



## CARE PROCEEDINGS FACTSHEET

### WHO CAN MAKE DECISIONS ABOUT MY CHILD'S CARE?

The right to decide how a child is raised and cared for rests with the people who have parental responsibility for the child. This can be the child's mother and the father provided he has parental responsibility, adoptive parents, and other people caring for the child if they obtain a court order. For example, the local authority will get parental responsibility if it obtains a care order from court.

### WHY WOULD SOCIAL SERVICES GET INVOLVED IN MY CHILD'S CARE?

Social Services are responsible for making sure that children are safe and are well cared for by their parents or the person looking after them.

Sometimes social services may receive information that makes them worried about a child's welfare. When this happens they are under a duty to take action to protect your child. If you do not agree with any action they take then social services will need to obtain the court's permission. Judges or Magistrates can make decisions about the child.

If social services believe that your child is suffering serious harm or is likely to suffer serious harm, then they can apply to the court for a care order.

Before this happens, social services may call a 'child protection case conference' to see if your child could be properly protected without a care order being made. All professionals involved in your child's life will attend the meeting.

### WHAT IF SOCIAL SERVICES THINK MY CHILD IS IN IMMINENT DANGER?

Social services may take a number of steps to protect your child in an emergency.

This can include:

- ❖ Asking the person the believe is a danger to your child to leave the home or keep away
- ❖ Discuss with you having the child looked after by he local authority in a way you agree to
- ❖ Ask the police to take your child into police protection for up to 72 hours
- ❖ Apply to the court for an emergency protection order, which will last initially for up to eight days. Social services can ask the court to extend this for up to seven more days.

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## **WHAT HAPPENS WHEN SOCIAL SERVICES START CARE PROCEEDINGS?**

You may be told that care proceedings are going to start by social services, or otherwise you will receive notice from the court telling you where and when the first hearing will be.

You should obtain legal advice straight away.

## **WHAT HAPPENS WHEN SOCIAL SERVICES APPLY FOR A CARE ORDER?**

The local authority will apply to the court for a care order on the grounds that your child has or is likely of suffering serious harm. Proceedings are started in the Family Proceedings Court and are dealt with under guidelines known as Protocol for Judicial Case Management in Public Law Children Act Cases. The guidelines say that the proceedings should be dealt with within a maximum of 40 weeks, unless the case is complicated.

## **WHAT HAPPENS AT THE FIRST HEARING?**

The court will not make any final decisions at the first hearing. At the hearing, which must take place within six days of the local authority making the application, the court must:

- ❖ Decide whether to make an interim order (an order that will say where the child shall live and who will look after them until the final hearing)
- ❖ Appoint a guardian and a solicitor to represent the child in the proceedings
- ❖ Decide whether the case should be transferred to another court
- ❖ Decide how the case should be prepared for the final hearing

## **WHAT ORDERS CAN THE COURT MAKE AT THE FIRST HEARING?**

- ❖ Interim care order (ICO), which means that social services share parental responsibility for your child with you. This includes the power to decide where the child will live, even if you don't agree with it. Social Services must have an interim care plan that sets out where and whom the child shall live with and arrangements for contact with members of the child's family. If you do not agree with the care plan and you feel that someone in your family could look after the child, then you must tell social services, your solicitor and the court so that they can consider what is best for your child.
- ❖ Interim Supervision Order (ISO), which does not give the local authority parental responsibility but it does mean that social services can monitor how your child is being cared for.
- ❖ Interim Residence Order, if it agrees that someone in your family can care for the child until the final hearing. You would share parental responsibility with

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that person for your child. The local authority would not have parental responsibility.

- ❖ Interim Contact Order, which the court must consider the proposed arrangements for contact between you and other members of the family with the child . An order may be made if the court feels it is necessary.

### **WHAT HAPPENS AFTER AN INTERIM ORDER IS MADE?**

There will be a series of interim hearings, where the court will continue to monitor the child's living arrangements, who s/he will see and how the case will proceed. The court will also consider whether or not orders and directions already made should be renewed or changed.

It is important that you inform your solicitor about any problems or aspects of the current arrangements that you are unhappy with. It is important to keep all information about the case.

Perhaps in a folder with all letters, notices, conversations with the social worker and record of dates, your own notes about telephone conversations or meetings with social services or any other professionals.

The court will also hold a meeting called a Case Management Conference where they will decide what evidence it will need for the final hearing and will make further directions.

### **WHAT TYPES OF ORDERS CAN THE COURT MAKE AT THE FINAL HEARING?**

#### ❖ **Supervision Order**

This means that you will be responsible for your child's care but social services have the power to 'supervise' how you care for your child and the order can last from 1 to 2 years.

#### ❖ **Care Order**

This order places your child in the care of a particular local authority and gives parental responsibility to that authority. This does not mean that you lose parental responsibility but it does mean that the local authority can override your wishes if it believes this would be best for your child.

The local authority should support you so that, unless the risks to your child are too high he or she can be returned to your care, or to the care of other members of your family if that is not possible. Case reviews must be held every 6 months to consider their plans and you should attend. If you cannot attend the local authority should give you the information on the decisions made.

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The law on adoption changed at the end of 2005. Since then, local authorities can place your child for adoption only if they have a care order, and:  
You give formal consent to the placement; or  
The court makes a placement order

❖ **Residence Order**

This would order your child to live with someone else, such as a family member, without social services being involved. It would give that person parental responsibility for the period of the order.

❖ **Special Guardianship Order**

This is an order that the court can make to place a child for longer periods of time with someone who is not their parent. It is meant to be more permanent than a residence order because a parent cannot apply to revoke or cancel the order without the court's permission. However, a special guardianship order does not break the legal relationship between a parent and child.

The special guardian will gain parental responsibility for him or her and although you will still have parental responsibility as well, the special guardian has the right to override your wishes if you cannot agree.

❖ **Contact Order**

The court should consider the arrangements or contact between you, other family members and the child. The court can make an order for contact if it is not agreed.

How long does a care order last and how can apply to end a care order?

A full care order lasts until the child is 18 years old unless the court,

- a. Makes a residence or special guardianship order
- b. Ends (discharges) the care order when it decides it should not continue
- c. Makes a supervision order instead
- d. Makes an adoption order

You can ask the court to discharge the care order. If you have already asked in the last six months, but want to ask again, then you must get the court's permission.

You will have to show the court that it is in your child's best interests for the care order to be discharged. If the court agree and discharge the care order then you and any other person with parental responsibility will take over caring for your child.

**Please note the information given in this fact sheet should be used as a general guide only. The advices given do not relate to specific**

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circumstances and we strongly recommend that you make an appointment to see us.

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