

This Cumbrian Local Practice Direction may be referred to in orders and other documents by the short form name CLPD7/2023

CUMBRIAN LOCAL PRACTICE DIRECTION 7/2023

Parent, Relative and Connected Persons Assessments

APPLICATION

1. This Cumbria Local Practice Direction applies to all Public Law Family Court Hearings taking place in Cumbria.

AIM OF THIS CLPD

2. Late identification and assessment of potential relative and connected person carers is a major source of delay in Public Law proceedings. This CLPD attempt to ensure that assessments of potential alternative carers are undertaken in a timely and thorough manner so that delay is minimized.

PRIORITIES IN PLACEMENT AND REGULATORY REQUIREMENTS

3. The local authority has a statutory duty (see The Children Act 1989 section 22C) to place a child in its care primarily with a parent. This CLPD applies equally to assessments of parents (and others who fall within section 22C subsection (3)) as it does potential relative carers i.e. assessment of parents who may not currently be caring for the child(ren) should take place at the earliest opportunity.
4. If a local authority plans to place a child in its care with a parent it must assess that parent pursuant to [The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) and in particular regulation 17.
5. In the event a parent or person falling within section 22C subsection (3) cannot care for the child, the next statutory preference is consideration of relatives, friends and connected persons who are also approved as foster carers (see section 22C subsection (6) and (7)). This means that, as a minimum, any potential carer must be assessed pursuant to [The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) and in particular regulation 24.
6. The court will expect all relatives, friends and connected persons being considered as long term carers for a child to have been assessed as both potential foster carers (pursuant to [The Fostering Services \(England\) Regulations 2011](#)) and a potential Special Guardians, save in exceptional circumstances. As part of the final evidence the local authority will be expected to identify and analyze the advantages and disadvantages of the alternative options for long term care of any relevant child, including the nature of any final order (care order or special guardianship order) where long term placement with a relative, friend or connected person is proposed.
7. The statutory requirements place on the local authority a positive duty to consider alternatives to professional foster care. Accordingly, the local authority has a duty to be pro-active in seeking out potential alternative carers who are also relatives, friends or connected persons. In sharing information with potential alternative carers reference should be made to the local authority's

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information sharing policy; the guidance issued by the Government in [Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers](#) and the Seven Golden Rules for Sharing Information (see page 4). Practitioners should bear in mind that avoiding a child being placed in local authority care (i.e. care by strangers) may be a legitimate aim justifying the sharing of proportionate information with a potential alternative carer, even in the absence of parental consent. Any decision so to do must be documented carefully, with reasons, in the absence of consent.

IDENTIFICATION OF POTENTIAL ALTERNATIVE CARERS

8. Consideration of potential alternative carers should begin at the earliest possible opportunity.
9. The local authority should commence construction of a full and detailed 'genogram' as early as possible to identify the relatives and relationship that may (a) assist in meeting the needs of the child(ren) so as to avoid care proceedings and (b) may be candidates for provide alternative care for the child(ren).
10. Information about using genograms effectively is available on The [Pre-Proceedings and Family Justice Hub](#) and in particular the Practice Tool "Using Genograms in Practice" can be downloaded [here](#).
11. The use of Family Group Conference is also encouraged to identify support and potential alternative carers. Useful information for families and professionals on the Family Group Conference process can be found [here](#).
12. The [Family Rights Group](#) website has a wealth of information for both potential carers and practitioners, as does the organization [Kinship](#).

ASSESSMENTS – BEST PRACTICE

13. Of particular use to family members may be the page on the Family Rights Group titled 'Kinship Care' which can be found [here](#). Information for both potential carers and professionals is also available from [Kinship](#). Social Workers should not be reticent about providing potential carers with independent information about the processes and procedures involved in looking after someone else's child at an early stage, in particular *before* assessment so that they can consider being assessed on an *informed* basis.
14. The Family Rights Group website also has very useful information for practitioners, including a Guide for best practice in the [Initial Assessment of Family and Friends Carers](#). Courts in Cumbria are very likely to measure the fairness, appropriateness and process of assessment against these best practice standards.
15. Potential carers must be worked with in an open and honest manner (subject to such information being proportionate – see para 7 above). That includes being clear with them about:
 - a. What the concerns of the local authority and the steps that may be taken (i.e. issue care proceedings);

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- b. What the potential outcomes are (e.g. long term foster care or adoption);
 - c. What steps need to be taken to ameliorate those concerns;
 - d. Why it is important that any potential alternatives carers are assessed as early as possible; and
 - e. That assessment does not automatically mean that the children will stop living with their current carers – it is not a competition but an insurance against a child being removed into foster care or adopted.

16. It is suggested that all relatives and connected person approach by a local authority to consider caring for a child should:
 - a. Be approached as early as possible;
 - b. Receive clear and accurate information about the reason for being approached;
 - c. Received clear and accurate information about the assessment process, the caring options and the support that may be available in the event they do care for a child or children;
 - d. Referred to resources (e.g. [The Family Rights Group](#) and/or [Kinship](#)) independent of the local authority so as to be informed as to the assessment process;
 - e. Be given clear and accurate information about the child or children who may be at risk of needing to live with alternative carers;
 - f. Given a reasonable amount of time to consider whether they wish to put themselves forward to care for a child or children;
 - g. In the event that an individual does not consider themselves able to put themselves forward to be assessed as a carer, that decision and the reasons for it are documented clearly and, if possible, countersigned by the individual concerned (see Appendix);
 - h. If considered unsuitable as alternative carers, provided with information as to why their assessment is negative and advised to seek legal advice should they disagree with the conclusions of the local authority;
 - i. If considered viable as alternative carers, given a clear explanation of the full assessment process and the support that may be available in the event they are called upon to care for a child.

17. Assessment of relatives, friends or connected persons as long term carers will be expected to have regard to the Statutory Guidance "[Family and Friends Care: Statutory Guidance for Local Authorities](#)" published by the Department of Health. Reference should also be made to The Public Law Working Group's [Best practice guidance: Special guardianship orders](#).

INFORMATION TO BE PROVIDED TO COURT

18. If the local authority commences proceedings the local authority must include in its initial evidence or file and serve no later than 5 working days before the Case Management Conference a statement dealing with the following:
 - a. A genogram of the relevant family setting out all the relatives and connected persons the local authority is aware of;
 - b. By reference to the genogram, what alternative relative or connect persons have been approached to consider short or long-term care for the child(ren);
 - c. What each individual's response was and whether the same is confirmed in writing; and

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- d. In respect of any connect persons not yet assessed who wish to be assessed, what is the timescales for undertaking viability and/or assessments of them as foster carers and special guardians.
19. The parents/carers must provide to the local authority the identity and contact details (phone number and email address) of any proposed alternative carer as soon as possible and no later than the advocates' meeting. They must confirm if they have discussed the matter with the person nominated.
20. The above stipulation does not relieve the local authority of its duty to proactively investigate relative carers/connected individuals as alternative carers for children at genuine risk of being the subject of care proceedings.

TIMESCALES

21. The Court is unlikely to allow more than 14 days for an initial or reg 24 assessment.
22. The court is unlikely to allow more than *a further* 11 weeks (i.e. 13 weeks in total including the time for the initial assessment) for the full assessment(s) to be completed in the event that the initial assessment recommends full assessment.

APPENDIX

23. Below is a *suggested* letter for carer(s) who have indicated that they are not putting themselves forward to care for a child.

Dear [Name],

Thank you for speaking to me about the possibility of being assessed as an alternative carer for [Name].

During our discussions I outlined to you the following information:

- *That there was a real possibility, because of the concerns about the level of care the [Name] is receiving that Children's Services may go to court in order to obtain an order allowing the local authority to take [Name] into care (i.e. to place [Name] with foster carers who will not know [Name], as a temporary protective measure.*
- *That if Children's Services goes to court to obtain an order in respect of [Name], there is a very real possibility that [Name] may ultimately be placed in long-term foster care [or be place for adoption]. I have explained what these possible outcomes mean for [Name] and the family.*
- *Children's Services has a duty to try to place any child that it is thinking of taking into care with someone the child knows or is related to, in order to avoid that child being placed with people who are strangers or unrelated to the child.*

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- *In order to consider placing a child with someone, the local authority must undertake an assessment of that person's suitability to be a carer for the child and investigated the person's home and family circumstances. I have outline to you the assessment process and the requirements necessary to meet [name's] needs as an alternative carer and the support that may be available in doing so.*
- *I have also advised you that independent information about caring for a child in these circumstances can be found on both on 'The Family Rights Group' website and the 'Kinship' website. I have also told you that I can provide you with a list of experienced solicitors in the area who could provide legal advice, if you wished to take legal advice concerning the current situation.*
- *Further, I have explained that the need to make decisions for children without undue delay may mean that a court is unlikely to permit further assessment of a potential alternative carer for [name] in the event that the person approached indicated that they did not wish to be considered as an alternative care for [name] at this stage.*

Having provided that above information, I have given you [specify time] to reflect upon whether you wish to be considered as an alternative carer for [Name].

You have informed me that you are not in a position to care for [Name] and do not wish to be assessed as a carer for [him/her]. [If possible, set out in brief the reasons given for the decision].

To confirm this, I would be grateful if you could sign one copy of this letter and return it to me. I am asking you to sign a copy so that I have a record of speaking to you about the things set out above and your decision, so that any other professionals involved, or if necessary the court, understand the steps I have taken.

Yours,

Please sign below:

I [Name] confirm that the contents of this letter are correct.

Signed _____

Date: _____

HHJ C Baker
Designated Family Judge for Cumbria
30th January 2023