

Permanence Plans – Bullet Points for LAC Reviews

Adoption and Children (Scotland) Act 2007

There are certain matters that the Local Authority must take into account when making a permanence plan for a child. The purpose of this note is to summarise these matters in bullet points so that LAC Review chairs can ensure each bullet point is discussed at the Review and thereafter expressed in the Minute. This note is also relevant to Social Workers preparing Reports for the LAC Review when permanence plans are recommended.

Permanence Order and Permanence Order with Authority to Adopt

- **Explain the Grounds on which the application for the Order we want to apply for will proceed**

The grounds are either:-

- i) No one has the parental right to control residence; or
- ii) Where someone does have the parental right to control residence, the **child's residence with that person is or is likely to be seriously detrimental to the child's welfare**. This ground will be the most common, and if this applies the local authority needs to be very clear just why it is that living with the parent is or is likely to be seriously detrimental to the child's welfare. It is not necessary to go into too much detail in the Minute regarding the legal grounds. The Social Worker should have obtained legal advice prior to the Review and the Minute can simply reflect the legal advice regarding the grounds.

- **Explain why it is better for the child that the Order we want to apply for is made rather than leaving things as they are;**
- **Explain why the Order we want to apply for would safeguard and promote the child's welfare;**
- **Show that we have given the child the opportunity to express a view and we have had regard to that view (but take into account age and maturity);**
- **Show that we have had regard to the child's religious persuasion, racial origin and cultural and linguistic background;**
- **Show that we have had regard to the likely effect on the child of the making of the Order we want to apply for;**

Permanence Order with Authority to Adopt

In addition to all the requirements above, there will be additional requirements when

we make an Adoption plan and decide to apply for a POAA.

- **State that the child has been placed for adoption, or explain why we believe it is likely that he/she will be placed for adoption;**
- **Explain whether the parent/guardian consents to the making of this order, and if not explain why we believe their consent can be dispensed with**

Consent can be dispensed with if we have evidence that can establish one of the following grounds:

- i) The parent/guardian is dead;
- ii) The parent/guardian is incapable of giving consent;
- iii) If the parents have PRRs they are unable satisfactorily to fulfil their PRRs and are likely to continue to be unable to do so;
- iv) If a PO has already taken away the parents' PRRs, they are unlikely to be given them back;
- v) If (iii) or (iv) don't apply, the welfare of the child otherwise requires that consent be dispensed with.

It is not necessary to go into too much detail in the Minute regarding the grounds for dispensing with consent. The Social Worker should have obtained legal advice prior to the Review and the Minute can simply reflect which grounds the legal advice refers to.

- **We must show that we have had regard to all the circumstances of the case;**
- **We must show that we have had regard to the need to safeguard and promote the child's welfare throughout life as the paramount consideration;**
- **We must show that so far as reasonably practical we have had regard to the value of a stable family unit in the child's development;**
- **We must show that so far as reasonably practical we have had regard to the child's views;**
- **We must show that so far as reasonably practical we have had regard to the child's religious persuasion, racial origin and cultural and linguistic background;**
- **We must show that so far as reasonably practical we have had regard to the likely effect on the child throughout his/her life of the making of an adoption order.**

- **The Review Minute must remind the Social Worker that where we place for adoption we must have regard so far as reasonably practical to the views of the birth parents/guardians and other relatives of the child.**

Before we make the decision on an Adoption plan, the Local Authority must be satisfied that adoption is the best option, so an **options appraisal** setting out all the alternatives and explaining why each alternative is rejected and why adoption is best, should be included in the LACR report, and referred to in the LACR Minute. For other permanence plans it is good practice to set out an options appraisal.

The above is very detailed, and while all these matters must be minuted, the LAC Review cannot forget the big picture. Therefore the Minute needs to also reflect, in the usual way, the information provided by, for example, the Local Authority assessments. These will provide the evidence of the child's needs, their attachment patterns and what they need regarding contact – with whom; how often (if at all); type of contact and why. While the Minute need not go into details regarding the legal grounds for the Order, it should at some point detail the information that explains why a parent cannot safely and appropriately care for and bring up their child; what the child's needs are; any attachment issues; and the contact needs and **contact plan**.

The Minute also needs to detail how the Local Authority wishes to see **Parental Rights and Responsibilities** allocated, bearing in mind that the LA will always get the right to control the child's Residence. In particular, it must detail which PRRs should be given to the LA; which PRRs should be retained (or actively removed) from the birth parent; and which PRRs should be given to the carer. PRRs can be shared between more than one party if appropriate. If the child has not at this stage been placed with a permanent carer (permanent carer/foster carer or adopter) then any recommendations made on the allocation of PRRs could be subject to variation in the future and the Minute should reflect this.

Adoption Orders

There will be occasions when a LAC Review will make an Adoption plan where either:-

- i) a PO is already in existence, or
- ii) no PO or POAA exists and the local authority will not be applying for a PO or a POAA.

Such a plan will be taken forward by Adopters applying directly to the Court for an Adoption Order, so the child must be placed with carers who want to adopt and who are approved adopters. In these cases it would be good practice if all the bullet points above were considered and Minuted, except the very first one relating to the grounds for the PO. Obviously the LAC Review will not have to consider how PRRs should be allocated, because all PRRs will become vested in the Adopters if the Adoption Order is made.