

## SECTION 8 PREPARING TO EXIT CARE

### 8.1 Return to Family

#### **Standard 8.1(a)**

When a return to family is the goal, the agency must encourage maintenance of the family ties.

#### **Procedures**

This may be accomplished by:

- encouraging family contact correspondence, phone calls, and planned visits
- encouraging parents and extended family to include child in family activities, major family decisions, and outings as a continuing member of the family
- providing the child with information on their immediate and extended family such as whereabouts, photographs, and family history

*(See Section 2: Planning for Children in Care)*

For many children in care, a return to their family is the desired goal of the comprehensive plan of care. The agency must provide planning and support to make sure that the benefits or gains made during placement by the child and/or their family continue. Provision must be made for the extension of special services to support the family and guarantee the protection of the child. Contact through letters, telephone calls, and visits may help both child and foster family to adapt.

#### **Standard 8.1(b)**

The child's social worker must hold a case planning meeting within three months of the child returning to the home of their parent or extended family to review the situation and assess whether or not termination of guardianship should be considered. Ongoing case planning meetings must take place at regular intervals thereafter to review the situation until the guardianship is terminated or the child moves to another placement.

## **Procedures**

The agency may, if it is in the best interests of a child to do so, permit a child in care and custody to live with their parents or extended family members, subject to the supervision of the agency. Case planning meetings are required to review the situation once stability is maintained to make a determination whether or not guardianship should be terminated.

### **Standard 8.1(c)**

The agency must make sure that a written after-care plan is developed prior to the child's termination of care and supervision. A statement of the goals of after-care, the services of casework to be provided, and the duration of the plan must be included. A date for discharge of care and end of supervision must be projected. A copy of this written plan must be made available to the parents and to a child over 12, unless a developmental challenge impedes this.

The agency must involve the child (if able and the child is over 12), parents and/or extended family, and caregivers where the child is returning home, in developing a plan of continued support to the child and their family. The specific recommendations must be recorded in the after-care plan.

Where the child is returned to their parents and/or extended family, the services to provide support that may be offered include but are not limited to:

- casework with the family
- child care
- family support services
- parenting education
- referrals to other supports

## **8.2 Application to Terminate Care and Custody**

### **8.2.1 Application to Terminate Care and Custody by Agency**

#### **Legislation**

Subsection 48(5) states that, subject to a pending adoption application, the agency may apply at any time to terminate an order for permanent care and custody.

## **Procedures**

Upon review of the comprehensive plan of care, if termination of guardianship is determined to be in the best interest of a child in care and custody, an agency may apply to the court for termination. It must be supported by affidavit and served upon the other parties not later than 10 clear days before the hearing of the application. If the youth is 16 or over, the youth also must be served. Such applications are rare and should be considered carefully and cautiously.

### **8.2.2 Application to Terminate Care and Custody by Parents or Other Parties**

#### **Legislation**

Under Subsection 48(6) of the Act, if a parent or an interested party wishes to initiate an action to terminate permanent care and custody within the six-month period following the order of care and custody, but after a period of 30 days has elapsed, or within six months of a similar application, permission of the court is required. Permission of the court is also required where the child has been in care and custody over two years.

#### **Procedures**

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If the parents (or other party) are granted leave to apply for termination, at the same time of the termination hearing, the onus of proof is on the parents (or other party). The parents must demonstrate to the court that their situation has changed sufficiently since the time of care and custody so that they can now adequately care for their child or that the other party can provide for the child. The social worker should review the child's comprehensive plan of care and make a recommendation with respect to the parents' plan or an alternate plan by the agency. The child's social worker and others, as appropriate, will be required to give evidence to support or oppose the application to terminate care and custody. The purpose of the hearing is to determine whether or not the parents or other interested parties are able to provide for the needs of the child and if care and custody should be terminated. In hearing the matter, the court may:

- dismiss the matter
- adjourn the hearing for a period not to exceed 90 days and refer the child or a party and/or parties to the application for termination of care and custody for parenting capacity, psychiatric, medical, or other examination or assessment
- adjourn the hearing for a period not to exceed six months and place the child in the care and custody of parents or guardians subject to supervision of the agency
- adjourn the hearing for a period not to exceed six months and place the child in the care and custody of a person other than parents or guardians with the consent of that other

- person, subject to the supervision of the agency
- terminate the order of care and custody

If care and custody is terminated, the child's social worker must follow the procedures in the *Case Management System* manual and procedures for case closure (see Section 8.8).

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### 8.3 Adoption

#### Standard 8.3(a)

Adoption must be considered for all children for whom the agency is seeking a permanent care and custody order .

#### Procedures

It is important that adoption planning begin prior to the child being placed in permanent care and custody. By involving the adoption program staff in case planning, if the plan is adoption, adoption placement can occur immediately once the appeal period has expired. All options including placement with extended family or persons known to the child should be explored.

#### Standard 8.3(b)

If adoption was not the plan at the time of the court hearing, but circumstances change that make adoption a preferred plan, the parents must be notified in writing if the parents have had any contact with the agency concerning the child in the last three months

The parents may obtain legal counsel and notify the agency of their intent to proceed before the court for termination. This must be done within 10 days of receiving written notification indicating adoption is the agency's plan.

In cases where it is not considered to be in the best interest of the child to return home, consideration for adoption should be given to family members, foster parents when the child has been in the home a minimum of one year continuously, families available on the approved waiting list to adopt or a referral to the Nova Scotia Adoption Exchange. ***Early consultation with the adoption program staff is essential to make sure all options are explored and the necessary steps to prepare the child for adoption are started.*** Consideration of eligibility for subsidized adoption should also be undertaken.

Where a child is to be adopted, a written child for adoption report containing non-identifying information on the child's history and health is required to assist in identifying an appropriate family for the child. The report is to be provided to the adoptive parents to assist in providing for

the needs of the child (*see Adoption Manual*).

### **Standard 8.3 (c)**

Prior to an adoption placement and filing of the notices of proposed adoption of a child in permanent care and custody, the child's social worker must:

- determine that the time for initiating an appeal has expired (30 days after the order for permanent care and custody is issued)
- where the order of care and custody was issued more than 30 days and less than 60 days previously, arrange for legal counsel to contact the Registrar of the Court of Appeal to determine that no appeal has been filed. This need only be done on one occasion in that time frame.
- where the order of care and custody was issued more than 60 days earlier, there is no requirement to contact the Registrar of the Court of Appeal.

### **Applications to Terminate**

contact the Family Division of the Supreme Court or the Family Court to ensure that an application to terminate the order for permanent care and custody has not been filed.

## **8.4 Independent Living**

A child in care who has reached 18 and demonstrates the maturity and skills to live independently may be approved to live in an independent living situation such as an apartment or room in a boarding house at the rates approved by the Department of Community Services (*see Policy Statement 94 in the appendix for Section 6*). Under exceptional circumstances, consideration may be given for a child between 16 and 18.

### **Procedures**

The following should be considered when determining whether a youth is ready for independent living:

- if the youth is 18 or over
- the youth's level of emotional and behavioural development, and maturity
- the youth's safety
- whether the youth is attending school
- the level of specific independent skills acquired by the youth

- the youth's comprehensive plan of care
- the supports available to the youth

*(See the reference material for this section for reading list)*

#### **8.4.1 \_\_\_\_\_ Written Agreement Between the Youth in Care and the Youth's Social Worker**

In preparation for a youth's move to independent living, plans should be made to help with budgeting and to obtain housing, employment, or continuing education. Both emotional and practical support is required. The youth will also need assistance to become connected to community-based resources that will be available to assist them when they exit care.

##### **Standard 8.4.1(a)**

When the youth's case worker and the youth in care agree that the youth will move to an independent living situation, a written agreement must be signed by the youth and the youth's worker.

The caseworker in consultation with the youth shall prepare a written agreement setting out the following:

- specific responsibilities for the youth
- specific responsibilities for the youth's social worker
- name, address, and telephone number of the youth's landlord
- rent payment arrangements
- other payment arrangements
- education or employment

This written agreement is reviewed as necessary and at least every six months. Revisions to the agreement are made as required.

#### **8.4.2 Preparation for Leaving Care and Independent Living**

Prior to exiting care, the social worker is responsible for preparing the child for the skills required to live independently. This should be planned in consultation with the child's caregivers.

### **8.5 Extension of Care and Custody**

#### **Legislation**

Subsection 48(1) of the *Act* states:

Where a child is in the permanent care and custody is approaching 19, and is dependent because they are pursuing an educational program, or because of a disability, a judge may order the guardianship to continue until they reach 21 upon the application of an agency.

## Procedures

- Application for guardianship to continue to 21 should be made at least three months prior to the child turning 19 (*see the sample affidavit in the appendix for this section*).
- The application must be accompanied by an affidavit explaining the why the guardianship should be extended (*see the sample affidavit in the appendix for this section*).
- The notification of hearing by way of service of the application and attached affidavit must be provided to:
  - the child
  - the parents, if they have had ongoing contact and indicate a wish to be involved
- Complete computer events to make sure financial extension of the permanent care and custody (BF 63) and insert a new date on the child involvement screen.
- Legal representation in the court hearing is not usually necessary and the matter may be handled by the social worker. In preparing the documents for court, a copy of the order for permanent care and custody should be included.
- If an extension of custody has been ordered due to educational purposes and the child discontinues their educational studies, an affidavit may be presented to the court to terminate the guardianship.

### 8.6 Community Support for Adults

Community Supports for Adults Program(CSA Program) is a residential program for adults with disabilities who are deemed eligible for services.

#### **Standard 8.6(a)**

Where a child in care and custody will be leaving care, the CSA Program will assess the client to determine eligibility for services. The child's social worker must provide the CSA staff with all pertinent case information, including financial support required, at least one year in advance. Where possible, joint planning should take place to make sure that where appropriate a continuity of services is maintained, so that caregivers have a clear understanding of any changes that will occur, and disruption to the youth is minimized.

Further questions should be directed to the local district office of the Community Supports for Adults Program.

## **8.7 Marriage of a Child in Care**

\_\_\_\_\_ A child under 16 may not marry without permission from a family court judge. A child over 16 and under 19 requires written consent from a parent or guardian.

A child in care over 16 may marry with the consent of:

- a) the child's parents if the child is in the temporary care by agreement
- b) the social worker , if the youth is in the permanent care and custody

The social worker may consent to a marriage of a youth over 16 in the permanent care if:

- the youth wants to get married
- the youth's safety would not be at risk with the person they wish to marry
- the youth has been advised that their care would terminate upon marriage
- the youth has been advised that they will no longer be eligible for services available to children in care

### **Procedures for Approving a Marriage of a Child in Care**

- Determine whose consent is required.
- obtain approval from the youth's social worker.
- Complete and sign the appropriate form for guardian's consent.
- Upon marriage, update and close the youth's file (refer to standards of practice regarding the closure of a file).

## 8.8 Case Closure

### **Standard 8.8(a)**

The social worker must close the file within two working days of notification that a child has returned home, an adoption order has been granted, a child marries, where a child reaches 19 (or 21 if care and custody has been extended) and the child is no longer in care and custody of the agency, or the child is deceased,.

### **Procedures**

In closing the child's case the social worker should:

- complete a case closure summary
- close the child's case on the case management system
- notify Children's Special Allowances by completing the reverse side of the application form (*see the appendix for Section 3*)
- notify MSI as appropriate

**SECTION 8  
APPENDIX**

1. Application to Extend Care and Custody
2. Affidavit

BETWEEN:

- Applicant

- and -

- Respondent

**APPLICATION**

TAKE NOTICE that an application will be made on behalf of the [applicant] [respondent] to the Family Court, located at \_\_\_\_\_, Nova Scotia, on \_\_\_\_\_, the\_\_ day of \_\_\_\_\_, 20\_\_ at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_noon, or so soon thereafter as the application can be heard for an order

\_\_\_\_\_  
\_\_\_\_\_

AND TAKE NOTICE that in support of the application will be read the attached affidavit(s) and such other material as counsel may advise, a true copy of which will be delivered to you or your counsel not later than one clear day before the hearing of the application.

DATED at \_\_\_\_\_, Nova Scotia, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Counsel for the

OR

Social Worker, on behalf of

\_\_\_\_\_  
Department of Community Services/  
Children's Aid Society/  
Family and Children's Services Agency

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BETWEEN:

MINISTER OF COMMUNITY SERVICES  
(OR CHILDREN'S AID SOCIETY OF \_\_\_\_\_)

- Applicant

- and -

\_\_\_\_\_

- Respondent

**AFFIDAVIT**

I, (social worker), of \_\_\_\_\_, in the Province of Nova Scotia, make oath and say as follows:

1. THAT I am a social worker employed by the \_\_\_\_\_, and have a personal knowledge of the matters herein deposed to except where otherwise stated.

2. THAT I am the caseworker for the child, \_\_\_\_\_, born \_\_\_\_\_.

3. THAT by Order of this Honourable Court issued the (date of permanent care and custody), the child \_\_\_\_\_, was committed to the permanent care and custody of the Applicant, \_\_\_\_\_, commencing the \_\_\_\_\_, pursuant to the provisions of the Children's Services Act (or Children and Family Services Act, if care and custody was ordered after September 3, 1991). Attached hereto and marked Exhibit "A", by the Commissioner swearing me to this Affidavit is a true copy of Order for Custody with respect to the child, \_\_\_\_\_, issued \_\_\_\_\_.

4. THAT the child, \_\_\_\_\_, is a disabled person (note whether it is a physical or mental disability). He graduated from \_\_\_\_\_ in \_\_\_\_\_ (date). He worked at \_\_\_\_\_.

**OR**

THAT the child, \_\_\_\_\_, is pursuing an education and has completed \_\_\_\_\_ . He worked at \_\_\_\_\_ .

5. THAT the child, \_\_\_\_\_, is a resident of \_\_\_\_\_. He is presently attending a program at \_\_\_\_\_ and will continue in attendance until \_\_\_\_\_ .

6. THAT the plan for the child's care is for the child, \_\_\_\_\_, to continue to attend \_\_\_\_\_. Upon completion of the program, he will attend \_\_\_\_\_ (or work at \_\_\_\_\_).

7. THAT I make this Affidavit in support of an application on behalf of the Applicant, \_\_\_\_\_ (the Minister of Community Services or the Children's Aid Society of \_\_\_\_\_), for an Order that the Applicant's permanent care and custody of the child, \_\_\_\_\_, be extended until he reaches twenty-one years of age pursuant to S. 48(1)(a) of the Children and Family Services Act.

SWORN TO at Halifax, in the )  
County of Halifax, Province of )  
Nova Scotia, this \_\_\_\_ day of )  
\_\_\_\_\_, A.D., 20\_\_ )  
before me )  
)  
)  
)  
\_\_\_\_\_ )  
A Commissioner of the Supreme )  
Court of Nova Scotia )

\_\_\_\_\_  
(Social Worker)

**SECTION 8**  
**REFERENCE MATERIAL**

1. *Adoption Manual*
2. *Case Management System Manual*
3. Laidlaw Foundation Bibliography - Independent Living
4. Casey Family Program [www.casey.org](http://www.casey.org)

**SECTION 8  
PREPARING TO EXIT CARE**

**Summary of Standards For Preparing to Exit Care**

- 8.1(a)** When a return to family is the goal, the agency must encourage maintenance of the family ties.
- 8.1(b)** The child’s social worker must hold a case planning meeting within three months of the child returning to the home of their parent or extended family to review the situation and assess whether or not termination of guardianship should be considered. Ongoing case planning meetings must take place at regular intervals thereafter to review the situation until the guardian ship is terminated or the child moves to another placement.
- 8.1(c)** The agency must make sure that a written after-care plan is developed prior to the child’s termination of care and supervision. A statement of the goals of after-care, the services of casework to be provided and the duration of the plan must be included. A date for discharge of care and end of supervision must be projected. A copy of this written plan must be made available to the parents and to a child over 12, unless a developmental challenge impedes this.
- The agency must involve the child (if able and the child is over 12), parents, and caregivers where the child is returning home, in developing a plan of continued support to the child and their family. The specific recommendations must be recorded in the after-care plan.
- 8.3(a)** Adoption must be considered for all children for whom the agency is seeking a permanent care and custody order.
- 8.3(b)** If adoption was not the plan at the time of the court hearing, but circumstances change that make adoption a preferred plan, the parents must be notified in writing if the parents have had any contact with the agency concerning the child in the last three months.
- 8.3(c)** Prior to an adoption placement and filing of the notices of proposed adoption of a child in permanent care and custody, the child’s social worker must:
- determine that the time for initiating an appeal has expired (35 days after the order of care and custody is issued)
  - contact the Prothonotary’s Office of the Supreme Court to determine that no appeal has been filed

- **contact the Family division of the Supreme Court to make sure that an application for termination has not been filed.**

- 8.4.1(a) When the youth’s case worker and the youth in care agree that the youth will move to an independent living situation, a written agreement must be signed by the youth and the youth’s worker.**
- 8.6(a) Where a child in care and custody will be leaving care, the CSA Program will assess the client to determine eligibility for services. The child’s social worker must provide the CSA staff with all pertinent case information, including financial support required, at least one year in advance. Where possible, joint planning should take place to make sure that where appropriate, a continuity of services is maintained, so that caregivers have a clear understanding of any changes that will occur, and disruption to the youth is minimized.**
- 8.8(a) The social worker must close the file within two working days of notification that a child has returned home, an adoption order has been granted, a child marries, where a child reaches 19 (or 21 if care and custody has been extended) and the child is no longer in care and custody of the agency, or the child is deceased.**