 3(c)**

If an interim care order is made, the local authority will acquire parental responsibility. This will be shared with Paul, but the local authority has the right to make day-to-day decisions and to decide how Paul exercises his parental responsibility.

### **Question 4(a)**

The statutory powers the police have exercised in this case are the powers under s.46(1) CA 1989, which state that if the police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, the officer can either:

- 1 remove the child to suitable accommodation and keep him there; or
- 2 take such steps as are reasonable to ensure the child's removal from any hospital, or other place in which he is being accommodated, is prevented.

Here, there are serious concerns that Frankie is likely to suffer significant harm if he returns home with his father so, using these powers, PC Khan has made

arrangements that Frankie should not be discharged and taken home by his father.

#### **Question 4(b)**

An emergency protection order provides short-term protection by preventing the removal of a child from a place where he/she is presently accommodated. But police protection only lasts for a maximum of 72 hours. In view of the concerns about allowing Frankie to go home with his father, an emergency protection order (EPO) will provide further short term protection, as it allows the local authority to prevent the removal of a child from a place where currently he/she is accommodated.

Here, there are concerns for the safety of Frankie and an emergency protection order will protect Frankie, by preventing Ben from taking him home. It is needed urgently, as the police protection period will end shortly.

S.44 Children Act 1989 states the grounds, one of which must be established to obtain an order.

An emergency protection order confers parental responsibility on the applicant, in this case the local authority. This parental responsibility is limited to doing what is necessary to safeguard and promote the child's welfare, and it is parental responsibility in addition to any existing parental responsibility. The local authority will be able to prevent Ben taking Frankie home and can transfer him to suitable accommodation.

An emergency protection order only lasts for a limited period – 8 days initially, which can be extended for a further 7 days.

#### **Question 5**

If it is confirmed that Frankie has suffered from domestic violence and that his father is responsible, the long-term placement options available are:

- Adoption; where the child becomes the child of adoptive parents and the adoptive parents have parental responsibility to exclusion of all others. This is a permanent solution. The adopters are treated as the child's natural parents and the links with the birth family are terminated.
- Special guardianship order; which is a semi-permanent solution placing the child with extended family, in this case, Willa. The special guardian does have parental responsibility, which can be exercised to the exclusion of others. Contact with the family can be maintained. Special guardianship is not as strong as adoption, as it can be varied or discharged.
- Long-term foster care; where the child is placed in foster care on a long-term basis. This is a solution where a child cannot be safely returned to the parents, but adoption is not appropriate.

In this case, special guardianship might be the most appropriate solution as Frankie will be cared for by a family member, but he may be able to have contact with his father.