

**ADCS AND CAFCASS PROTOCOL:
SERVICE TO YOUNG PEOPLE IN
THE DISCHARGE OF CARE ORDERS**

This protocol sets out the agreed procedures between ADCS and Cafcass for the discharge of care orders, therefore promoting the proactive consideration of the young person's future and supporting all professionals involved in applications for the discharge of care orders.

Owner:	C Smart	Issued:	Aug 2010
Approved by:	A Douglas, M Davis	Version no:	001
Next review date:	Aug 2011	Ref:	CS

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Contents

1.0	Introduction and Purpose.....	3
2.0	Actions of the Local Authority leading to the Discharge Application.....	3
3.0	Involving the Young Person.....	4
4.0	The Discharge Application.....	4
5.0	Timetabling and Sharing Information.....	5
6.0	When are Accelerated Discharges of Care Orders not Appropriate?.....	5
7.0	Outcomes.....	5
8.0	Appendix 1: Cafcass Responsibilities in a Discharge Application.....	6

1. Introduction and Purpose

1.1. This protocol was developed in collaboration with representative Independent Reviewing Officers, Children's Services Managers, Cafcass Practitioners and young people with experience of care.

1.2. This Protocol applies to England only and its purpose is to:

- a) Promote the proactive consideration of the young person's future.
- b) Provide the best opportunities within the available resources to achieve positive Every Child Matters outcomes.
- c) Highlight all agencies' duties and commitment to work together to promote safe and timely outcomes for young people whose Care Orders may be discharged.
- d) Ensure compliance with the European Convention, article 8: the Right to Respect for Family Life and all other Human Rights considerations.
- e) Support all professionals involved in applications for the discharge of Care Orders.

1.3. For many young people, the discharge of their Care Order is a welcome opportunity and a confirmation of the progress they and their families have made to move towards their future, with the right support. It is often a milestone after which they can become positively independent with intervention from their corporate parent which is limited but positive when required. The accelerated procedure will not apply if the application is likely to be opposed.

1.4. Delays for the most straightforward discharge cases are too frequently an unwelcome ending and cause frustration and anxiety to what is often seen by the young person as their "normalisation process".

1.5. Young people consulted in this process unanimously confirm their desire for it to be smooth and non adversarial, yet with their active involvement in the planning for this significant progression onto the next stage of their life in a positive way.

1.6. To assist in the management of resources, the local Children's Service should discuss with the local Cafcass Manager the potential number of discharge applications for the coming year. But Cafcass can take no formal steps in any discharge case until appointed by the court.

2. Actions of the Local Authority leading to the Discharge Application

2.1. Prior to making an application, legal advice should be sought on appropriateness of the discharge at this point in the young person's life, and on the need for any supporting orders along with the discharge of the care order.

2.2. The Children's Service should ensure the following are in place to facilitate the progress of an application when filed in court:

- a) An explanation for the application for discharge in the context of the concerns that led to the care proceedings.
- b) An assessment of the young person's needs wishes and feelings in line with the welfare checklist and in particular if the young person would be at risk of harm if the order were discharged.
- c) Ascertained views of parents, carers and significant others.
- d) A chronology of relevant events since the original order was made.
- e) A post-discharge support plan based upon the needs of the young person including any targeted and specialist service referral made. This should be considered in the context of the five ECM outcomes.
- f) Copies of the latest care plan and of the last court care plan if less than two years old.

3. Involving the Young Person

3.1. The Children's Service will provide information on the roles of the Local Authority and Cafcass and the extent of the young person's involvement with them. (See Appendix 1 for detailed responsibilities of Cafcass)

3.2. The Cafcass Children's Guardian should:

- a) Meet with the young person to understand their views, needs, wishes and feelings.
- b) Give information to the young person about the proposed application and the extent of Cafcass' involvement.
- c) Involve the young person in their discharge application at the level they wish to, based on their age and developmental understanding.
- d) Provided no one is opposed, the guardian will undertake a shorter needs wishes and feelings report proportionate to the issues.
- e) Focus on recent harm, if any, and analyse current risks.

4. The Discharge Application

4.1. The Children's Service will:

- a) Comply with the revised Public Law Outline when preparing the application.
- b) Meet with local Cafcass Service Managers to discuss the best timing for these cases in the context of other applications. The needs of the young person should always drive the agenda but these may need to be balanced against the management of resources and time between the two agencies. Other more urgent applications, where young people are at risk of potential significant harm, will sometimes need to take precedence.
- c) The Children's Service should consider the appropriateness of other orders during a discharge application including special guardianship and s8 orders. The successful discharge of the care order may be best achieved with the support of other orders being in place.

5. Timetabling and Sharing Information

5.1. The Children's Service and Cafcass should:

- a) Have in mind at all times the principle that delay may be harmful to the young person.
- b) The Children's Service and Cafcass are to keep each other informed, in a reasonable time before any hearing, of any change of thinking relating to the young person
- c) Consider whether to invite the court to dispense with a directions hearing and proceed straight to a final hearing
- d) Consider whether or not the Children's Guardian needs to attend the final hearing.

6. When are Accelerated Discharges of Care Orders not Appropriate?

6.1. If the discharge is likely to be opposed, raise difficult fact of law or is otherwise considered not to be in the young person's best interest.

7. Outcomes

7.1. The expected Every Child Matters outcomes following the discharge of the order should be transparent and clear in the discharge plans. Consultation and communication between all key professionals and the young person and their family provides a secure and safe context for a discharge application.

7.2. The Children's Service must hold reviews to consider its responsibility to the young person:

- a) At the time of the discharge order and
- b) Where it has ongoing responsibilities to the young person, within six months thereafter.

7.3. To reduce uncertainty and anxiety for the young person, any follow up package of support should clearly be recorded and arrangements detailed within the discharge plan/s. Post discharge support may come from a range of children's services providers, some of which may be within the universal provision. Some local authorities may choose to use the CAF referral process as a way to harness support for young people post proceedings.

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8. Appendix 1

Cafcass Responsibilities in a Discharge Application

The primary duty of the Children's Guardian is to safeguard the interests of the young person. Below are set out the full range of Cafcass' responsibilities (see also paragraph 3):

- Meet the young person to ascertain their needs, wishes and feelings and to advise them particularly about post-discharge support.
- Give consideration to legal representation for the young person if the discharge application is particularly complex, to the point where the young person's voice needs this extra level of support.
- Discuss the case with the IRO and significant others in the young person's life, including, if relevant, the previous Children's Guardian or their Cafcass line manager.
- Adopt an approach that is open and transparent. Cafcass will raise any outstanding issues promptly to ensure Children's Services can address any areas of concern quickly.
- Undertake any specific tasks requested by the court.
- Provide clear and concise advice to the court on the best interests of the young person and their perspective and inform the court if the young person would be likely to suffer significant harm if the care order were to be discharged.
- Carefully consider any aspects of the Care Plan that have not been addressed or implemented. Consideration should be particularly given to the impact on the young person.
- Maintain particular focus on the quality of the proposed post-order support and plans, as opposed to the potential longer term availability of resources.