

CASE PLAN (FAMILY - PRIVATE LAW CHILDREN)

Format in accordance with Funding Code Guidance Para 15.3.9.

NAME OF CLIENT

Mrs. A

NAME OF FIRM

XY & CO

NATURE OF PROCEEDINGS

Residence - Section 8
Children Act 1989

CASE INFORMATION

A. Summary of Case

Following divorce in June 1999 the two children of the marriage a son A aged 8 and a daughter B aged 6 went to live with their father. This was by agreement of Mrs. A at the time who was heavily committed to caring for her mother who had a terminal illness. The trauma of the divorce and her own mother's needs led Mrs. A to believe that she could not cope with the children at that time. She has maintained regular contact with the children. The father has re-married but this marriage is now in difficulties. The children have regularly reported the father's drunkenness and a number of occasions on when he has struck them. The children are unhappy, their performance at school is deteriorating, and they are reluctant to return after contact visits. The client considers that the best interests of the children are now served by the children coming to live with her. A supplemental statement may need to be prepared. Her mother has died and she has put the divorce behind her. Both children are very keen to live with the mother. Their father objects. There were numerous attempts to mediate but these proved unsuccessful. Proceedings were commenced in the County Court in October 1999. There have been continuing attempts to resolve the matter during the progress of the case. There have been a number of directions appointments. The Court gave leave for the children to be examined by a Child Psychologist. The expert believes the children are exhibiting symptoms of serious disturbance caused by the domestic environment. The father does not accept the report. In turn he alleges mother to be a vulnerable person with some history of mental problems. The mother agreed to undergo a psychiatric examination. The report shows her to be a fitting capable parent with no mental difficulties. Witness statements have been filed and served. The Court Welfare Officer is yet to finalize her report but is believed at present to support the mother's case. The case has been timetabled for hearing in June 2000.

B. Objectives

The primary issue is whether the children should live with their mother.
There are moderate to good prospects of securing a change of residence in favour of the client which is the principal objective.

C. Case Analysis

The case is brought on the basis that the welfare of the children is best served by them going to live with their mother. The legal and factual issues are summarised below.

Case Issues**The legal issues are:**

1. Whether the Court should make a residence order under Section 8 Children Act 1989
2. Welfare check list under Section 1(3) Children Act 1989 (considered to be in favour of the client)

The favourable facts are:

1. The unsupported allegation of the father questioning the client's mental condition are refuted by medical evidence.
2. The absence of any evidence to show that during her care of the children the client was anything other than a good competent mother
3. There is corroborative evidence of the father's propensity to drink and violence affecting the children's welfare
4. There is medical evidence to show both children are suffering emotionally and their welfare significantly affected by remaining with father.
5. The likelihood of the Court Welfare Officer supporting the application in her report.
6. The children's wishes to live with their mother.
7. The ability of their mother to offer a good home and continued care and to meet the needs of the children.

The unfavourable facts are:

1. The children have lived with their father for a year and there will be arguments that the status quo should be preserved.

D. Funding Code Assessment

The merits of the case are assessed as good. (Funding Code Criterion 11.11.15). The likely benefit of gaining the order in the proceedings justifies the costs involved and a reasonable private paying client would proceed in all the circumstances. (Funding Code Criterion 11.11.16).

E. Case Theory

The client is likely to succeed having regard to the medical evidence before the Court both in respect of the children and the mother's health. This is unlikely to be challenged effectively. Counsel believes that the client should make a reliable and impressive witness. The children themselves are clear in their wish to live with their mother. They are old enough to have a say. It is likely that the Court Welfare Officer will recommend that a residence order be made in favour of the client.

CASE ACTIVITIES AND COSTS INFORMATION

F. & G. (i) Costs To-Date	
WORK	COSTS
Prior to commencement of proceedings assisting in mediation conduct of proceedings to date includes numerous attendances on client preparing extensive witness statements attending directions appointments consideration of medical reports research of case law preparing for trial.	Profit Costs 18,000
	Counsel's Fees 2,000
	Disbursements 1,500
	TOTAL COSTS <u>£21,500</u>

(ii) Future Overall & Staged Costs				
KEY EVENTS & DATES	WORK	TIME ESTIMATE IN HOURS		COSTS
		SOLICITOR	COUNSEL	
	The outstanding work can be broken down into the following stages			RATES APPLIED: Prescribed rates/Contracted Rates
<u>Stage One</u>	<u>Stage One</u>			<u>Stage One</u> <u>Solicitor</u>
Pre-trial review 31/5/00	Preparation for pre-trial review including case chronology and statement of issues (Panel member).	1 hour		£ Solicitor time (preparation) 4 hrs @ £62.25 p.h. 249.00
Pre-trial Conference with Counsel 7/6/00	Attendance with Counsel at PTR (Panel member).	2 hours	2 hours	Attendance with Counsel at PTR 2 hrs @ £49.50 p.h. 99.00
	Travel	1 hour	1 hour	Attendance at Conference with Counsel 3 hrs @ £49.50 148.50 Travel 2 hrs @ £29.50
	Preparation of instruction for Conference with Counsel (Panel member).	1 hour		<u>59.00</u> Total <u>£555.50</u>
	Attendance at Conference with Counsel with expert (Panel member).	3 hours	4 hours including 1 hour preparation	£ Brief on PTR 200.00 Conference 4 hrs @ £35.50 p.h. 142.00 Travel 2 hrs @ £15.85
	Travel	1 hour		<u>31.70</u>
	Client correspondence and attendances.	2 hours		Total <u>£373.70</u>

	better value for money (see Sections 15.3.17 Funding Code Decision Making Guidance)		Children Panel. b. Exceptional complexity of the case given the complex medical issues relating to child and client.
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(iii) Costs Summary				
	<u>Profit Costs</u>	<u>Counsel's Fees</u>	<u>Disbursements</u>	<u>Total</u>
Section F. & G. Part (i) Costs	18,000	2,000	1,500	21,500
Section F. & G. Part (ii) Costs	2,151	2,773.70	2,500	7,424.70
Total of F. & G. Part (i) and F. & G. Part (ii) £28,924.70				
H. Cost Sharing Agreement				
Not applicable				

CASE MANAGEMENT INFORMATION

I. Team Personnel (including Solicitors Employees, Experts and Counsel and/or Solicitor Advocate)
<p>The case will be conducted throughout by Mrs. W partner and head of the Family Department. She is a member both of the Family Panel and Child Care Panel. She has conducted the majority of interviews with client, taken proofs, interviewed other witnesses, obtained and considered medial reports. Raised issues arising from their reports, attended all Court hearings and made all strategic decisions in the case. She will continue to take this role. She has been assisted in routine support administrative work by Mr. X a trainee Solicitor at the firm. The firm has 10 fee earners in the Family Department and is adequately resourced to conduct the case to its conclusion.</p> <p><u>Experts:</u> Dr. Z Consultant Psychiatrist was instructed to examine the client. He has significant experience in medico-legal work and is a thorough professional who has a clear presentational style to the Court. He is on the firm's list of approved expert.</p>

Counsel: Mr. Y will represent the client at the hearing. He is a member of the Family Bar and of 15 years call. He is an experienced Junior Counsel with great experience in this field.

I confirm that a copy of this case plan has been sent to the client.