

CASE PLAN (FAMILY - PUBLIC LAW CHILDREN)

Format in accordance with Funding Code Guidance Para 15.3.9.

NAME OF CLIENT

Mr. & Mrs. C.D.

NAME OF FIRM

ZY & CO

NATURE OF PROCEEDINGS

Care Proceedings

CASE INFORMATION

A. Summary of Case

B. County Council are seeking a full care order in respect of Miss F. aged 10 who is the child of Mrs. C.D. (formerly Mrs. S.T.). The Council allege that the child has been sexually abused by her stepfather Mr. C.D. The allegations are positively denied. The clients strongly oppose the application of a care order. The proceedings were commenced in July 1999 in the Family Proceedings Court but in September 1999 transferred to the County Court because of the complex nature of the issues in the case. To-date there have been two lengthy directions hearing leading to a provisional timetabling of the case and a direction as to expert evidence. The Council has obtained a report from a child psychologist specialising in child abuse. The conclusion which is equivocal in a number of respects is that it is likely that abuse has occurred.

The Guardian ad Litem has obtained an experts report from a report which rejects the views of the Council's experts. The evidence for the Council consists of statements by two Social Workers, the child's teacher and the medical evidence. The parents have filed comprehensive witness statements. The guardian's final report is yet to be completed. There will be a final directions hearing pre-trial shortly. At present the trial estimate is 5/6 days and listed for hearing in late June.

The possibility of conflict of interest has been discussed with the clients but Mrs. C.D. is fully supportive of her husband and does not wish to seek separate representation.

B. Objectives

To defeat the application for a care order allowing the child to remain with the clients without restriction. The central issue is whether the child has been abused. There is a strong chance that dismissal of the application will be secured.

C. Case Analysis

The case essentially turns on the expert evidence. There is fundamental disagreement between the experts. The clients come across as loving and dedicated parents who have been devastated by the allegations. They should make impressive witnesses.

The legal issues are:

- i) Whether the Council can satisfy the Court of the threshold criteria in Section 31 Children Act 1989.
- ii) The burden of proof having regard to the House of Lord's decision in the case of Re H 1996 1AER 1.

The clients are likely to succeed on both issues.

The favourable facts are:

- i) The Local Authority has acknowledged that their expert may be revising his views and may be less certain of his conclusions.
- ii) The Guardian ad Litem is fully supportive of the child continuing to live with her mother and stepfather.
- iii) The expert evidence on behalf of the Guardian ad Litem is unequivocal in the conclusion that abuse has not taken place.
- iv) There have been no criminal proceedings.

The unfavourable facts are:

- i) In the initial interview with Social Workers the clients were evasive in dealing with certain questions.
- ii) On or around the time of the alleged abuse the School Authority reported significant changes in the child's demeanour.

D. Funding Code Assessment
Not required in these public law Children Act proceedings.
E. Case Theory
There is a strong chance that the clients will succeed in having the Council's application dismissed. The Council's medical expert is less sure of his ground. The guardian's medical expert who is an eminent psychologist has no doubt that there has been a fundamental misdiagnosis of the situation. The parents should impress the Court.

CASE ACTIVITIES AND COSTS INFORMATION

F. & G. (i) Costs To-Date							
WORK	COSTS						
The case has progressed from the Family Proceedings Court to the county Court. Witness statements have been filed and served. Experts reports have been filed and served. The Guardian ad Litem has yet to report. There have been 2 directions hearings and the case has been timetabled provisionally for late June 2000 (5/6 days).	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Profit Costs</td> <td style="text-align: right;">20,000</td> </tr> <tr> <td>Counsel's Fees</td> <td style="text-align: right;"><u>2,000</u></td> </tr> <tr> <td>TOTAL COSTS</td> <td style="text-align: right;"><u>£22,000</u></td> </tr> </table>	Profit Costs	20,000	Counsel's Fees	<u>2,000</u>	TOTAL COSTS	<u>£22,000</u>
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TOTAL COSTS	<u>£22,000</u>						

<u>Stage Two</u>	<u>Stage Two</u>	<u>SOLICITOR</u>	<u>COUNSEL</u>	<u>Stage Two</u> <u>Solicitor</u>
Preparation For Trial (6/6/00-19/6/00)	Preparing brief to Counsel in respect of trial including checking applicant's Court bundles liaison with Council's and Guardian ad Litem's Legal Representatives attending to all witness arrangements perusing and taking instructions on GaL report and lodging skeleton arguments (Panel Member).	6 hours		<u>£</u>
	Preparing trial bundle for counsel (Assistant).	2 hours	6 days	Solicitor time (preparation) 6 hrs @ £88.50 p.h. 531.00
Trial (20/6/00-27/6/00)	Attendance at trial (6 days) (2 days Panel Member & 4 days assistant).	36 hours		Attendance at trial 6 days 12 hrs @ £49.50 p.h. 594.00 24 hrs @ £33.00 p.h. 792.00
	Travel & Waiting time (2 hrs per day)	12 hours		Travel/wait to trial 4 hrs @ £29.50 118.00 8 hrs @ £19.50 236.00
	Client correspondence and attendances.	2 hours		Total <u>£2,271.00</u>
Conclusion - Review of Case Plan	Report to LSC on: a) Outcome of case. b) Final cost of case. c) Achievement of objectives. d) Lesson learnt in terms of the content of the case plan, or alternative conduct of the case to achieve quicker disposal or better value for money (see Sections 15.3.17 Funding Code Decision Making Guidance).			<u>£</u>
				Brief fees in respect of attendance at trial 1st day 2,500.00 succeeding 5 days <u>3,250.00</u> Total <u>£5,750.00</u>
				Disbursement: The above rates reflect a claim for 50% enhancement based: a. Conduct of the case by a member of the Children Panel. b. Exceptional complexity of the case given there are serious allegation of sexual abuse which are unsubstantiated and in dispute.

(iii) Costs Summary				
	<u>Profit Costs</u>	<u>Counsel's Fees</u>	<u>Disbursements</u>	<u>Total</u>
Section F. & G. Part (i) Costs	20,000	2,000		22,000
Section F. & G. Part (ii) Costs	3,345.50	6209.20		9,554.70
Total of F. & G. Part (i) and F. & G. Part (ii) £31,554.70				
H. Cost Sharing Agreement				
Not applicable				

CASE MANAGEMENT INFORMATION

I. Team Personnel (including Solicitors Employees, Experts and Counsel and/or Solicitor Advocate)
<p>The majority of the work will be conducted by Mrs. X partner in the firm which has a family franchise. She is a member of the Children Panel and is head of the firm's Family Department and has undertaken child care work for the past 15 years. She will attend any future directions hearings, dialogue with the Legal Representative of the Guardian ad Litem and Counsel and attend to preparation for trial. In routine work she will be assisted by Mrs. Z a trainee Solicitor who will help in the preparation of the trial bundles for counsel.</p> <p><u>Experts:</u> None instructed on behalf of the client.</p> <p><u>Counsel</u> Mr. A will represent the clients at the final hearing. He is a member of the Family Bar and has undertaken many successful cases on behalf of the firm.</p>

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