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Leicestershire Procedure

Section 7 and 37

Applies to-

All children

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1. Introduction

Section 8 of the Children Act 1989 provides a range of orders designed to resolve disputes between private individuals concerning the upbringing of children.

Section 8 sets out this provision:

Section 8 - Child arrangements orders and other orders with respect to children.

(1) In this Act —

- "child arrangements order" means an order regulating arrangements relating to any of the following—
 - (a)
With whom a child is to live, spend time or otherwise have contact, and
 - (b)
When a child is to live, spend time or otherwise have contact with any person;
- "a prohibited steps order" means an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court;
- "a specific issue order" means an order giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child.

(2) In this Act "a section 8 order" means any of the orders mentioned in subsection (1) and any order varying or discharging such an order.

A CAFCASS officer may be appointed to act as a child's Guardian in the Court proceedings and/or may be involved in a number of different points in the case such as the first directions appointment, child interview(s), preparing advice and reports.

The CAFCASS officer is independent of all the parties involved. He/she is likely to need to see all the parties and the child(ren) involved. The CAFCASS officer may also visit other persons such as the child's GP, school and extended family members. The CAFCASS officer's main concern will be the best interests of the child, this will take priority over any wishes or opinions that the parents or other parties involved may have.

When an application is made to court under this section, the Local Authority may be asked to complete a report to make recommendations. A court may order a Section 7 report or a Section 37 report to be completed by the Local Authority.

2. Section 7 Reports

Requests for the local authority to complete Section 7 reports are communicated by the court to legal services.

When a case is not already allocated, legal and children's services will check under the Protocol to see whether it is Leicestershire County Council or CAFCASS who prepare the Section 7 report. This relates to previous involvement and timing of this.

If the report is to be completed by Children's Services, where the case is not already allocated to a social worker, this request is processed by First Response Children's Duty who add a contact and referral to the relevant child.

The case is then transferred to the relevant team. At present, these assessments are completed by Locality Teams (see [Transfer Policy document](#)) for the Section 7 report, alongside a single assessment.

Where the case is already open to a social worker, the report is completed by that worker.

The template used for these reports is the Child Impact Assessment template developed by CAFCASS. See [appendix 1](#) for the guidance note on using this template for completion of Section 7 reports.

The Children's Act 1989 defines Section 7 as:

Section 7 Welfare reports

(1) A court considering any question with respect to a child under this Act may—

*(a) ask **[F1an officer of the Service][F2or a Welsh family proceedings officer]** ; or*

(b) ask a local authority to arrange for—

(i) an officer of the authority; or

*(ii) such other person (other than **[F1an officer of the Service][F2or a Welsh family proceedings officer]**) as the authority considers appropriate,*

to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

*(2) The Lord Chancellor may **[F3, after consulting the Lord Chief Justice,]** make regulations specifying matters which, unless the court orders otherwise, must be dealt with in any report under this section.*

(3) The report may be made in writing, or orally, as the court requires.

(4) Regardless of any enactment or rule of law which would otherwise prevent it from doing so, the court may take account of—

(a) any statement contained in the report; and

(b) any evidence given in respect of the matters referred to in the report,

in so far as the statement or evidence is, in the opinion of the court, relevant to the question which it is considering.

*(5) It shall be the duty of the authority or **[F1**officer of the Service]**[F2**or a Welsh family proceedings officer]* to comply with any request for a report under this section.

[F4(6)*The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2).]*

When completing this piece of work the following is required:

- Visits to the parents (and those with parental responsibility) for their views
- Visits to the children with the completion of relevant direct work
- Liaison with all relevant professionals to the child
- Complete relevant checks including police checks.
- Review of previous children's services involvement and history
- Consideration of any worries and any strengths of the family and their network.
- Consideration of the welfare checklist.
- A recommendation of with whom the child should live and the level of contact.

This report should be read and approved by the team manager.

The report should be submitted to legal services in no less of 3 working days before the deadline so that advice can be given.

3. Section 37 reports

Requests for the local authority to complete Section 37 reports are communicated by the court to legal services.

Where the case is not currently open to a social worker, this request is processed by First Response Children's Duty who add a contact and referral to the relevant child.

The case is then transferred to the relevant team. At present, these assessments are completed by Locality Teams (see Transfer Policy document) for the Section 37 report, alongside a single assessment.

If the case is already open to a social worker, the report should be completed by that worker.

See [appendix 2](#) for the template which is used for Section 37 reports.

The Children's Act 1989 defines Section 37 as the following:

Section 37 *Powers of court in certain family proceedings.*

(1) Where, in any family proceedings in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or supervision order to be made with respect to him, the court may direct the appropriate authority to undertake an investigation of the child's circumstances.

(2) Where the court gives a direction under this section the local authority concerned shall, when undertaking the investigation, consider whether they should—

(a) apply for a care order or for a supervision order with respect to the child;

(b) provide services or assistance for the child or his family; or

(c) take any other action with respect to the child.

(3) Where a local authority undertake an investigation under this section, and decide not to apply for a care order or supervision order with respect to the child concerned, they shall inform the court of—

(a) their reasons for so deciding;

(b) any service or assistance which they have provided, or intend to provide, for the child and his family; and

(c) any other action which they have taken, or propose to take, with respect to the child.

(4) The information shall be given to the court before the end of the period of eight weeks beginning with the date of the direction, unless the court otherwise directs.

(5) The local authority named in a direction under subsection (1) must be—

(a) the authority in whose area the child is ordinarily resident; or

*(b) where the child **[F1is not ordinarily resident]** in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the direction is being given.*

(6) If, on the conclusion of any investigation or review under this section, the authority decide not to apply for a care order or supervision order with respect to the child—

(a) they shall consider whether it would be appropriate to review the case at a later date; and

(b) if they decide that it would be, they shall determine the date on which that review is to begin.

When completing this piece of work the following is required:

- Visits to the parents (and those with parental responsibility) for their views
- Visits to the children with the completion of relevant direct work
- Liaison with all relevant professionals to the child
- Complete relevant checks including police checks
- Review of previous children's services involvement and history
- Consideration of any worries and any strengths of the family and their network.
- Consideration of the welfare checklist.
- Consideration of whether or not any public law orders need to be sought to safeguard this child and if so, a recommendation of which order is required.
- Consideration of whether any children's services involvement, in the form of a child in need or child protection plan is required.
- If requested, a recommendation on with whom the child should live and level of contact.

Discussion needs to take place between the social worker and team manager as to whether any public law order needs to be sought. If needed, the team manager can consider having a Key Decision Discussion which involves the relevant service manager to make this decision, or consideration can be given to whether this case needs to be presented at Child Decision Making Panel to determine if public law orders are needed.

The final report should be read and approved by the team manager.

The report should be submitted to legal services in no less of 3 working days before the deadline so that advice can be given.