

**COMPLAINT JONQUIL HOUGHTON**

**(CREIGHTON & PARTNERS)**

**SOLICITOR FOR 'MUSA' CHILDREN**

I, concerned citizen and friend to the Musa family *John Graham*, submit this complaint in respect of the conduct of *Jonquil Houghton* and her fraudulent practices toward the Musa family. She has consistently and continually committed offences which constitute maladministration, malpractice, abuse of public office, breach of Statutory Duty and is biased towards *London Borough of Haringey* when dealing with the Musa children's 'best-interests'. I make this complaint on the basis she has ignored the children's best wishes (as set out below) and perverted the course of justice. She has also colluded with fraudulent Statements and actions by London Borough of Haringey against our children and Mr and Mrs Musa.

*Jonquil Houghton* has not followed correct procedures / Court Protocol, she does not appear to have a reasonable understanding of children's development and the effects of separating them from a parent (unnecessarily, as below). She clearly does not understand the Human Rights Act, the Convention of the Rights of the Child, The Children Act 1989/2004, legislation regarding the filing of papers and Injunctions all of which she has a duty to understand in her capacity to act on the Accredited Children's Panel of Solicitors. She has colluded with *Ms Moise* in continuing with a malicious prosecution against the Musa family.

Ms Houghton has had plenty of opportunity to report *Ms Moise* to appropriate authorities, but has failed to do so - even when there has been blatant evidence of perjury, Fraud (false representation AND failure to disclose information), perverting the Course of Justice. She has - it would appear, colluded with *Ms Moise* in forgery. Ms Houghton has not met her obligations to report mis-conduct, abuse of position and illegal activities to The Law Society, which leads us to believe she is also party to the corruption in accordance with the Solicitors Registration Authority Guidelines. She has compromised her position and integrity and put the children in grave danger of abuse.

A 'non-molestation order', which she (*Ms Moise*) presented to the Musa parents appears to have been fabricated by *Ms Moise*; it bears no resemblance to any 'Non-molestation Orders' which appear on Her Majesty's Court Forms website. *Ms Houghton* has been aware of this, as before it was sent to us, she would also have received a copy. The Barrister's signature (*Ryan Bartholomew*) also appears to be fake (it appeared on a page, which has obviously been 're-created' and does not have his name printed underneath the signature, which is correct Court procedure / protocol. Both *Ms Houghton* and *Ms Moise* would know a 'Non-Molestation Order' has no relevance whatsoever in Care Proceedings unless a family member fears or feels threatened by another family member. *Ms Houghton's* and *Ms Moise's* actions constitute Injurious Falsehood and Grievous bodily harm to our family, friends, McKenzie friend and everyone else who has helped us. They have been bullied into not assisting the Musa family, associating with the Musas because they (friends with children) have been threatened with the removal of their child/ren. In fact, some have had to move away from us.

This is a violation of their Human Rights (Right to a family life, being protected by the law, living without fear of violence or, harassment and freedom of association).

As the Musas intend their case to proceed to the European Court of Human Rights, they do not consider Ms Houghton to 'have sufficient experience and the appropriate expertise to deal with the case in the absence of a children's guardian' OR in any capacity as acting Solicitor for any child.

Ms Houghton has failed the Musa children as follows:

1. She has NOT taken their best-interests into consideration at all. The Children's Guardian - only one has been appointed and that was at the initial stage of proceedings; (IF) the Children's Guardian was genuine, they have only filed ONE REPORT in which the children stated clearly to her they want to come home to us, and in the words of one of our children "I just want mummy to sort it out, so we can go home".

Ms Houghton's insistent ignoring of this has breached every duty and Convention Right entrusted upon her as a Solicitor / Legal Representative by the Judiciary.

2. Ms Houghton has not continued in a bid to ensure the Musa Children have a Children's Guardian EACH; it is her duty to ensure they are treated as individuals with individual needs. (Children Act 1989 and Acting in the absence of a Children's guardian. Acting in the absence of a children's guardian 25 August 2009)

Thus, both of them 'represent children involved in public law proceedings in England and Wales. This is known as the 'tandem model' of representation'. [4.32]

3. Ms Houghton has not ensured the Musa children have individual Social Workers each; which is their right and her duty to ensure same. (Children Act 1989 and Acting in the absence of a Children's guardian. Acting in the absence of a children's guardian 25 August 2009)

4. Ms Houghton has not considered making appropriate professional mentoring arrangements.

5. Ms Houghton has NOT clarified issues and plans; neither has she attempted to probe and test any 'evidence' placed before her by the Local Authority. She has accepted everything they have stated 'de facto', without question.

She has not ensured a Care Plan has been written on all of our children, in accordance with the Children Act 1989, Children Act 2004 and 2010 No. 959 Children and Young Persons, England. The Care Planning, Placement and Case Review (England), Regulations 2010, PART 2 - Arrangements for looking after a child. This is a Statutory duty by all those who represent children / care for children during Care proceedings and is central to all Review, proceedings and decisions with regard to our children's future.

6. Ms Houghton has not adhered to Court protocol as follows:

a) All of the alleged Orders / hearings we have attended are unlawful and an abuse of public office. Alongside this, Ms Houghton has brought the profession of 'Solicitor' into disrepute and the Musas have stated they will never trust Solicitors in the UK again.

b) Various 'Orders' have not been stamped and had the Court Seal - which makes them invalid, unlawful and fake. Ms Houghton has allowed this to go unchallenged.

7. Ms Houghton has abused her authority / power by:

a) allowing the Local Authority Solicitor, Ms Moise, to dictate the Court timetable/s (unchallenged).

b) dictating contents of professionals reports, in collusion with the Court and the Local Authority Solicitor;

c) abused the Musa's associates' vulnerable children and other families by taking children from loving, caring, 'good' homes unlawfully (The use of Orders has been abused), in collusion with the Court, Local Authority's Solicitor and the Local Authority (even though Ms Houghton KNOWS the evidence being represented as 'the truth' is false, perjurious and fraudulent;

d) being party to other criminal activities by various other 'professionals', in collusion with the Court and the Local Authority's Solicitor;

e) perverting the course of justice, in collusion with the Court, Local Authority's Solicitor and;

f) fraud by deception - as per point 1 (above) in collusion with the Court and the Local Authority Solicitor and Local Authority;

g) Fraud (dishonesty) - false representation of evidence (filing untrue and misleading statements, knowing them to be false at the time they are/were filed). The Musa children had told the Children's Guardian (when there was one) they want to come home; Ms Houghton stands back and allows them to be abused by being kept in care - even though she has been party to proceedings whereby His Honour Judge Glenn Brasse has stated in Court (February 2011), the original reasons for the Musa children to be taken into care was based on a 'fake / false' alleged letter written by the eldest daughter, Favour. (This is in collusion with the Court and the Local Authority. Fraud by abuse of her position. (Fraud Act 2006 S.1)

h) brought the profession of Solicitor into disrepute;

i) not had the welfare of the Musa children as paramount in all decisions, along with the Court, Local Authority and the Children's Solicitor. (Breached the Convention on the Rights of the Child); been negligent in her 'care' of the Musa children when she:

- owes them a duty of care,
- has breached that duty; and
- caused harm to them.

8. Ms Houghton is aware of concerns that **three of the Musa children have reported being abused in care**, but does not act upon that information.

She has breached the Rights of the Convention of the Children by breaching their rights to be heard, given special protection in care, be protected by the law, not be abused sexually or physically. She knows Emergency Protection Orders (EPO's) have been submitted to Court by Kay Young, and ignored by the Court and Ms Moise, but she has not taken it upon herself to act on them in the best interests of the Musa children: maladministration, malfeasance, nonfeasance and malpractice.

9. When the Court announced in February 2011 *"only the NSPCC or Social Services could apply for an EPO"*, Ms Houghton did not challenge this. The information given was inaccurate. Anyone can apply for an EPO, but only the Social Services and NSPCC can apply for a "Care Order". It is of great concern to the Musa parents, if she does not realise this as someone who holds a position on the Accredited Children's Panel: nonfeasance, misfeasance, maladministration and malpractice.

10. Ms Houghton knows and knew we did not understand the Court structure / proceedings; with this knowledge, she set out with malicious intent:

- a) on doing harm to the Musa family;
- b) knowing they have no power by her actions, and that her actions would cause injury to the Musa parents and their children and
- c) by her actions (as above) she would and has harmed the Musa family. Misfeasance in public office.

11. Ms Houghton has not challenged when 'reports' / 'Statements' submitted to the Court on behalf of LBH, have not been supported by 'Statements of Truth', which, in effect, renders them unlawful and non-enforceable. (See **PRACTICE DIRECTION PART 22 & 22.1 Documents to be verified by a statement of truth**)

12. There has not been a Witness Statement submitted by Michelle Collins (former Actress of Eastenders), as she IS central to the original referral made to Social Services. The Musa parents have not had the opportunity to cross-examine her either, as she attended Court on 17th/ 18th February. The Musas were notified of her prior attendance when we arrived for proceedings on Monday, 21 February 2011. (8.6). Ms Houghton is biased with regard to who should and should not be called to give evidence.

13. Ms Houghton has assisted Ms Moise to 'serve' (unchallenged by her) fraudulent documentation by e-mail to the Musa parents which have not:

a) contained the seal of the Courts, the date stamp of the Courts, the case number(s), the dates of hearings which they (allegedly) relate to; Ms Houghton has not challenged this fact.

b) The name in print of the Barrister who - allegedly - signed the 'Non-molestation' order. It looks like it has been copied and pasted from a previous document and it has not got his name printed underneath it for authentication purposes (see 'Technical Specifications of e-mail'). Ms Houghton has allowed this to go unchallenged

14. Ms Houghton has not challenged when Ms Moise has submitted and applied for various Orders on behalf of LBH knowing it to be false and fraudulent. (see in house practice)

15. Ms Houghton has not (IF she has been 'served' all the 'alleged formal' papers from Ms Moise) constantly and consistently challenged filed documents to Court, knowing them to be false / fake and fraudulent. By her lack of action, she is encouraging and inciting LBH and Ms Moise to commit fraudulent acts.

16. Ms Houghton knows the Musas are unable to understand the legal process in Court and have difficulties in understanding documentation presented to them. She continually and consistently exploited their vulnerability as 'non UK citizens', along with the Judiciary, in their omission to advise where the Musas could access facilities; enabling the Musas to be given the right to a fair trial (ECHR) / and to understand what was being said to them {the Musas}. As she is a member of the *Child Accreditation Scheme*, she will be aware of their need for explanations regarding the judicial process. She has not taken the time to ensure the Musa parents understand the process or the reasons / actions of those around them; this is part of the criteria to be accepted on the Accreditation Scheme.

17. Ms Houghton has supported Ms Moise in her submission of Statements in the knowledge they are false; she continues to collude with *Children and Families Department of Social Services* from London Borough of Haringey and their legal Representative/s. The Care Proceedings are based on malicious false allegations; as Ms Houghton is aware and has not acted upon the knowledge to ensure the Musa CHILDREN's best interests are heard.

18. The 'Report'; allegedly written by *Dr Adesida* appears to be a 'letter confirming the contents of a future report which he intends to submit and not the actual report. If this proves to be the case, the Musas request a copy of any reports / correspondence they have not been party to. The 'report' is not acceptable as 'evidence' as it contains hearsay and has not been considered in regard to the 'hearsay' rule of evidence. Ms Houghton, should be aware of this. There has not been a 'Statement of Truth' attached to 'Reports'.

19. Ms Houghton has not followed Court Protocol in ensuring Reports are signed correctly. For example on Dr Adesida's 'report'; the signature was printed by mechanical means (as it stated), but did not appear on our copy of the Form. Neither has any name been printed underneath the signature for authentication to identify the sender. (5.3) [Change tracker – Code of Conduct Rule 4.01 \(14\): Confidentiality and disclosure Introduction \(Solicitors Regulation Authority\)](#)

20. The Report by Dr Adesida has not included a 'Statement of Truth'. It is Solicitors' and the Courts' responsibility to ensure all legal advisors include these as part of the proceedings. (See below: [PRACTICE DIRECTION 22 STATEMENTS OF TRUTH 1.3](#))

Ms Houghton has allowed the following to continue (malpractice and maladministration).

### **Suzanne Moore - Independent Social Worker**

The document written by Suzanne Moore, has not attached a 'Statement of Truth' and the document is not set out in a 'Report' format.

Please answer the following:

1. Is there a separate Report, we request disclosure and copy of same.
2. Please inform us as to Ms Suzanne Moore's qualifications and her ability to undertake reports, on behalf of Ms Moise on all our children.
3. Ms Moore is not registered with the GSCC, which is obligatory regardless if she is registered with any independent Social Work agencies. Ms Houghton has a statutory duty to report other colleagues when she witnesses fraudulent actions by them, but has failed to do so.

None of the 'Reports' submitted to LBH have included:

- a) an attached 'Statement of Truth'.
- b) signed by the author, this renders them:
  - (i) unlawful and
  - (ii) of no authority within the Court proceedings.

In accordance with Protocol for Expert Witnesses, the Musas have not had sight or been given copies of 'Statements of Truth' with any Witness Statements, neither have the Musas received any Statements of Truth from Experts (as below) with the mandatory wording, accompanying their Reports.

Experts' reports must also be verified by a statement of truth. The form of the statement of truth is as follows:

*"I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer."* [CIVIL PROCEDURE RULES - EXPERTS AND ASSESSORS Practice direction APRIL 2010](#)

21. It has been stated in Court how advanced, articulate and intelligent the Musa children are, so why have their feelings and wishes not been presented before the Court? Ms Houghton has not enabled the eldest daughter, Favour, to 'have a voice in proceedings', especially as she could understand the process and be able to give clear instructions.

This is of particular importance as the Musa parents and her siblings have not seen Favour for many months now; and no one will confirm whether she is dead or alive. An Ambassador friend of theirs has not been given access to see her to check she is alive; breaching her right to:

- a) not be exploited;
- b) receive extra protection;
- c) right to a family life and our right to family life to see her.

It is our opinion, Ms Houghton is not fit for purpose on undertaking the best interests of vulnerable children and should no longer be accredited on the Children's panel of legal advisors, or represent children at any time in the future.

22. Section 41 of the Children Act 1989 and Rule 4.12 of the Family Proceedings Rules 1991 make it clear a Solicitor should solely represent the child's best interests alone.

23. It is not within Ms Houghton's remit (as a Childs Solicitor) to make decisions regarding their welfare and recommendations; which she does seem to be doing in the absence of a Children's Guardian. She has overstepped her remit as a Childs Solicitor by getting too personally involved; she cannot be objective in regard to our children's 'best interests'. She has not been making the Court aware of all available options which would be available, but has colluded with Ms Moise's fraudulent, fabricated proposals.

24. Ms Houghton's position is to hear the evidence of both the Local Authority and ourselves. In February, the Musa parents left the Court because the Local Authority Social Worker was committing perjury and perverting the course of justice under Oath and no one was challenging this. Ms Houghton has a conflict of interest between loyalty to Ms Moise, a personal friend, and the interests of the Musa children whom she is meant to be representing.

25. Her duty as the Children's Guardian is to ensure all evidence put before the court at Interim Hearings is sufficient and 'tested' before any Interim Care Orders are made. She has agreed to Interim Care Orders (ICO's) being 'rubber stamped' by postal representation. This has meant further exclusion of the Musa parents from their children's lives and their children's voices not being heard.

26. Ms Houghton has over-stepped her remit whereby she has recommended particular courses of action; which is not within her authority to do so.

27. As our case proceeds to a higher level of Court, Ms Houghton should no longer sit on behalf of the Musa children in any further hearings, as she is out of her jurisdiction and expertise.

28. As the Musa children do not have individual Social Workers OR Children's Guardians, has Ms Houghton visited the Musa children whilst they are in care? The Musa parents have not been informed, if she has at all, which is good practice as a child's legal representative. If she has not met any of the Musa children, but has continued to represent them, the Musa parents would like to know why she has not met them to give her a clear idea of their wishes and feelings.

29. The Musa parents are concerned Ms Houghton has not given consideration whether she should refer the Musa children to other legal representative/s or if it would be better for the Musa children to be represented by someone of the same or similar ethnic background and culture.

30. Ms Houghton has not, in accordance with Children and Young Persons, England, The Care Planning, Placement and Case Review (England) Regulations 2010, considered:

(i) sets out how the placement will contribute to meeting C's needs, and  
(ii) includes all the matters specified in Schedule 2 as are applicable, having regard to the type of the placement, and

(b) ensure that— (i) C's wishes and feelings have been ascertained and given due consideration,' **PART 2 Arrangements for looking after a child Care planning**

31. She has not considered the possibility of the children being placed with a family member or any of the Musa parents' friends. One of our friends who is an Ambassador offered to have the Musa children, but the Local Authority opposed this. The Musa parents are concerned why Ms Houghton did not challenge this as it would have been in the best interests of our children. In accordance with 'The Care Planning, Placement and Case Review (England) Regulations 2010', which allows for this.

- a) avoided three of them being abused in care; sexually and/or physically.
- b) saved a lot of upheaval for them (they had to change schools)
- c) made Contact with the Musa parents alot less stressful for them and the Musa parents (the Musa parents have to travel for up to 2-3 hours for each contact session; depending on the public transport and the weather). The Musa parents have had to take a young baby out in the freezing snow for 2-3 hours in the cold to get to contact. Ms Houghton has not taken into consideration the best interests of the Musa baby, who is under a Supervision Order, when making arrangements on where contact should take place.
- d) Ms Houghton has never reported to the Court the wishes or feelings of the Musa children, despite them not having a Children's Guardian, this is of paramount importance.

If Ms Houghton were to see the Musa children, in accordance with 'Acting without a Guardian' document, she could have enabled them to understand the process and helped them to:

- 'understand the court process, prepare them for court proceedings and explain the outcome of interim court decisions and any appeal'.

32. Ms Houghton has not attempted to get the children moved nearer to Harringey where the Musa parents live to enable them to remain in close proximity with them.

33. It is her duty to continue seeking individual Social Workers and Childrens Guardians for our children, the Musa parents do not know if she is continuing to seek both for our children.

34. Ms Houghton has not considered and provided:

- 'advice based on evidence, not personal feelings as to whether the interim care plan and arrangements are both:
- safe, and
- suitable for the age and circumstances of the child'. (['Working without a guardian' document](#))

She has over-stepped her position when not ensuring evidence presented at ICO hearings satisfies the test for making an Interim Care Order.

35. It is Ms Houghton's responsibility to:

'Check whether contact with parents, siblings and other family members is being properly



explored and whether the arrangements are appropriate and safe. In doing so you should establish factors such as:

- frequency
- venue
- travel arrangements
- opportunities for care giving
- level of supervision

36. It remains her responsibility to continue to repeatedly request CAFCASS ensure a Children's Guardian is allocated to each of the Musa children and keep reviewing this position.

This includes advising the court at the outset. You may do this by informing the clerk of your view on the level of priority for appointment. In formulating this advice you should consider, together with the other parties, whether there are urgent decisions to be made on any of the following issues:

- separation and placement;
- the removal or return of the child including initial risk assessment;
- the separation of siblings;
- contact including sibling contact;
- the need for immediate expert evidence on causation;
- the type of placement.

The matter should be brought back before the court as quickly as possible after the first hearing and continue to be an issue for every hearing until resolved.

36.1 Welfare issues - CAFCASS should be kept informed of any changes or issues arising that affect your advice on the level of urgency in relation to allocation of a guardian'. ('Working without a Guardian' document).

37. Ms Houghton along with Ms Moise, has breached the Musa parents Human Rights to a fair trial and a family life; especially as it has been stated the children have been taken on false pretences. (fake letter).

When the Health Visitor visited the Musa parents just before Christmas, she said she had no concerns for the other children, only Favour (which was based on the note which has been acknowledged as fake). This has not been relayed to the Court during proceedings.

38. Ms Houghton has, by her reluctance to challenge various professionals, allowed the Musa children to remain in care unnecessarily and continued to be abused. She is, therefore, guilty of child abuse. As the children's legal advisor, she could have ensured timetabling of issues which are/were of concern were dealt with and therefore would have contributed to the smooth running of proceedings.

39. Recently, there have been suggestions that another expert witness is required to carry out a

psychological assessment on the Musa children. The Musa parents have suggested someone willing to undertake an assessment, but Ms Moise and Ms Houghton have both objected. The person the Musa parents have suggested is independent of Social Services, Ms Houghton and the Musa parents. The person suggested has not been given leave of the Court, despite being objective.

40. Ms Houghton, in collusion with the Local Authority Solicitor, Ms Moise are treating the Musa children as if they already have a Care Order. IF they do, and the Musa parents have not been informed, the Musa parents would like answers to the following:

- a) Why the Musa parents have not been informed?
- b) When a Care Order was granted?
- c) Has an Independent Reviewing Officer has not been appointed?
- d) Has a 'Responsible Person' been appointed to the Musa children and if there has been
  - i) when was this decision made?
  - ii) Who made it and
  - iii) why were the Musa parents not informed?

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**CIVIL PROCEDURE RULES - EXPERTS AND ASSESSORS Practice direction APRIL 2010**

**8.6 Evidence – general**

- (1) No written evidence may be relied on at the hearing of the claim unless –
  - (a) it has been served in accordance with rule 8.5; or
  - (b) the court gives permission.
- (2) The court may require or permit a party to give oral evidence at the hearing.
- (3) The court may give directions requiring the attendance for cross-examination (GL) of a witness who has given written evidence.  
(Rule 32.1 contains a general power for the court to control evidence)

**22.1 Documents to be verified by a statement of truth**

- (1) The following documents must be verified by a statement of truth –
  - (a) **a statement of case;**
  - (b) a response complying with an order under rule 18.1 to provide further information;
  - (c) **a witness statement;**
  - (d) an acknowledgement of service in a claim begun by way of the Part 8 procedure;
  - (e) a certificate stating the reasons for bringing a possession claim or a landlord and tenant claim in the High Court in accordance with rules 55.3(2) and 56.2(2);
  - (f) a certificate of service; and
  - (g) any other document where a rule or practice direction requires.

(3) If an applicant wishes to rely on matters set out in his application notice as evidence, the application notice must be verified by a statement of truth.

(4) Subject to paragraph (5), a statement of truth is a statement that –

- (a) the party putting forward the document;
- (b) in the case of a witness statement, the maker of the witness statement; or
- (c) in the case of a certificate of service, the person who signs the certificate, believes the facts stated in the document are true.

(5) If a party is conducting proceedings with a litigation friend, the statement of truth in –

- (a) a statement of case;
- (b) a response; or
- (c) an application notice, is a statement that the litigation friend believes the facts stated in the document being verified are true.

(6) The statement of truth must be signed by –

- (a) in the case of a statement of case, a response or an application –
  - (i) the party or litigation friend; or
  - (ii) the legal representative on behalf of the party or litigation friend; and
- (b) in the case of a witness statement, **the maker of the statement**.

### **22.2 Failure to verify a statement of case**

(1) If a party fails to verify his statement of case by a statement of truth –

- (a) the statement of case shall remain effective unless struck out; but
- (b) the party may not rely on the statement of case as evidence of any of the matters set out in it.

The Judge has the authority to 'strike out' Statements which are not signed or are written in accordance with Court Procedure / Protocol. Why has this not been the case with all the Statements put before the Court on behalf of the Local Authority?

(2) The court may strike out (GL) a statement of case which is not verified by a statement of truth.

(3) Any party may apply for an order under paragraph (2).

### **22.3 Failure to verify a witness statement**

If the maker of a witness statement fails to verify the witness statement by a statement of truth the court may direct that it **shall not be admissible as evidence**. (1 See rule 22.2(1). CIVIL PROCEDURE RULES STATEMENTS OF TRUTH Part 22 page 5 APRIL 2010)

## **Convention of the Rights of the Child**

**Article 3: Prohibition of torture** -This requires that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. This is an absolute right, breach of which cannot be justified or excused by other factors.

**Article 5: Right to liberty and security** -No one is to be deprived of his liberty except in very specific circumstances and in accordance with procedures prescribed by the law.

**Article 6: Right to a fair trial** - There must be access to a court or tribunal that is independent and impartial. A hearing must be within a reasonable time and there must be a sense of "fair balance" between the parties, with each party being afforded a reasonable opportunity to present their case.

There must be disclosure of documents to ensure that all parties have all the information available. Every party must have the opportunity to have knowledge of and to comment upon the evidence adduced by the other parties.

There is the right to a public hearing, although at present children's cases are heard in private. There should be a reasoned decision given by the court for decisions reached.

**Article 7:** No punishment without law

**Article 8: Right to respect for private and family life** - There is a positive obligation on the state to ensure an effective respect for this right. However, this is a qualified right which means there can be interferences with an individual's family life provided the interference is:

- a) lawful
- b) must serve a legitimate purpose
- c) be necessary in a democratic society and
- d) must not be discriminatory

**Article 9: Freedom of thought, conscience and religion**

**Article 10: Freedom of expression**

**Article 11: Freedom of assembly and association**

**Article 14: Prohibition of discrimination**

**Article 17: Prohibition of abuse of rights**

**Article 18: Limitation on use of restrictions on rights**

**2010 No. 959 - CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Care Planning, Placement and Case Review (England) Regulations 2010**

**PART 2 - Arrangements for looking after a child**

**Care planning 4.**—

(1) Where C is not in the care of the responsible authority and a care plan for C has not already been prepared, the responsible authority must assess C's needs for services to achieve or maintain a reasonable standard of health or development, and prepare such a plan.

(2) Except in the case of a child to whom section 31A (*care orders: care plans*) applies(a), or where paragraph (6) applies, the care plan must be prepared before C is first placed by the responsible authority or, if it is not practicable to do so, within ten working days of the start of the

first placement.

(3) When assessing C's needs under paragraph (1), the responsible authority must consider whether C's placement meets the requirements of Part 3 of the 1989 Act.

(4) Unless paragraph (5) applies, the care plan should, so far as is reasonably practicable, be agreed by the responsible authority with—

(a) any parent of C's and any person who is not C's parent but who has parental responsibility for C, or

(b) if there is no such person, the person who was caring for C immediately before the responsible authority arranged a placement for C.

(5) Where C is aged 16 or over and agrees to be provided with accommodation under section 20(b), the care plan should be agreed with C by the responsible authority.

(6) Where C was first placed by the responsible authority before 1st April 2011, the care plan must be prepared as soon as reasonably practicable.

### **Preparation and content of the care plan**

5. The care plan must include a record of the following information—

(a) the long term plan for C's upbringing ("the plan for permanence"),

(b) the arrangements made by the responsible authority to meet C's needs in relation to—

(i) health, including the information set out in paragraph 1 of Schedule 1 ("the health plan"),

(ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 ("the personal education plan"),

(iii) emotional and behavioural development,

(iv) identity, with particular regard to C's religious persuasion, racial origin and cultural and linguistic background,

(v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1,

(vi) social presentation, and

(vii) self-care skills,

(c) except in a case where C is in the care of the responsible authority but is not provided with accommodation by them by any of the means specified in section 22C, the placement plan,

(d) the name of the IRO, and

(e) details of the wishes and feelings of the persons listed in section 22(4)(a) about the arrangements referred to in sub-paragraph (b) and the placement plan that have been ascertained and considered in accordance with section 22(4) and (5) and the wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

6.—(1) The responsible authority must keep C's care plan under review in accordance with Part 6 and, if they are of the opinion some change is required, they must revise the care plan or prepare a new care plan accordingly.

(2) Save as otherwise provided in these Regulations, the responsible authority must not make any significant change to the care plan unless the proposed change has first been considered at a review of C's case.

### **Health care**

**7.**—(1) Before C is first placed by them or, if that is not reasonably practicable, before the first review of C’s case, the responsible authority must make arrangements for a registered medical practitioner to—

- (a) carry out an assessment of C’s state of health, and
- (b) provide a written report of the assessment, addressing the matters specified in paragraph 1

of Schedule 1, as soon as reasonably practicable.

(2) Paragraph (1) does not apply if, within a period of three months immediately preceding the placement, an assessment of C’s state of health has been carried out and the responsible authority has obtained a written report that meets the requirements of that paragraph.

(3) The responsible authority must make arrangements for a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner to review C’s state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 1—

- (a) at least once in every period of six months before C’s fifth birthday, and
- (b) at least once in every period of 12 months after C’s fifth birthday.

(4) Paragraphs (1) and (3) do not apply if C refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The responsible authority must take all reasonable steps to ensure that C is provided with appropriate health care services, in accordance with the health plan, including—

- (a) medical and dental care and treatment, and
- (b) advice and guidance on health, personal care and health promotion issues.

**(a) The persons listed in that section are: (a) C, (b) any parent of C’s and any person who is not C’s parent but who has parental responsibility for C, and (c) any other person whose wishes and feelings the responsible authority consider to be relevant**

### **Contact with a child in care**

**8.**—(1) This regulation applies if C is in the care of the responsible authority and they have decided under section 34(6) (*refusal of contact as a matter of urgency*) to refuse to allow contact that would otherwise be required by virtue of section 34(1)(a) or an order under section 34 (*parental contact etc. with children in care*).

(2) The responsible authority must immediately give written notification to the following persons of the information specified in paragraph (3) (“the specified information”)—

- (a) C, unless it would not be appropriate to do so having regard to C’s age and understanding,
- (b) P,
- (c) where, immediately before the care order was made, a person had care of C by virtue of an order made in exercise of the High Court’s inherent jurisdiction with respect to children, that person,
- (d) any other person whose wishes and feelings the responsible authority consider to be relevant, and
- (e) the IRO.

(3) The specified information is—

- (a) the responsible authority's decision,
  - (b) the date of the decision,
  - (c) the reasons for the decision,
  - (d) the duration of the decision (if applicable), and
  - (e) remedies available in case of dissatisfaction.
- (4) The responsible authority may depart from the terms of any order made under section 34 by agreement with the person in relation to whom the order is made, provided that—
- (a) C, being of sufficient age and understanding, also agrees, and
  - (b) written notification of the specified information is given within five working days to the persons listed in paragraph (2).
- (5) Where the responsible authority has decided to vary or suspend any arrangements made (otherwise than under an order under section 34) with a view to affording any person contact with C, the responsible authority must immediately give written notification containing the specified information to the persons listed in paragraph (2).
- (6) The responsible authority must record any decision made under this regulation in C's care plan.

**Department for Constitutional Affairs and Department for Education and Schools (2006)**  
**Review of the Child Care Proceedings System in England and Wales, London: Department for Constitutional Affairs**

**Care planning for looked after children**

**Assessments and experts**

**4.32** Both a children's guardian and a solicitor represent children involved in public law proceedings in England and Wales. This is known as the 'tandem model' of representation

**4.33** The children's guardian is appointed by the court to act as an independent representative for the child, but Cafcass (or Cafcass Cymru) provide the named guardian for the child and supervise their appointment. **It is the guardian's duty to appoint a specialised solicitor for the child,** usually a member of the Law Society's Children's Panel. The court also has the power directly to appoint a solicitor in the absence of an appointed guardian.

**4.34** The **guardian's statutory duty is** to safeguard the interests of the child. They independently represent the child's best interests and express the child's wishes and feelings to the court so they can be taken into account in its decisions. In advising the court of their assessment of the child's welfare interests, the guardian should have regard to the duty of the courts to consider the welfare checklist, consider all options available to the court and whether recommending an order is better for the child than making no order. They are usually expected to attend all court hearings and directions, unless excused by the court.

**4.35** The **solicitor's duty is to act as the child's advocate in court and to present the child's wishes and feelings.** The solicitor will have received their instructions from the guardian in most cases, **except when the child's wishes are in conflict with the guardian's view of the child's needs.** This may sometimes result in divergence between the guardian and the solicitor,

**with the solicitor then taking instructions from the child**, and possibly the guardian seeking leave to appoint their own separate legal representative. **Family Justice Review 2011**

**4.36** Additional experts will usually be instructed during proceedings to provide expert evidence to the court, including child and adult psychiatrists, psychologists and independent social workers.

**4.37** The usual process for selecting experts is that one of the parties to proceedings will request an expert and provide the court with the details of the expert they wish to use and why they wish to use them. The judge will make a decision on whether the expert is required and will make an order for the expert to be instructed. The judge can also order the expert to be jointly instructed, if it is felt that more than one party to the case requires the expert evidence.

**4.38** As soon as a child comes into local authority care (via section 20, section 31 or the emergency route) the local authority is subject to various duties regarding the child's care and carrying out effective corporate parenting. It must:  
develop a comprehensive and integrated care plan for the child;  
place the child at the centre of decisions;  
promote effective care planning;  
ensure accommodation is provided to meet the child's needs; and  
ensure effective reviews of the child's case are carried out within specified timescales.

**4.40** The overriding objective of the care plan is to set out common goals for all the professionals involved with the child. Working with the child, and their birth family where appropriate, the aim is to ensure support for the child's overall development.

**4.41** The plan should set out the **current developmental needs of the child** – based on information obtained from assessing the child's needs in accordance with the assessment framework – and **establish clear expectations about how these needs are to be met** by everyone involved with the child. It includes the seven important dimensions of the child's developmental needs: health, education, emotional and behavioural development, identity, family and social relationships, social presentation and self-care skills.<sup>77</sup>

### **Processes are complex and inefficient**

**4.77** Another knock on effect of problems in supplying guardians is the additional pressure that this puts on the solicitor for the child.

*Where the guardian does not have the capacity to undertake the work required this undermines the tandem working model, and leaves solicitors in a difficult situation where they have nominal instructions on behalf of their child client but in reality they are often inappropriately left to make welfare recommendations.* The Law Society, call for evidence submission

A guardian is appointed to specified proceedings under s41 of the Children Act 1989 and then appoints the child's solicitor. The model is also applied in some (rule 9.5) private law cases.



**References:**

**CIVIL PROCEDURE RULES - EXPERTS AND ASSESSORS Practice direction APRIL 2010**

**Code of Conduct Rules : Solicitors Regulation Authority**

**The Children Act 1989**

**The Children Act 2004**

**The Children and Young Persons Act 2010 No. 959**

**CAFCASS Website**

**General Social Care Council Website**

**The Regulations of Solicitors - various documents**

**The Convention on the Rights of the Child**

**The Human Rights Act 1989**

**Criminal Justice and Public Order Act 1994**

**Protection from Harassment Act 1997**

**Criminal Justice and Police Act 2001**

**Fraud Act 2006 S.1**

**Child Abduction Act 1984**

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**The Law Society - February 2011**

**The Family Procedure Rules 2010**

**Public Law Outline (PLO)**

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**Constitutional Affairs**

**'Working without a Guardian' document.**

**Sexual Offences Act 2003**

**PRACTICE DIRECTION 22 STATEMENTS OF TRUTH 1.3**