

Dictionary of CFS Terms

Obviously any parent's decision affecting children is very important and can have serious consequences. The following is only intended to help explain some of the terms which parents may find confusing and to give an idea of general practice and procedure. Each case is different however and every parent has the right to legal advice before making any decisions regarding CFS; parents should not hesitate to seek legal advice and can usually access a Legal Aid Manitoba lawyer at 985-8550 (ask for a Child Protection Unit lawyer) or (after hours) 232-5261

Voluntary Placement Agreement (VPA): A parent may enter into an agreement with a Child and Family Services (CFS) agency for the care of their child for up to 6 months during temporary illness, misfortune or other similar circumstances. This VPA can be renewed up to a combined total of 24 months. A parent may also enter into a VPA if the child has a mental disability, chronic medical disability or is 14 years of age or older and beyond the control of the person entering the agreement. In these circumstances, the VPA can be renewed until the child turns 18. A VPA is an agreement between CFS and the parent and does not need to go through court, although parents may ask a lawyer review the order before it is signed to avoid misunderstandings. The advantages of a VPA are:

- a) There is no finding of the child/ren being 'in need of protection' as there is with an order of temporary guardianship.
- b) Unlike an order of temporary guardianship, the VPA can be terminated at any time by the parent, although if CFS still has concerns they do have the right to keep the child in their care and ask a judge for an order of guardianship.

All Nations Coordinated Response (ANCR): ANCR is the first point of contact for children and families that need child protection services, and for community members reporting child protection issues. ANCR's responsibility is to make sure that cases are responded to quickly and are transferred to the right authority and agency when ongoing services are required.

Intake: Intake happens when a CFS agency receives a report of a child in need of protection. In Winnipeg, ANCR is usually in charge of intake. An intake investigation includes a family assessment, which means that an intake worker asks the family members some questions about the family situation, as well as seeing the home environment and how the family members relate to each other. The assessment help the social workers decide whether there are child protection concerns such as abuse or neglect and what the family needs to work on to provide a healthy home for the child. ANCR can work with families for up to 3 months. After the assessment process, ANCR either closes the case on intake and possibly refers the family to community resources or refers the family to one of the 4 CFS Authorities to continue working on the file. This is called the Authority Determination Protocol (ADP).

Authority Determination Protocol (ADP): The ADP decides what agency will work with a family or person. CFS involves 4 Authorities, each working under The Child and Family Services Act (law) but using their own set of policies that guide the way they carry out the law. If you are a First Nation or Metis person, you may choose which Authority you want to work with. The Authority will then decide which of their agencies will deliver services to the family or person. There are differences between the way

Authorities work with families. For example, some Authorities will place permanent wards for adoption while other Authorities have a policy of non-adoption. Once a choice of Authority has been made it is incredibly difficult to change; if there is any doubt as to which is the best Authority for the case, parents should not feel pressured to sign the ADP until they have consulted with a lawyer. A Legal Aid lawyer can usually be reached after-hours at 232-5261.

Orders of the judge: If the parents and the CFS agency can agree on a case plan and the length of an order, the order can be made within a matter of 3 or 4 weeks from when CFS takes the child/ren into their care. This is called a 'consent' order and will usually run from the day it is made, not the day on which the child was taken into care. If the parents disagree with the CFS agency and do not wish to consent, it can take weeks or months and several court appearances to resolve. If agreement cannot be reached by negotiation, a one or two week trial may be required for a judge to make a decision.

According to the CFS Act, when a case goes to court, a judge will listen to the case and decide one of the following:

- a) That the child be returned to the parents or guardian, but be under the supervision of an agency and subject to certain conditions and for a certain amount of time; or
- b) That the child be placed with another person the judge considers best able to care for the child with or without transfer of guardianship and subject to certain conditions and for a certain amount of time; or
- c) For a child under 5 years of age, the agency may be appointed the temporary guardian of a child for no more than 6 months; or
- d) For a child between 5 and 12 years of age, the agency may be appointed the temporary guardian of a child for no more than 12 months; or
- e) For a child over 12 years of age, the agency may be appointed the temporary guardian of a child for no more than 24 months; or
- f) The agency may be appointed the permanent guardian of the child.

Temporary Order of Guardianship: If a child is under a temporary order, the parent must follow certain conditions in order for CFS to consider having the child returned home. Conditions often include things like substance abuse treatment, family violence treatment, counselling, finding appropriate housing, parent capacity assessments, or regular home visits by the CFS worker. A parent should get these conditions in writing from their social worker, called a case plan, and talk to their worker to make sure they understand what the worker expects from them. A parent should also be sure to give the social worker proof that they have completed any of the conditions. If the conditions are not met by the time the order has ended, or if the agency still has concerns about the safety of the child, the agency may go back to court and ask for another order from the judge. A child cannot be in temporary care for more than 15 months if they are under 5 years of age and no more than 2 years if they are over 5 years of age, counting all temporary orders. After 2 years of temporary care, if the agency does not see enough change in the family, the agency may ask a judge for a permanent order. During a temporary order, a parent has the right to go to court if the agency refuses access to your child, get help in solving family problems, attend any court hearing involving your child, receive information about why the agency apprehended your child and have your records kept confidential.

It is important that during a temporary order the parent and CFS work together towards reunification of the family; this requires clear two-way communication. Part of the job of CFS (in addition to protecting children) is keeping families together. An important part of the reunification process will often be "access" or visits between parents and children. The law says that if the parent has no access to their children, CFS must give good reasons why this is not happening. It is possible to go to court and bring a 'motion for access' (asking a judge to decide on access details) if this cannot be agreed on between the parent and the agency.

Permanent Order of Guardianship: If a child is under a permanent order, the agency has full responsibility for the child. The agency is in charge of deciding if and when a parent can see the child. A parent does not automatically have the right to see the child or be part of decisions affecting the child. The child's social worker has no responsibility to work with the parents. With a permanent order, the agency has the right to deny family visits unless the parents can prove that denying access is unreasonable. If a parent wants to work towards getting the child back, they may apply once a year to a judge to change the permanent order. The judge will expect the parent to show long term positive changes in their situation. This may take more than one application. An order of permanent guardianship cancels all parental rights, but a parent may apply to set aside the permanent order and be given custody of the child as long as at least one year has elapsed and the child has not been adopted.

An alternative to a Permanent Order is a 'Voluntary Surrender of Guardianship' or 'VSG'. This means that the parent voluntarily surrenders their parent rights to CFS. After one year (same as with a Permanent Order) the parents can apply to have the VSG set aside so long as the children have not been adopted. The one advantage of a VSG over the Permanent Order is that the court does not define the child to be 'in need of protection' and the court does not record the agreement. If a parent has questions about a VSG, they may speak to a legal aid lawyer.

Case Plan: A social worker is expected to have a case plan for a child in care. In the case of a temporary order, the case plan will involve both the child's care and conditions for the parent. In the case of a permanent order, it will involve a permanency plan for the child's long-term care but not necessarily involve the parent.

Differential Response/Family Enhancement (DR/FE): this is a new model of CFS service that focuses on voluntary service and prevention of child abuse and neglect. The goal of DR/FE is for agency staff to act early in a supportive way so that more intrusive child protection responses may not be needed. The program receives referrals from ANCR and all mandated CFS agencies to help families build their strengths and be connected to community resources. DR/FE offers resources at two Family Resource Centres in Winnipeg; Snowbird Lodge at Sherbrook Street and Sargent Avenue and Metis/General Authority Family Resource Centre on Wall Street.

Place of Safety: A place of safety is a temporary home for a child in need of protection, as decided by the agency. This could be the home of a relative or family friend, if the CFS worker believes it is a good place for the child to be. A place of safety is not a foster home; but it is an approved placement for one or more children. Often a parent wants a child be placed with someone they know and trust. It is usually best if the relative or friend contacts the social worker themselves, so the worker can decide if that will be a good place for the child to stay.

Foster Home: A foster home is a placement for a child that is licensed by an agency. Foster parents provide temporary care to children in-care in a family setting, where the child can grow mentally, emotionally, physically, educationally, spiritually and culturally. According to the Foster Family Manual a foster parent has certain rights and responsibilities. Foster parents are also given information on the rights of foster children and the rights of the foster child's parents/guardians. For more information on how foster parents are trained, talk to the Parent Mentor Coordinator at the West Central Women's Resource Centre.

Understanding Child Protection: According to The Child and Family Services Act, a child is considered in need of protection where the life, health or emotional well-being of the child is in danger by a person's actions or omissions. The CFS Act lists some examples; a child is in need of protection where the child:

- (a) is without adequate care, supervision or control;
- (b) is in the care, custody, control or charge of a person
 - (i) who is unable or unwilling to provide adequate care, supervision or control of the child, or
 - (ii) whose conduct endangers or might endanger the life, health or emotional well-being of the child, or
 - (iii) who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;
- (c) is abused or is in danger of being abused, including where the child is likely to suffer harm or injury due to child pornography;
- (d) is beyond the control of a person who has the care, custody, control or charge of the child;
- (e) is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;
- (f) is subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;
- (g) being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or
- (h) is the subject, or is about to become the subject, of an unlawful adoption under *The Adoption Act* or of a sale under section 84.

Child protection law is based on the balance of probabilities, not beyond a reasonable doubt like criminal law. This means that CFS does not need to see proof that a child needs protection before they act. If a CFS agency believes that the child may be in need of protection, they have the legal duty to act including possibly apprehending a child. CFS does need to investigate accusations about a family, but only after they take the child out of the home. While waiting for a hearing after the child has been apprehended, parents have the right to be given reasonable access to visit with their child.

Duties of Agencies: According to The Child and Family Services Act, agencies have the following duties:

- a) Work with other human service systems to resolve problems in the social and community environment likely to place children and families at risk;
- b) Provide family counselling, guidance and other services to families for the prevention of circumstances requiring the placement of children in protective care or in treatment programs;

- c) Provide family guidance, counselling supervision and other services to families for the protection of children;
- d) Investigate allegations or evidence that children may be in need of protection;
- e) Protect children;
- f) Develop and provide services which will assist families in re-establishing their ability to care for their children;
- g) Provide care for children in its care;
- h) Develop permanency plans for all children in its care with a view to establishing a normal family life for these children;
- i) Provide adoption services under *The Adoption Act*;
- j) Provide post-adoption services to families and adults under *The Adoption Act*;
- k) Provide parenting education and other supportive services and assistance to children who are parents, with a view to ensuring a stable and workable plan for them and their children;
- l) Develop and maintain child care resources;
- m) Provide services which respect the cultural and linguistic heritage of families and children;
- n) Provide such reports as the director may require;
- o) Take reasonable measures to make known in the community the services the agency provides;
- p) Conform to a written directive of the director;
- q) Maintain such records as are required for the administration of enforcement of any provision of the Act or *the Adoption Act* or the regulations;
- r) Provide any other services and perform any other duties given to it by this Act or *The Adoption Act*, or by the director in accordance with this Act or *The Adoption Act*.

Children’s Advocate: The Office of the Children’s Advocate responds to any concerns about the welfare of children who are in the care of a CFS agency, or whose family may be receiving services from a CFS agency. They work to make sure children are being well taken care of in the system. They do not advocate for parents who disagree with CFS workers or agencies, although they may give parents information about CFS structure and parent rights. They will investigate when there is a report that a child is being mistreated while in care. When possible, it is a good idea for the child to contact the office instead of an adult.

Grievance Procedure: If a parent disagrees with a decision made by their CFS worker, they should first try to work it out with the worker. If the problem cannot be worked out, the parent can take their concern to the worker’s supervisor, program manager, and/or executive director of the agency. If a parent still disagrees with the decision, they may take their concern to the CFS Authority responsible for the agency. If a parent disagrees with their worker, it is important for them to have their point of view well organized and documented where possible. If a parent speaks clearly and respectfully to staff at the agency, the staff will be more likely to listen to the parent’s opinion. For a case that is being dealt with in court, the parent should speak with a lawyer. When parents feel confused about where to go for help, they may contact a lawyer for some informal advice or assistance. Difficult situations and misunderstandings can often be cleared up with the help of a lawyer who understands child protection procedures.