

CARE PROCEEDINGS INFORMATION SHEET

Our Family department team understand it can be a difficult time when the local authority are involved concerning your children. We will always do our best to listen to you and advise you about how to achieve the best possible outcome in your case.

We always advise that you try your very best to co-operate and be truthful with professionals from the start of your case. These situations are often very emotional and can seem unfair. However, in our experience a co-operative approach will often lead to helping you to achieve a favourable assessment from professionals and this is important in your case

This guide is to help you with some of the law involved in Care proceedings. It does not cover absolutely everything but will hopefully make it easier for you to understand your situation, and to speak to people about what is happening in your case.

COURT PROCEEDINGS:

First Court Hearing:

The local authority is the applicant in Care Proceedings and there is a number of different types of Orders it can ask the Court to make.

In our experience, when a case is serious enough to proceed to Court, the local authority normally asks for an **Interim Care Order (ICO)** to share parental responsibility with parents for a child. An **Interim Care Order** allows the local authority to share Parental Responsibility for a Child and make important issues affecting a child (although these must still be discussed with parents).

A child can remain at home under an Interim Care Order or the local authority may want to try and remove a child at the first hearing.

Grounds for an Interim Care Order

In order to obtain an Interim Care Order, the Local Authority needs to prove certain legal grounds are. These are:

- a) That the Child concerned is suffering, or is likely to suffer significant harm.
- b) That the harm, or likelihood of harm is attributable to:
 - (i) the care given to the child or likely to be given to him if the Order were not made, not being what it would be reasonable to expect a parent to give to him; or
 - (ii) the child's being beyond parental control.

Removal of a Child

The most serious situation at a first hearing is when the local authority ask for a child to be removed from their home under an Interim Care Order. This is on the basis that the child will be a risk if immediate harm if this is not done straight away.

This is a high legal test for the local authority to prove to the Court, and can be argued against by parents. We will always do our best to try to help our clients to keep their children in their care.

There are also times when the evidence against parents may be strong and hard to argue against at that particular point. In such circumstances, parents can decide not to oppose a child being placed with the local authority, with a view to trying to demonstrate the child can be returned when things improve.

These are always difficult decisions and we will advise accordingly on a case by case basis. We would never advise children to agree to children being placed into local authority care without discussing all other options with you.

What happens next?

After the first hearing, decisions about children are by law expected to take 26 weeks (6 months). It is now very unusual for proceedings to be longer than 26 weeks but sometimes matters can be extended if there is some sort of problem in a case. During this time, the Court will request all of the information and assessments that it feels it needs to decide a case.

There is usually around 3 hearings in Care Proceedings at the moment. At these hearings the judge will make orders detailing how the aspects of the case will be carried out and when each stage has to be completed. Under the Protocol, these could be called First hearings, Allocation Hearings, or Case Management Conferences, which all have slightly different aims. At such hearings, for example, the court is likely to order all the parties to file detailed statements about the case setting out their position and their side of events. He may also direct that there should be expert assessment of the parents or the children involved. This could involve observation of the relationships or an expert view on a particular issue such as drug dependency, mental health, whether the children have suffered any harm etc. The experts would have to file their reports with the court. Social services may also have to carry out some assessments in order to present all the necessary information to the court and to know more about the family with whom they are involved. The Children's Guardian (see below) will also have to carry out some investigations and prepare a report for the court.

Who attends the Court Hearings?

A mother will always have the right to be involved in care proceedings.

Anyone with parental responsibility for a child is an automatic Respondent to any Care Proceedings and therefore entitled to be involved in the court proceedings. A father of a child who registers the child's birth with the mother will also have automatic parental responsibility and be can joined as a party in the case. An unmarried father without parental responsibility is only entitled to be notified of the proceedings and of the first Hearing. He can ask the Court to be join him as a party and to be involved.

The local authority social worker will also be represented by a Solicitor. The local authority Solicitor will be constantly kept up to date by their Social worker throughout a case.

The children involved in a case will also have their own Guardian, who is represented by the Children's Solicitor. A Children's Guardian is an Independent Officer of the Court with substantial experience of children and knowledge of Social Work Practice. The Children's Guardian meets with each child, and if they are old enough, will discuss their wishes and feelings.

A Children's Guardian will consider the child's wishes in the light of their age and understanding and formulate a view on what action is in their best interest. In doing so the Children's Guardian will also speak to all the other parties and perhaps some witnesses. They will also have access to Social Services files. The Children's Guardian will prepare a report for the Court on what the child's views are and what he/she recommends the Court should do. The Children's Guardian is independent of Social Services.

Options to the Court

As the evidence is received, the Court will start to want to make final decisions about whether a child will be permanently placed. The local authority will provide all parties with a final statement and a Care plan detailing what it thinks should happen to a child. The parents and the Guardian will do final statements about their views for the permanent future of the child.

It is hoped that the evidence in a case will mean that a decision can be agreed. However, this is often not the case. If matters remain disputed, it is likely a case will move towards a final Contested Hearing. We can often make an application to the Court for a further assessment if we do not think our clients have been treated fairly but to do this we would need to show the evidence is incorrect in some way.

A final hearing is where the Judge in the case will hear more detailed evidence from all the parties and make the final decision.

A number of options are available to the Court when making the final Care plan:

- Keeping a child with parents
- Placing a child with family members
- Placing a child into foster care
- Placing a child for adoption.

The key difference between adoption and foster care is that adoption is a plan to permanently move a child away from their natural family and stop all future direct contact. This is normally

the plan for younger children up to around 4 years old. Children who are placed into foster care are normally still able to see their parents but normally limited to around six times per year.

Generally

This is a very brief summary of the law relating to Care Proceedings, and if you have any queries or questions please do not hesitate to contact us for further advice.

The Thornes Family team.