

PUBLIC LAW

CLIENT GUIDE

There are several types of order that a court can make when a local authority has concerns about a child's welfare and intervenes within a family setting. This guide provides a brief summary of those orders.

ABOUT CARE PROCEEDINGS

'Care proceedings' is the phrase used to describe the legal process by which a local authority asks the Court to allow it to take a young person into care. Children are only taken into care when social workers become seriously concerned that a child is suffering, or are likely to suffer, significant harm from the way they are being looked after by their parents or carers, or that a child is beyond a parent or carer's control.

WHAT IS AN INTERIM CARE ORDER?

This is usually the first step when social workers become very concerned about a child. The local authority may ask the Court to make an interim care order while it investigates matters and considers what longer-term plans should be made for the care of the child.

Normally, an interim care order places the child in care on a temporary basis while the situation is assessed. In some cases, the child may continue to live with the parents or carers under conditions which are set out in a schedule of expectations. If these conditions are not met social workers can intervene to remove the child without having to obtain another court order.

The local authority must produce a care plan for a child under an interim care order. This sets out what it thinks should happen, such as where the child will live, how they are going to keep in touch with or have contact with their family, where they will go to school, if there any medical concerns or treatment, how they will pursue hobbies and pastimes, and for how long it proposes the child will be in care.

WHAT IS A FINAL CARE ORDER?

This is an order by which the Court approves the local authority's care plan for the child, if it believes it is in the child's best interests to do so. The plan can involve the child living at home, being placed with other members of the extended family, or living in foster care or in a children's home. Care orders last until the child is 18 or until the Court makes a further order.

WHAT IS A SUPERVISION ORDER?

A supervision order can be made where the local authority has concerns about the standard of care a child is receiving from his or her parents but is not so concerned to warrant asking the Court for a care order. Under a supervision order, the child remains with his or her parents and social workers have a duty to advise, befriend and assist the child. The local authority will produce a care plan and a supervision order can impose conditions on the child's care givers, e.g. not to abuse drugs. If the conditions aren't followed the local authority may seek to return the matter to Court to ask for a care order instead.

WHAT IS AN EMERGENCY PROTECTION ORDER?

A local authority can obtain an emergency protection order at very short notice when children are at immediate risk and urgently need somewhere safe to stay for a few nights. These applications are treated very seriously by the Court. The Court will only make the order if it believes the children will suffer harm if they stay where they are currently living (or if they do not stay there), or that they are suffering harm, and that social workers need access to the children urgently to protect them.

The police also have powers to take a child into police protection for up to 72 hours where they believe that child would otherwise be likely to suffer significant harm.

ABOUT ADOPTION PROCEEDINGS

Many children return home when they are no longer considered to be at risk of harm. However, if, after investigations and consideration, the local authority considers that it would not be in the child's best interests to return to live with his or her parents, it may seek to arrange for the child to be adopted. The first stage of this process is to apply for a placement for adoption order. After that, the court will consider whether a final adoption order should be made.

WHAT IS A PLACEMENT FOR ADOPTION ORDER?

If the parents or guardians give consent to the child being adopted this is known as placement by consent and does not involve a placement for adoption order. However, if the parents do not consent the Court may agree to proceed without their consent and make a placement order if it considers placement to be in the child's best interests.

WHAT IS AN ADOPTION ORDER?

Once a child has been placed for adoption and matched to a suitable family, the Court will then consider an adoption order. This transfers parental responsibility to the adoptive parents and undoes the legal ties with the child's birth family. An adoption order is only made by a Court following extensive enquiries. The Court will only make the order if it is in the best interest of the child. Sometimes children maintain some contact with members of their birth family once they are adopted.

The Court will decide if and what type of contact should continue, at all times taking into consideration the child's safety and welfare. The view of the adoptive parents will also be taken into consideration.

WHAT HAPPENS AT COURT?

When there is an important court hearing about your child, the judge will listen to everyone involved in the case before it decides what to do. The Court will have help to make its decisions from a specialist independent social worker whose role is to assess the whole situation and recommend what he or she thinks is best for your child. Sometimes this person is called a Cafcass officer or a children's guardian.

It is the guardian's job to appoint a solicitor to represent the child, advise the Court on what work needs to be done before it can make a decision about the child's future, check the care plan and write a report for the Court on what they think is best for the child. To do this, he or she will spend time with the child and the parents or carer, and talk to other people who know your family. He or she will also attend meetings about the child.

The Court tries to ensure final arrangements are made for children within six months. During this time, there will be people trying to find out why the child may be at risk and what could be done to keep them safe, which may involve working with parents or carers in some way. Parents or carers may be assessed, as may wider family members or friends in case the child is not able to return home. The Court bases its decisions on what is in the best interests of the child and is guided by the recommendations of the guardian.

This document provides general guidance regarding public law applications relating to children. Your family lawyer will be able to provide specific advice based on your circumstances. Wolferstans has taken all reasonable care to ensure that this document was accurate on the stated date of publication or last modification. 2nd Sept 2019.

Main Office:

60-66 North Hill

Plymouth

PL4 8EP

Telephone: 01752 663295

Fax: 01752 672021

Email: info@wolferstans.com

Plymstock Office

7 Radford Park, Plymstock

Plymouth

PL9 9DG

Telephone: 01752 401515

Fax: 01752 401091

Email: info@wolferstans.com

Plympton Office

85-89 Ridgeway, Plympton

Plymouth

PL7 2AA

Telephone: 01752 345311

Fax: 01752 342360

Email: info@wolferstans.com



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