

This Cumbrian Local Practice Direction may be referred to in orders and other documents by the short form name CLPD2/2023

CUMBRIAN LOCAL PRACTICE DIRECTION 2/2023

NEW-BORN BABIES AND URGENT HEARINGS

1. Urgent hearings are far more likely to be unfair than planned hearings, in particular the parents/carers. Parents have to rush to be represented, do not have sufficient time to give instructions and the important role of the Children's Guardian is undermined by a lack of time to carry out enquiries. They are also less likely to be allocated the appropriate length of court time or be capable of being used as an effective Case Management Hearing.
2. Every effort must be made to ensure that urgent hearings are requested only when necessary. This includes steps that can be taken by the Local Authority to obtain 'section 20' accommodation agreement, placement in a parent and baby unit (if this is the appropriate interim care plan/assessment) and discussions with the NHS concerning the child remaining in hospital for a longer period of time.
3. In cases involving newborn babies if the parent(s) remains in hospital with the baby the local authority will use their best endeavors to ensure that the parent(s) has access to (a) a working laptop through which the parent can participate in a video hearing fully and (b) support to operate the laptop during the hearing. Such arrangements may be put in place by either:
 - a. Pre-proceedings planning and agreement involving the legal representatives of the parent concerned, if time allows; or
 - b. Discussion and agreement with the relevant NHS trust to determine what facilities/support can be provided by the hospital; or
 - c. Attendance by a local authority staff member to provide/facilitate the same.
 - d. A hearing which involves a parent being able to participate only by telephone (whether by video or audio), especially if the issue is removal of a child from the care of that parent, is prima facie unlikely to be consider fair by the court and may give rise to an adjournment.
4. A hearing which involves a parent who has recently given birth participating in a hearing from hospital without any or any offered adult support is prima facie unlikely to be consider fair by the court and may give rise to an adjournment.

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5. A hearing that has to be adjourned because of the failure to put in place appropriate arrangements to allow a parent who has just given birth to participate as fully and fairly as possible, will in all likelihood deal only with the issues that unavoidably cannot wait until an adjourned hearing. If at the hearing a decision is taken for the child to be placed in foster care (for as short period as possible and without prejudice to any later removal decision to take place at a more fairly constituted hearing) then the local authority must expect to arrange frequent contact between the parent(s) and child, including over any intervening weekend.
6. Careful consideration must be given by all the professionals to the following issues:
 - a. Who will look after the baby whilst the hearing (including pre and post hearing discussions) is taking place? What are the risks, if any and how might they be ameliorated?
 - b. Is it possible for the advocate and the parents to be in the same place to participate in the hearing? If not, how are they going to communicate pre and post hearing?
 - c. If a parent needs an intermediary, where will the intermediary be? Is it possible for the intermediary to attend hospital?
 - d. Is it possible, appropriate or practicable for the social worker or a team member to attend and participate in the hearing remotely from hospital?
7. If a parent has recently given birth and the hospital are able to accommodate the child and parent on the ward, the parent is, subject to case-specific factors, likely to be allowed to remain at hospital notwithstanding the listing of a court hearing.
8. If a parent wishes to attend court in person (i) the court will use its best endeavors to list an attended hearing and (ii) arrangements must be put in place for the child to be appropriately cared for during the hearing. As a general rule infants should not be brought into court during hearings.

HHJ C Baker

Designated Family Judge for Cumbria

16th January 2023