

# Care (and related) proceedings

## Introduction

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This advice sheet is written mainly for parents, or carers who are involved with Children’s Services because social workers are concerned that their children may be at risk of harm. It gives you information about what will happen when Children’s Services start care proceedings. The information should help you to work with your solicitor so you can tell the court what you think is best for your child. It is long, because there is a lot of relevant information, so we have divided it into different sections:

- ✓ Part 1: Key information about what happens before care proceedings start – see page 4
- ✓ Part 2: Emergency protection of vulnerable children – see page 11
- ✓ Part 3: Care proceedings and the court process – see page 16
- ✓ Part 4: Where to get more information – see page 41

Care proceedings are quite a complicated process and you may want to ask a friend, or your solicitor to explain anything in the advice sheet that you don’t understand. You can also call Family Rights Group advice line for further information and advice (details at the end of this advice sheet).

We have included the references for all the legal and practice requirements in endnotes which you can find at the end of the advice sheet. For full details of all the documents referred to in the endnotes, see the references section, also at the end of the advice sheet.

**Note: “Social services” are now known as “Children’s Services”. This is how they are referred to throughout this advice sheet.**

Key terms used in this advice sheet include:

**‘Accommodation’** is when a child is being ‘looked after’ by Children’s Services with the agreement of the parents or others with parental responsibility. It is sometimes called section 20 (s.20) accommodation. For more information about it see FRG advice sheet on Family Support <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

### **Child protection enquiries or procedures**

Children’s Services have a legal obligation to look into your child’s situation if they receive information that makes them suspect that they may be at risk of **significant harm**. This will normally involve them seeing your child unless they can find out enough information about them from other sources, for example by asking their teacher. If there are on going concerns about your child’s safety and well-being a **child protection conference** may be arranged. The purpose of the conference is to decide if your child needs a **child protection plan** to be drawn up to monitor their safety and well-being. This will only happen if the conference thinks that your child has been abused or injured in some way or is at risk of harm – through neglect, physical, sexual or emotional abuse. For more information on this see FRG advice sheet: Child Protection Procedures: <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

**‘In care’** means that the child is under an interim or full care order or an emergency protection order made by the court. For more information see FRG advice sheet on Care (and related) proceedings <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

**‘Looked after’** means that the child is in the care system, either under a court order (in which case they are ‘in care’), or with your agreement (in which case they are ‘accommodated’). See above.

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**Parental responsibility (PR)** means the legal right to make decisions about how a child is raised. Those who have parental responsibility include:

- mothers;
- fathers who have been married to the mother at any time since the birth of the child or are jointly registered on the birth certificate as the father (after 1.12.03) or have acquired PR by formal agreement with the mother or by court order;
- anyone who has a child arrangements order (saying the child will live with them), a residence order, a special guardianship order or an adoption order on the child; guardians; step-parents who have acquired PR by formal agreement or court order.

For more information about parental responsibility, see FRG advice sheet [Parental Responsibility](http://www.frg.org.uk/need-help-or-advice/advice-sheets): <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## PART 1: KEY INFORMATION ABOUT WHAT HAPPENS BEFORE CARE PROCEEDINGS START

### Who can normally make decisions about my child's care?

The right to decide how a child is raised and cared for belongs to anyone who has 'parental responsibility' for them. Parental responsibility is defined on page 3.

### When can Children's Services get involved in arranging my child's care?

Children's Services (previously known as social services) are responsible for making sure that children are safe and well enough cared for by their parents or the person looking after them.

Sometimes Children's Services receive information that makes them worry about a child's welfare. If they believe that your child may be harmed, they must take action to protect your child. Depending on the information they receive they may:

- make **child protection enquiries** and make plans to keep your child safe; or
- decide to apply straight to court if they think your child is or may be suffering harm and they can't be protected in some other way.

However, it is important to note that:

- ***Children's services must get the permission of the court to remove your child against your wishes.*** Here 'court' means family court judges or magistrates who make decisions about children; and
- the only time Children's Services won't need either your or the court's permission remove your child is ***if they think your child is in immediate danger in which case they can ask the police to use their powers to keep them safe*** (for more information, see page 12 below).

### What are child protection enquiries?

Children's Services sometimes receive information from a member of the public or another professional (such as a teacher or doctor)<sup>1</sup> who thinks that your child may

not be safe. In these circumstances they must make enquiries to find out if the child is safe and well cared for.

These enquiries are called “child protection enquiries” or “a child protection investigation” or “section 47 (s.47) enquiries.” The aim of the enquiries is for Children’s Services to:

- gather information about your child’s circumstances;
- support you to care better for your child; and
- decide whether they should take any action to keep your child safe or promote his/her welfare. This might include arranging a child protection conference to see if a child protection plan is needed for your child or holding a **legal planning meeting** to decide whether they need to start care proceedings to remove your child from home.

For more information, see FRG advice sheet 9 on Child Protection Procedures <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## **Will my wider family be involved at this stage?**

If Children’s Services are concerned enough about your child that a child protection plan is being drawn up, it is a good idea to involve any of your relatives and friends as soon as possible. They can help you to keep your child safe and if, for any reason, social workers think it is not safe for your child to remain with you, they may be able to look after your child instead of them going into care.

Government guidance says: ‘It is important that wider family are identified and involved as early as possible as they can play a key role in supporting the child and help parents address identified problems. Where problems escalate and children cannot remain safely with parents, local authorities should seek to place children with suitable wider family members where it is safe to do so.’<sup>2</sup>

It is important that you tell the social worker straight away about any family members who can help you and to ask them to get in touch with the social worker direct. You can also ask the social worker to arrange a **family group conference** to help them to get involved in making safe plans for your child.

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## **What is a Family Group Conference?**

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A family group conference (FGC) is a **family-led** decision-making process. The whole family comes together to make plans and decisions for a child who needs to be kept safe and able to thrive. Professionals (for example social workers) set out their key concerns which must be addressed in the plan at the start of the meeting. They are also involved in agreeing the plan for your child (provided it is safe) including any support Children's Services, will provide in the last stage of the meeting.

FGCs are a good way of getting your wider family involved in trying to find solutions that will keep your child safe within the family. The government is now encouraging the use of FGC's: official guidance says that before issuing care proceedings Children's Services should do what they can to see if your child could be safely cared for by a relative or friend. It says that Children's Services should consider referring the family to a family group conference unless it would cause a risk to the child. Many courts now expect that families will have been offered an FGC before court action starts.

So if Children's Services have concerns about your children and you think they may be considering taking legal action, you could ask whether they can refer you for an FGC to give you and your family a chance to come up with a safe plan for your child. This could be your relatives and friends giving you more support to care for your child or someone else in your family offering to care for your child if Children's Services say that they cannot remain with you.

For more information see advice sheet on [Family Group Conferences](http://www.frg.org.uk/need-help-or-advice/advice-sheets) <http://www.frg.org.uk/need-help-or-advice/advice-sheets> or contact FRG advice service – contact details at the end of this advice sheet.

***Note: It is important that members of your family come forward to offer their help as soon as possible – if they delay they might be told it is too late.***

## When can Children's Services start legal proceedings?

If you haven't been able to sort out the things that Children's Services are worried about and there are continuing concerns about your child's safety and well-being, Children's Services may consider applying to court for a care order to remove your child from your care. ***However, unless there is an emergency, they have to show the court what work they have done to support you and your family to resolve their concerns before going to court.***<sup>3</sup> This should normally include taking the following steps:<sup>4</sup>

- 1. Legal planning meeting:** Children's Services will usually take advice from their legal department about whether or not there is enough evidence to apply to the court for an order to remove your child.
- 2. Letter and meeting before proceedings:** Children's Services should have sent you (the parents and others with parental responsibility) a letter setting out their concerns before they start care proceedings to remove your child from your home.<sup>5</sup> This letter should invite you to a pre-proceedings meeting to discuss what you need to do to be able to keep your child safely and avoid court proceedings.
- 3. Letter of issue:** If Children's Services start legal proceedings they must send you a letter of issue to tell you that legal proceedings have been started.

## What happens at a legal planning meeting?

If social workers decide that your parenting is not improving enough to protect your child from significant harm, they will call a **legal planning meeting**. This could also be recommended by members of a review child protection conference. The legal planning meeting is for social workers and Children's Services' lawyers to decide, on the basis of the evidence that has been gathered about your child's circumstances, whether it is in your child's best interests:

- for you to be given a further period of support to improve your parenting, or an opportunity to find someone else in your family to care for your child. The aim of this would be to avoid social workers asking the court for an order giving

them permission to remove your child from your care if suitable care for your child can be provided in the family; or

- to be removed from your care straight away. In this situation, they will normally plan to apply to court straight away to ask for an order to remove your child from your care, whether you agree or not.

In either case, they should send you a letter informing you of their plans (see below). You will not be invited to this meeting.

## **What is a letter before proceedings?**

If Children's Services decide you should be given a further period of support to improve your parenting, they should send you a **letter before proceedings** telling you this. This letter should explain that court proceedings are likely but that you are being given a last chance to improve your parenting to avoid your child being removed. It will also:

- a. Set out what the concerns are about your child's safety,
- b. Set out what you need to change/improve in your parenting to make sure your child is safe and to avoid your child being removed from your care;
- c. Set out what help you will continue to be given to keep your child safe;
- d. Invite you to a pre-proceedings meeting to discuss the improvements you need to make and
- e. Give you information about how you can get free legal advice and representation.

If you receive a letter before proceedings, ***it is really important that you see a solicitor specialising in children's law immediately***. Children's Services should send you details of local specialist solicitors. You should give your solicitor a copy of the letter you have received. If you give them a copy of the letter before proceedings you will not have to pay their costs.

## **What is a pre-proceedings meeting?**

The pre-proceedings meeting is a last opportunity for you to discuss with Children's Services what they still want you to do to be able to care safely for your child so that they do not need to be removed from your care.

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You should be invited to this meeting in the pre-proceedings letter. ***It is really important that you go to this meeting and that you ask a solicitor specialising in children's law to go to the meeting with you.*** You should also let the social worker know that you will come to the meeting.

Before you go to this meeting, it is important that you prepare with your solicitor what you want to say about any changes you will make. You will normally be given a further 6 weeks to make necessary changes to keep your child safe, before Children's Services apply to court for an order to remove your child.

It is also very important that, if you have not already done so, you **involve your wider family** immediately to find out how they can help you keep your child safe.

This might involve them either:

- supporting you to care for your child or
- if social workers decide that your child cannot remain safely in your care, finding out if they would be willing to look after your child for a period of time whilst you try to improve your own situation.

It is important that you have this discussion with your family before you go to the **pre-proceedings meeting** so you can tell the social worker at the meeting how they can help.

If social workers tell you at the pre-proceedings meeting that they don't think it is in your child's best interests to remain in your care, they may ask you if there is anyone in your family who could care for your child on a short (or even long term) basis. It is really important you tell them if you know of anyone in the family who would be willing and suitable to care for your child. It is also important you ask that family member to contact the social worker directly.

You can also ask the social worker to arrange a **family group conference** to enable your whole family to meet together to make a safe plan, including identifying who in the family could care for your child if you cannot (see page 5 for more information). Some Children's Services Departments do this routinely, others don't but you can always ask for this. You can also point out to the social

worker that government guidance recommends that Children's Services should consider making a referral for a family group conference 'if they believe there is a possibility that the child may not be able to remain with their parents... unless this would place the child at risk.'<sup>6</sup>

## **Do I have to involve my wider family?**

Even if you feel reluctant to involve them, it is really important that your whole family are involved in discussions with the social workers about plans for your child at the earliest possible stage. Your family could help you to resolve things and they might also be able to act as a back up for you if you are not able to continue caring for your child. ***If they don't offer to help until later they might be told it is too late and your child could be removed from your family.***

Children's Services should have already spoken to members of your family (if you agree) but if they haven't then ask the social worker to invite them to a meeting to explore what support they can offer. They could also offer a family group conference – see page 5 above.

## **What is a letter of issue?**

If Children's Services decide it is not in your child's best interests to wait any longer for you to sort out your difficulties and that your child should be removed from your care straight away, the social worker may apply to court for an order saying that your child should be removed against your wishes. In these circumstances, the social worker should send you a 'letter of issue', informing you that legal proceedings are being started and that *you should see a solicitor specialising in children's law immediately*. As a parent, you will not have to pay your solicitors costs if you give them this letter of issue.

## PART 2: EMERGENCY PROTECTION OF VULNERABLE CHILDREN

### What happens if Children's Services think my child is in immediate danger?

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If Children's Services think that your child is in immediate danger and needs to be made safe straightaway, they can take a number of steps to protect your child.

They can:

- ask the person who they think is putting your child in danger to leave your home and keep away from your child. But they will only do this if you agree to ensure that person keeps away. If that person agrees to move out/keep away in the short term whilst investigations are carried out and protective plans are made, Children's Services can help that person to find somewhere else to stay;<sup>7</sup>
- discuss with you whether you will agree for your child to be looked after by Children's Services (known as s.20 or 'voluntary accommodation');<sup>8</sup>
- apply to the court for an 'emergency protection order';<sup>9</sup> or
- ask the police to take your child into 'police protection' for up to 72 hours.<sup>10</sup>

### What is voluntary accommodation (or s.20)?

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S.20 accommodation is when a child goes into the care system **by agreement** between the social worker and the parents or others with parental responsibility (instead of a court order). When you agree with the social worker that your child will be **looked after** (but there is no court order) you still have **parental responsibility** for your child and Children's Services does not. This means that you have the right to agree or disagree with plans made for your child by the social worker.

Before your child becomes looked after in s20 accommodation, you should be asked to agree the arrangements for their accommodation. It is good practice for this to be in a **written** agreement<sup>11</sup>, but you might be asked just to agree it with the social worker. It is important that the social worker explains the arrangements to you in language that you can understand. If English is not your first language, and

you do not feel confident speaking or reading English, it should be explained to you by an interpreter, or if it is in writing, translated into your own language.

The social worker should tell you that you can remove your child from accommodation at any time. This should be stated in any written agreement.

The social worker and/or the written agreement should tell you the arrangements for

- where your child will be living,
- who will be looking after him/her,
- what are the arrangements are for contact

The social worker should not try to place any restriction on your right to remove your child from accommodation, for example, the written agreement must not say 'you must give 2 days notice to Children's Services before removing your child'.

If the agreement is in writing, you should be asked to sign it. If you don't understand the agreement, you should be given the opportunity to seek legal or other advice before you sign it. Even if you don't sign a written agreement, be sure that you fully understand what you are agreeing to. You should never feel forced to agree to your child being looked after or to particular plans being made for them.

When a child is provided with s.20 accommodation, they are **looked after**. This means that Children's Services become responsible for them and a whole range of duties apply. This includes a priority list of who your child should be placed with when they are looked after: suitable parents are first, suitable relatives/friends are next followed by unrelated foster carers or residential care. Also, if your child is a baby or is very young, and social workers have mentioned any possible plan for your child to be placed in a **foster for adoption** placement (see page 16 below), it is very important that you get legal advice from a solicitor or Family Rights Group's advice service immediately.

### Foster for Adoption

In some circumstances Children's Services may suggest placing babies or very young children with foster carers who are also approved as prospective adopters. This is called **fostering for adoption**. These adopters could go on to adopt your child if they cannot return to your care or the care of anyone in your family and the court decides an adoption order is best for your child. Unless there is a care or emergency protection order over your child, Children's Services can only place your child with foster for adoption carers if you agree. **If this is suggested for your child it is essential that you take legal advice from a solicitor specialising in child care law and/or FRG advice line immediately** – contact details in part 4 of this advice sheet.

If you do not agree for your child to be in voluntary accommodation, but Children's Services believes that your child needs urgent protection, they can ask the court for an emergency protection order (EPO).

### What is an emergency protection order?

Children's Services can ask the court for an emergency protection order or 'EPO'.<sup>12</sup> This gives them some parental responsibility, including the right to:

- take your child into its care;
- keep your child from returning to your care – for example, by keeping him or her in hospital or with foster carers; or
- see your child, if without a good reason you or someone else with parental responsibility has refused to allow this.

Children's Services can ask the Court to make an EPO at a hearing you don't know about, called a 'without notice' hearing.<sup>13</sup> However, government guidance says this should only happen in very exceptional circumstances. If it does happen the whole hearing must be recorded in full. The court must give full reasons in writing for making the order and why it took place without you being told about it. This information should be available to you at the next hearing which you will be told about.

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An EPO lasts up to eight days, but Children's Services can ask the court to extend this for up to seven more days at a further hearing. If you are a parent, a person with PR or the child's carer and you were not present when the EPO was made, ***you can apply for it to be discharged.***

When making an EPO the court may:

- add a direction that ***contact*** takes place between the child and any named person. This can include things like where contact will take place, or whether it should be supervised or not and, if so, by whom.<sup>14</sup> A parent, a person with parental responsibility or any person with whom the child was living may apply to the court to vary the directions about contact;
- make an '***exclusion requirement***'.<sup>15</sup> This enables the court to order a person who Children's Services believes is a danger to your child to leave the home, instead of your child having to leave their home. But this kind of order can be made only if you agree, and you must make sure that the person leaves and stays away.

A child who is under an emergency protection order is a '***looked after***' child, which means that Children's Services have certain powers and duties in respect of them.<sup>16</sup> In particular they must:

- consult parents/others with parental responsibility about their plans for the child<sup>17</sup>,
- draw up a written care plan setting out the arrangements for the child, either before, or within 10 working days of the child becoming looked after;
- give a copy of this plan to the parents, the child, others with PR and other relevant people; and
- unless the court makes a direction about contact, allow the child reasonable contact with
  - parents/any person with parental responsibility
  - any person with whom the child was living immediately before they were taken into police protection

- any person with a child arrangements order made by the court that allows the person to spend time or otherwise have contact with the child.<sup>18</sup>

These and other relevant duties are set out in detail in FRG advice sheet 'Duties of Children's Services towards children in the care system'.

<http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## **What is police protection?**

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If you do not agree to your child being in voluntary accommodation, and Children's Services believe your child is in need of such immediate protection that they do not have time to apply to court for an EPO, then they can also ask the police to take your child into police protection. If the police agree they have the power to:

- take your child from your home; or
- stop your child being taken away from where s/he is living (e.g. hospital).<sup>19</sup>

However the Court of Appeal has said that wherever practicable Children's Services should try to work in partnership with the parent and apply for a court order in preference to using police protection.<sup>20</sup>

If the police take your child from your home, Children's Services must then find your child somewhere to stay while under police protection. This would normally be with other family members or foster carers. Your child can be taken into police protection for, at most, 72 hours. If Children's Services thinks your child should be taken away from home for longer, it must ask the court for an order.

When the police take a child into police protection, the ***officer in charge (and thereafter Children's Services) must***

- tell the parents/any person with parental responsibility and anyone who the child was living with immediately before they were taken into police protection:
  - What steps the police have taken and why,
  - What they plan to do next<sup>21</sup>
- allow the following people to have ***contact*** with the child, if they think this is in the best interests of the child

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○ parents/any person with parental responsibility or anyone the child was living with immediately before going into police protection  
any person with a child arrangements order made by court, which states that person should spend time with or otherwise have contact with the child.<sup>22</sup>

## **What is fostering for adoption?**

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**If your child is very young** AND you agree to your child being looked after in the care system or the court makes an emergency protection order or a care order, Children's Services may consider placing him/her with foster carers who are also approved as prospective adopters. The idea behind this is that if your baby does not return to your family (for example because the court makes a care order), your baby could stay with these carers long term. These foster carers may even go on to adopt him/her if the court makes an adoption order. This type of placement is called a foster for adoption placement.

**If this has been mentioned in your case, it is essential that you take legal advice as soon as possible.** You can contact Family Rights group or contact a solicitor – for contact details see page 41.



## PART 3: CARE PROCEEDINGS AND THE COURT PROCESS

### When can Children's Services apply for a care order?

If Children's Services thinks there is **reasonable cause to believe** that your child is suffering or is likely to suffer significant harm, either because:

- the care you are giving him/her is not adequate or
- your child is out of your control,

then they can apply to the court for a care order to authorise the long term removal of your child from your care.<sup>23</sup>

Whether or not Children's Services sends you a letter before proceedings (see page 8), or applies for an EPO (see page 13-14), you will find out about Children's Services' application for a care order when you receive a notice from the court.

If you are a parent with parental responsibility, you will be a 'party' to the proceedings.

You may be upset or angry or feel that nobody is listening to you, so you will need someone to represent you and explain what is happening. ***It is therefore very important that you get legal advice from a solicitor who specialises in children law immediately.***

### How do I find a solicitor?

You will find details of how to find a solicitor who specialises in children law on page 43 of this advice sheet. It is a good idea to choose a solicitor who knows the law about children and how the courts make decisions in these types of cases. These solicitors are usually members of the Children Panel of the Solicitors' Regulation Authority.

The solicitor will act on your behalf in dealing with Children's Services and can represent you in court (although he or she may decide you need a barrister to represent you in court).

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## **Will I have to pay my solicitor?**

***If you are a parent or a person who has parental responsibility for the child,*** you are entitled to legal aid. You will normally be able to receive this however much money you have. This will pay the cost of a solicitor representing you in court proceedings and, if you have received a 'letter before proceedings' it will also cover the cost of the solicitor negotiating with Children's Services on your behalf before the proceedings have started (as outlined on page 8 above).

***If you are not a parent or person with parental responsibility for the child,*** you will only get public funding if you are a party to the proceedings because you are applying for a private law order (child arrangements order for the child to live with you, or special guardianship) as an alternative to the children going into care. You will be assessed under the Legal Aid Agency's "means and merits test".

- The 'means' test means that your income and capital must be below specified levels to qualify for legal aid; and
- The 'merits' test means you will have to show that your case is likely to succeed on the merits).

Otherwise you will have to pay for your legal costs.

***If you are thinking of attending court without a solicitor*** you can read the rest of this advice sheet to find out what to expect. You can also contact Family Rights Group advice service for specific advice – contact details on page 41.

## **What happens when care proceedings start?**

Care proceedings are started in the Family Court. They are dealt with by the court under a system known as the Public Law Outline which gives **guidance to courts** on how to conduct care proceedings.<sup>24</sup> Alongside this, the government has also issued **guidance to Children's Services** on how they should work with you before and during care proceedings.<sup>25</sup> These two pieces of guidance work together to make sure that:

- Children Services support parents and their relatives to resolve the issues in dispute before the proceedings are issued, and, where this is not possible, that

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they explore whether there is anyone else in the child's wider family who is able and suitable to care for them<sup>26</sup>;

- if proceedings are issued, the court will expect to see evidence of the pros and cons of all possible long term options for your child set out in the social work statement, including any assessment of you and other family members who could provide alternative care if your child cannot remain with you.

So, if you think there is someone in your family who can help you and/or you have not already had a family group conference (FGC), but would like one, you should discuss with your solicitor immediately whether this can still be arranged.

The court will closely manage the progress of the case and set a time-table which best meets the child's needs and ensures there is no unnecessary delay.

## **How long will the case take?**

Care proceedings must be finished within 26 weeks or less. The case can only be extended beyond 26 weeks if the court gives permission for this; it can only give this permission if the judge thinks it is necessary to enable the court to deal with your case fairly.

All courts are applying this timetable for new cases which makes it very important that you:

- Always take legal advice before agreeing to your child leaving your care, even for the short term. You can get legal advice from a solicitor specialising in children law – to find a solicitor see page 43 of this advice sheet.
- Make sure you tell the Court at the beginning of the case about any support or assessment you need, to help you keep your child safe with you or have them return home if they are already looked after in care;
- **Tell the social worker and the Court immediately and in writing of any friend or relative who could look after the child instead of you if need be. They would need to be assessed** to see if they would be suitable to

care for your child and this should be **alongside assessments of you**, not after assessments of you have been completed. This doesn't in any way rule you out, but if they only offer to care for your child later in the case, **there is a real risk the Judge will decide it is too late** for them to be considered.

- If the goal of finishing the case within 26 weeks feels too rushed for you or your child, because of particular circumstances in your case such as a wider family member who comes forward very late in the proceedings to offer to care for your child<sup>27</sup>, ask your solicitor to raise this with the Judge. You can also take advice from FRG Advice Service – contact details on page 42

### **Parents/other people with parental responsibility**

If you are a parent or carer of the child, you will be a 'party' to the proceedings. You will receive a copy of Children's Services' application and will be told the date, time and place of the first hearing (known as the Case Management Hearing). This takes place between 12 -18 days after Children's Services applying for the order.

If you have not already got a solicitor, you should ***go and see a solicitor who specialises in children law immediately***. As stated on page 17, if you are a parent or you have parental responsibility for the child, you will not have to pay as you will be entitled to free public funding to pay the solicitor's fees.

### **Relatives and friends:**

If you are not a parent or carer and you wish to be joined as a 'party' (i.e. to be allowed to participate in the case), it is possible to do this but you will need to ask the court for permission to join in the proceedings and complete the necessary paperwork – ask the court office for form C2.

You may be able to get Legal Aid to cover your legal costs but you will have to satisfy the 'means and merits' test – see page 17. You can take advice about this from a solicitor on the Children Panel.

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## **What happens when Children's Services make an application for a care order?**

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As soon as Children's Services have issued their application for a Care (or Supervision) Order at the court, they must file certain documents with the court, and send them to everyone who is a party (or involved in) the case. These documents include

- The social worker's chronology and statement, which should be quite a detailed document setting out the order they are seeking, the main events which they are relying on as the basis for seeking that order, your child's needs, your/the parent's capacity to meet those needs and evidence about the pros and cons of all possible options for your child's care (including all possible options for the child being cared for within your wider family)(see page 18 above);
- Any record of assessments that they have carried out on family or friends that they intend to rely on;
- The threshold statement – this should set out in the basis on which they are seeking a care order; and
- The proposed care plan.

Children's Services must also tell the court at this stage if they think that there will be a dispute about where your child should live until the final hearing. If there is likely to be a dispute, the court will set a date for a hearing to decide where your child should live until the case is finally decided.

Children's Services must also include a list of other records that they hold, including any **record of discussions with the family** that they have on their files, such as notes from any meetings you have had with Children's Services. But the documents themselves only need to be disclosed if a party in the case asks for them, or the court says so.<sup>28</sup>

## **What happens at the case management hearing (CMH)?**

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This is the first hearing which takes place roughly 12 days after the case is started

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in court. The court will not make a final decision about whether to make a care or supervision order at the case management hearing – they will do this at the final hearing unless agreement is reached between you and Children’s Services before then.

At the CMH, the court will

- consider the immediate **arrangements for your child** and may make interim (temporary) orders about where your child will live and who they will see from now until the final hearing of the case even if you don’t agree. Where either of these things is contested the court may set a date for a longer hearing when it can hear evidence, or it may have already set a date for a longer hearing when the issue can be decided;
- identify the key issues and the evidence necessary to resolve those issues;
- give **directions** about what needs to happen and what evidence needs to be gathered for the case to proceed; and
- decide whether any experts reports are necessary.

***It is very important that you attend the CMH because it is your chance to ask the court to consider whether your child can live with someone in your family until the final hearing, if a decision is made that they cannot stay with you in the interim.***

**i) Arrangements for your child:**

Children’s Services will make proposals about where your child should live and whom s/he should see until the final hearing. This will be set out in an **interim (temporary) care plan** which they will normally ask the court to agree by making an interim order to last until the final hearing of the case.

Children’s Services must show that they have discussed this interim care plan with you and your child and that the plan will meet your child’s racial, cultural and religious heritage.

***If you do not agree with the proposals and you feel that someone in your family could look after your child up to the final hearing, you should tell***

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***Children’s Services, your solicitor and the court immediately*** so that the court can consider what is best for your child.

Once all the proposals have been considered by the court, it will make an ‘interim order’ that says what should happen to your child for the time being. The court can make any of the following types of order at the case management hearing:

### **Interim care order (ICO)**

An ICO is an order that gives Children’s Services the power to say where your child will live, even if you don’t agree, and to remove your child from home. Under an ICO, Children’s Services will share parental responsibility for your child with you but gets the power to decide to what extent you should be allowed to use your parental responsibility.<sup>29</sup>

The court can only make an ICO if it decides there are good reasons to believe your child has been seriously harmed or is likely to be seriously harmed, and that an ICO is the best thing for your child. Case law has established the following principles in relation to ICOs:

- the decision taken by the court on an interim care order application must be limited to issues that cannot await the final hearing;
- separation (removal) of a child from their parents is only to be ordered if the child's safety demands immediate temporary protection.<sup>30</sup>

The ICO order can last up to the time of the final hearing, or for a shorter period if the judge thinks that is best for your child.<sup>31</sup> Usually, the order would be made to continue until the final hearing.

The court can also make an ‘exclusion requirement’ alongside the ICO, which can force an adult to leave your child’s home if the court believes this person is a danger to your child. However, this can happen only if you agree to make sure the person does leave and stays away. If you do not agree, the court may take another type of action to protect your child, such as removing him or her from home.<sup>32</sup>

When Children's Services applies for an ICO, it must have prepared a social work statement setting out its concerns and an interim care plan. It must show that it has discussed this plan with you and your child (if this is possible) and that the plan properly pays attention to your child's racial, cultural and religious heritage. Children's Services will ask the court to agree to this plan.

If you disagree with the interim care plan and you feel that someone in your family could look after your child up to the final hearing, you should tell the social worker, your solicitor and the court so that the court can consider what is best for your child. If you have not already been offered one, you could ask for a Family Group Conference to be arranged (see page 6).

### **Interim supervision order (ISO)**

An interim supervision order does not give Children's Services parental responsibility or the right to remove your child from your care, but it does mean that Children's Services must monitor how your child is being cared for by you or anyone else in the family who is looking after them. The court can make this type of order only if it decides that there are good reasons to believe your child has been seriously harmed or is likely to be seriously harmed, and that this is the best thing for your child.

### **Interim Child Arrangements Order (stating where the child should live)<sup>33</sup>**

The court can make an interim child arrangements order (saying where and with whom the child should live) if it agrees that someone else, for example a family member, can care for your child until the final hearing. Usually the court will make an interim supervision order as well, unless it is satisfied that the child is safe without it. If a child arrangements order is made, saying where the child should live, you would then share parental responsibility for your child with the person named in the order, and Children's Services would not have parental responsibility.

### **Interim child arrangements order (stating who the child should see)**

The court must consider what arrangements are proposed or have been made for

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your child to see members of their family if he or she is not living at home. The court must also invite the people involved to comment on the arrangements.

If there is any disagreement about these arrangements or the court is not satisfied that what is proposed is best for your child, then it can make a child arrangements order setting out what the arrangements for contact should be.<sup>34</sup> If you are not happy with the contact arrangements, discuss them with your solicitor so that your views are presented to the court.

## ii) Court directions:

To make sure all the necessary evidence and paperwork is ready for the final hearing, the court will make a number of “directions” (plans) about how the case should be prepared, for example:

- Confirming the **timetable** for the case to meet the child’s needs. All courts will be trying to achieve a target of completing cases within 26 weeks, see pages 18-19 above;
- Which court will hear the case and whether it should be transferred to a different judge (for example one with more experience in a particular kind of case);
- Whether arrangements need to be made for a **contested interim hearing** where you do not agree with Children’s Services’ plans for the care of your child up to the final hearing;
- Whether there are any **other potential carers in your family** network if the court decides your child cannot remain with you. ***It is therefore very important that you tell your solicitor and social worker as soon as possible about any family members who would be willing to put themselves forward.*** If you do not mention them until later in the proceedings, it may be too late for them to be considered- see page 19 above:
- Whether anyone else who is important to the child, such as a relative, should be joined as a party in the proceedings and/or might become a carer for your child if s/he cannot remain at home with you;
- Whether there should be a **family group conference** (see page 6) or explore other help to resolve the dispute with Children’s Services such as family

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mediation. But it is very unlikely that the court would allow this if it would delay the case beyond the 26 week time limit, although if Children's Services have not already worked with your whole family to identify suitable family options for your child, this may still be allowed if your child may be removed from your family;<sup>35</sup>

- What needs to be done, and by when, for the case to proceed to a final hearing including: what additional **statements, reports and assessments** it needs, and who should prepare them – this may include social workers, family centre workers, teachers and other school staff, doctors, health visitors and any other professionals working with the child or your family. This would also include any plan your family has made resulting from a family group conference;
- Whether any **expert reports** (for example doctors, psychologists, psychiatrists) are necessary to deal with your case properly, and if so, when they can see your child and when their reports must be filed;
- Whether you and your child should go to a **residential unit** to be assessed together but note that any residential assessments will normally have to be funded by Children's Services as your legal aid will not cover the costs of this;
- Whether evidence needs to be obtained about your child's **ethnicity, language, religion and culture**;
- Asking the Children's **Guardian** (see below on page 27) **to prepare an analysis** of the case and make initial recommendations;
- Any other procedural steps which need to be taken before the final hearing.

These kinds of directions may arise where the court thinks that a professional who has expert knowledge about children should provide information. This means that you may be asked to:

- attend a family centre with your child for an assessment; or
- go to appointments at a hospital to see a specialist.

Your solicitor can also ask the court for permission to get a specialist to help with your case, for example, by assessing your ability to care for your child, and make a report to the court.<sup>36</sup> But you don't have a right to bring in outside experts to give an opinion – you need the court's permission and the Judge will only give this

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permission if they think the expert assessment is really needed to resolve the case fairly.<sup>37</sup>

You should have a chance to see any reports. Ask your solicitor to help you go through them as soon as you receive them.

**iii) Scrutiny of the care plan and identifying key issues:**

Many courts now expect parents to have put forward the names of anyone they want assessed as an alternative carer for the child by the case management hearing (Day 12) at very latest. Find out whether anyone else in your family network is willing to care for your child if you are not allowed to and if so, write to the social worker immediately telling them this and asking for that person to be assessed. Also tell your solicitor straight away and make sure you and your solicitor have copies of any letters sent. For more information see pages 18-19 above.

Your solicitor should meet with Children's Services' solicitor and the solicitors representing any other parties in the case at least two days before the case management hearing to see what issues are agreed and what is not agreed and whether further experts need to be instructed etc. It is really important that you work closely with your solicitor before this meeting so that they know what you think and want and so that they have clear instructions from you about what you do and do not agree with.

If you think the current arrangements are not right for your child, you should also discuss with your solicitor whether or not you should apply for any other orders at an interim hearing, for example about the arrangements for your child to see or live with members of your family until the case is finally decided.

***If you do not have a solicitor and are representing yourself***, the court will give directions about how you can be involved in this advocates' meeting. You should be included in at least part of it and do make sure you say what you want

especially about any suitable relatives you have to care for your child until the final hearing.

## **Who is appointed as your child's guardian?**

Although there is often a delay, the Court will appoint an independent social worker (called a "Children's Guardian"<sup>38</sup>) to give the court information and an opinion about what is best for your child. This person is appointed from CAFCASS (Children and Family Court Advisory and Support Services). The Children's Guardian does not work for Children's Services that is applying for the court order.

The Children's Guardian represents your child in the case. Their job is to advise the court on what is in the best interests of your child. To do this, they must find out what Children's Services have done to help you and why they are worried about your child.

The Children's Guardian will always see your child. If s/he is old enough to talk, they will discuss the situation with him/her to find out what he or she would like to happen. The Children's Guardian will also read the case files.

The Children's Guardian will need to see you to find out what has happened. You might want to make a list of all the important things you want to say or discuss it with your solicitor beforehand. You may also want a family member or friend who is offering to help to speak to the Children's Guardian and you can also ask the Guardian to talk to other people who know you and your child.

The Children's Guardian must prepare a written report for the court. Your solicitor should receive a copy of this report and will discuss it with you. The court will normally follow the recommendations in the Children's Guardian's report. If it does not, it should explain why.

## **Who is appointed as your child's solicitor?**

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The Children's Guardian will work with the solicitor s/he has chosen, or who has been appointed by the Court, to represent your child in the proceedings. This solicitor is selected from a list of solicitors who are on the Children Panel because they specialise in representing children in care and other similar proceedings.

Unless your child is very young, the solicitor will talk to him/her but will also work closely with the Children's Guardian about what your child wants and needs and how this should be presented to the court.

However if your child is old enough to understand what is happening, and s/he does not agree with the Children's Guardian's views, the solicitor must take his/her instructions from the child directly. In these circumstances, the Children's Guardian will still report to the court, but will no longer be represented by the same solicitor as your child.<sup>39</sup>

## **What is the issues resolution hearing? (IRH)<sup>40</sup>**

The date for the IRH will be set at the case management hearing. The purpose of the IRH is for the court to:

- Scrutinise the care plan, identify the issues which are still not agreed that need to be decided by the court at the final hearing; and
- See whether there can be an agreement reached about any issue such as your child's final/future placement, and contact. Such an agreement might make a final hearing unnecessary
- Consider whether the IRH can be used as a final hearing.
- See what directions have already been given and what further directions are still needed to prepare the case for the final hearing,
- Consider any application by anyone in the case to extend the timetable beyond the 26 week time limit.

Again, your solicitor should meet with Children's Services' solicitor and the solicitors representing any other parties in the case no later than 7 days before the Issues Resolution Hearing to prepare for it, so it is really important that you work

closely with him/her before this meeting so that s/he knows what you think and has your clear instructions about what you agree/do not agree.

***If you do not have a solicitor and are representing yourself***, the court will give directions about how you can be involved in this advocates' meeting. You should not be entirely excluded from it.

## **What is alternative dispute resolution?**

All the way through the case the court will be encouraging all parties to try to find solutions without the need for a contested hearing and it will advise about alternative dispute resolution, for example having a family group conference or asking a mediator to help you resolve the dispute with Children's Services.

If you have not already had a family group conference before the case started in court (see page 6), you could ask for one now, but it may not be allowed if it means the case will take longer than the 26 week time limit. (For more information about this, contact Family Rights Group and see FRG Advice Sheet on Family Group Conferences <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## **What can I do to prepare for the final hearing?**

Your solicitor will receive copies of all the statements and reports filed in the case and also a copy of the **care plan** prepared by Children's Services which sets out their plans for how your child should be cared for in the long term if a care order is made. It is important to read all these papers and talk to your solicitor about them. You should ask your solicitor to explain anything that is not clear.

If English is not your first language you can ask for a written translation or use an interpreter to help you. If you are disabled, your solicitor should assist you in getting help to understand what is in the statements. This could be, for example, an advocate or large print text, depending on your disability.

The court will ask you to make a statement too. You can also ask anyone in your family, or friends, to make a statement and come to court as your witness if you

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think they have information about your child, or are willing to care for him/her if you are not allowed to. You should give your solicitor the names of these people **as soon as you can**.

Sometimes your solicitor will talk to you about whether to give the court information about your health. Your GP or another health professional you have seen cannot give the court information about you unless you agree, **except**, in limited circumstances (for example if they were ordered to come to court or there was new evidence of harm to a child not previously disclosed).

***If you give permission for reports to be given to the court, Children's Services and the guardian and their legal advisers will see the report as well as the court.***

## **How can I work effectively with my solicitor?**

You can help your solicitor and yourself by doing the following:

- Get a folder or a special place at home where you keep all the information about the case, like notices from the court and letters from the social worker or your solicitor.
- Have a book to keep a note of telephone calls, conversations or meetings that you have with Children's Services and any other professionals involved with the case. Include the date and a brief note of what was said.
- Keep your own notes about what happened at a contact visit or session at the family centre.
- Always let your solicitor know about letters, special appointments or conversations with Children's Services, including changes to arrangements, such as arrangements for you to see your child.
- Tell your solicitor immediately about anyone in your family network who would be willing to care for your child if you are considered unable to by Children's Services or the court. It doesn't mean you agree you are not able to, but it may help to keep your child within your family network both in the short and/or long term.

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- Before you go to a meeting, see your solicitor or go to court, make some notes of the important things that you want to say or ask.
- Children's Services should help you with transport to get to meetings and special appointments if you need it.
- If you have a problem getting around, or some other disability, talk to your solicitor to make sure that all meetings and visits are at a suitable place.
- Try to get to court at least half an hour before the time of the hearing so you can talk with your solicitor and take part in any discussions that may take place before the court hearing starts.
- Wear smart, comfortable clothes to court.

## **What happens at the final hearing?**

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If it has not been possible to reach agreement with Children's Services at an earlier stage, there will be a final hearing. The court will read all the papers, statements, reports and the care plan before the hearing starts.

You will be represented at the hearing by your solicitor unless they arrange for a barrister to represent you.

Your solicitor or barrister may have another informal meeting before the hearing with the solicitor or barrister working for Children's Services and the solicitor working for the guardian. Your solicitor or barrister will talk to you about what Children's Services and the guardian are going to say about what is best for your child. It is important that you understand what they are suggesting and that you do not agree to things without understanding the full consequences before you respond. It is your solicitor or barrister's job to explain this to you.

If the case goes ahead to a full hearing, the court will hear evidence from the witnesses called by Children's Services or anyone else involved in the case. You might also have to speak in the witness box. The purpose of the court listening to everyone's evidence is to decide what order, if any, to make.

## **How does the court make its decision?**

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The court can make a care or supervision order only if it believes that the 'threshold criteria' have been reached (although this is sometimes agreed between you and Children's services with your respective lawyers beforehand). The **'threshold criteria'** means that:

- At the time Children's Services first got involved in protecting your child, s/he was suffering or was likely to suffer significant harm; and that
- The harm was due to the care being given to your child before the case started not being 'what it would be reasonable to expect a parent to give to him/her' or because s/he was out of your control.<sup>41</sup>

Harm in this context includes children witnessing violence or the 'ill-treatment' of another person in your home.

If the court finds that the threshold criteria have been proved, it should only make an order if it believes that it will help your child. In most cases, the court will look at whether:

- It thinks that the harm or risk of harm is likely to happen again; and
- You have been willing and able to take steps to change in time

If the court believes an order should be made, it will decide what is in your child's best interests according to the **'welfare principle'**<sup>42</sup> and a list of factors known as the **'welfare checklist.'**<sup>43</sup> These factors are:

- Your child's wishes and feelings (their age and understanding will be relevant);
- Your child's physical, emotional and educational needs;
- The likely effect on your child of any change in his circumstances;
- Your child's age, sex, background and any of their characteristics which the court considers relevant;
- Any harm which your child has suffered or is at risk of suffering;
- How capable each of you, as parents, and any other relevant person who cares for him/her, is of meeting your child's needs;
- The range of powers available to the court to make a care or other order.

The order the court makes should be the minimum needed to protect your child.<sup>44</sup> It must consider evidence about all the pros and cons of each option for your child's long term care (including family options) and can only permanently separate your child from their family as a last resort – see page 18 above.

If the court thinks that the 'threshold criteria' (see page 33) have been proved, it may well think that an order has to be made because, although you have been trying your hardest, you still can't provide the right care for your child in time.

There are several possible final orders the court can make:

### **A care order:**

This is an order which places your child in the care of Children's Services and gives parental responsibility to them.<sup>45</sup> This does not mean that you will lose parental responsibility but it does mean that Children's Services can make decisions about what it thinks will be the best arrangements for your child even if you don't agree.

For this order to be made, your child must be under 17 years old (or under 16 if they are married). The Children's Services that looks after your child is usually the Children's Services for the area where your child lives.

If the court decides to make a care order, it must also decide on contact arrangements for you and other family members, such as siblings, to see your child if your child is not returning to your care. You will be able to comment on the contact arrangements Children's Services suggest and can oppose them by applying for a contact order. If you are unhappy about the proposed contact arrangements, make sure you discuss with your solicitor what you want as you can explain to the court why you disagree with what Children's Services are proposing.<sup>46</sup>

### **A placement order:**

In some cases Children's Services may consider that your child should be placed

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for adoption. If your child is adopted, he or she will stop being a member of your family, and will become legally the child of the adoptive parents.

Where adoption is planned, Children's Services will probably apply for a 'placement order' within the care proceedings, in addition to a care order. A placement order allows Children's Services to place your child with prospective adopters even if you don't agree to this.

Children's Services can only apply for this order after your child's permanency report has been prepared and sent, with the Guardian's views and any relevant expert reports from the care proceedings, to an 'Agency Decision Maker' (who is a senior person in Children's services) for a formal decision that adoption is the best plan for the child.<sup>47</sup> See FRG Advice sheet on Adoption for more information about how this decision with reasons should be made and recorded:  
<http://www.frg.org.uk/need-help-or-advice/advice-sheets> .

If Children's Services are granted a placement order allowing them to place your child for adoption against your wishes, there would still need to be further legal proceedings before the court can make an 'adoption order'. However, once a placement order has been made, there are only very limited circumstances in which you can later apply to end it or argue against adoption.<sup>48</sup>

### **A supervision order:**

This means you have parental responsibility and remain responsible for your child's care, but Children's Services have the power to 'supervise' how you care for your child. A supervision order lasts up to one year unless Children's Services ask the court to extend the order (which can be at most two more years).

If a supervision order is made, Children's Services will generally agree a 'contract' or supervision plan with you. This will set out what is expected of you, and the services they will provide.<sup>49</sup>

### **A special guardianship order (SGO):**

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This is an order the court can make to place a child with someone who is not their parent on a long term basis. It is meant to be more permanent than a child arrangements order (saying where the child will live) because you, as a parent, cannot apply to end the order without the court's permission and this will only be granted where you can prove a significant change in circumstances. However, a special guardianship order does not break the legal relationship between you and your child.<sup>50</sup>

When the court makes an SGO, it must also consider arrangements for the child to see other family members and must consider whether or not to make a child arrangements order about this.

If a special guardianship order is made for your child, the special guardian will get parental responsibility for him or her. You will still have parental responsibility as well, but the special guardian has the right to override your wishes if you cannot agree. For more about how special guardianship orders work, contact the Family Rights Group – contact details at the end of this advice sheet. For further information see FRG advice sheet on Special Guardianship: what does it mean for birth parents <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

**A child arrangements order (saying with whom the child should live):**

This order would mean your child would live with someone else, such as a member of your family, without Children's Services being involved. It would give that person parental responsibility for as long as the order lasts, alongside the parents having parental responsibility. There is no restriction on a parent applying to end this order unless the court order says so.

The court may also consider the arrangements for you to see your child if they are not returning to live with you, and for your child to see their brothers, sisters and other relatives, if that would be good for them. Again the court can make a child arrangements order setting out what the contact arrangements will be where these are not agreed with the person holding the child arrangements order that says who the child should live with. (For further information on this see FRG Advice Sheet

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on [DIY Child Arrangements Orders: Information for Family and Friends Carers](http://www.frg.org.uk/need-help-or-advice/advice-sheets)  
<http://www.frg.org.uk/need-help-or-advice/advice-sheets>

### **A child arrangements order (that says who the child should spend time with):**

If your child is not going to live with you, and the court makes a special guardianship order, or a child arrangements order that says where s/he should live, then the court should consider the arrangements for you to see your child, and for your child to see their brothers, sisters and other relatives. The court can make a child arrangements order setting out the contact arrangements that the court thinks are in the child's best interests, if these are not agreed. (For further information about this see FRG advice sheet on [Contact for children in care](http://www.frg.org.uk/need-help-or-advice/advice-sheets) <http://www.frg.org.uk/need-help-or-advice/advice-sheets> or contact Family Rights Group – contact details on page 41.

### **How long does a care order last?**

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A full care order remains in force until your child is 18 years old, unless the court:

- makes a child arrangements order (saying where and with whom the child will live) or special guardianship order before then;
- ends (discharges) the care order because it does not think it needs to continue;
- makes a supervision order instead; or
- makes an adoption order.

If the court makes a placement order to allow Children's Services to place a child for adoption when a care order has also been made, the care order remains in force but does not have effect while the placement order exists.

### **What are the duties on Children's Services once a care order is made?**

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Children's Services must always make plans which will keep your child safe and make sure s/he is well cared for. Their plans for your child (if a care order is granted) will be set out in the care plan filed at court.<sup>51</sup>

The care plan must set out where your child will live: the law says that they must place them with:

- you/their parents/others with parental responsibility if they are assessed as being suitable but if not, then they must give preference to
- relatives, friends or others connected with the child who are assessed as being suitable and are approved as foster carers; but if none
- with unrelated foster carers, or sometimes residential care.<sup>52</sup>

Children's services must also provide support for the placement and comply with other duties on them towards children who are looked after in the care system.

This includes making a ***plan for permanence*** for your child, which could be achieved by

- i) Your child eventually returning home to live with you/their other parent/others with parental responsibility where it is safe to do so – this could be initially under a care order although if the plan is successful Children's Services are likely to want to apply to court to discharge the care order in the long term. Any plan for a child to return home should include an assessment to make sure that the home circumstances are improved and no longer a cause for concern, and appropriate support should be provided<sup>53</sup>;
- ii) Your child going to live with relatives, friends or others connected with the child who are approved as foster carers – again this can be under a care order initially (although the carer would need to be approved as a foster carer) but in the longer term Children's Services are likely to want the carer to apply for a child arrangements or special guardianship order on the child; if that is not possible, then
- iii) Children's Services arranging for other people, for example unrelated foster carers, to care for your child on a long term basis.

Whatever the arrangements for your child, Children's Services must appoint an ***independent reviewing officer*** (IRO) to monitor your child's case and hold regular case reviews, chaired by the IRO, at least every six months to consider how their plans for your child may need to change, whilst s/he is under a care order. You should be involved in making these plans. If you have any concerns about the arrangements for your child after a care order has been made you could discuss it with the IRO.

For more information see FRG advice sheet on Duties of Children's Services towards children in the care system <http://www.frg.org.uk/need-help-or-advice/advice-sheets> or contact FRG advice service – contact details at the end of this advice sheet.

## **How can I apply to end the care order?**

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You can ask the court to end a care order but this is unlikely to happen unless there has been a real change in circumstances from when the order was made.

But if you have already asked the court to discharge the care order in the last six months, and you want to ask again, you must get the court's permission.<sup>54</sup>

You may be able to receive Legal Aid to pay your solicitor's costs for helping you with this, but, it is not automatically granted - you will have to comply with the means and merits test of the Legal Aid Agency – see page 17

When you apply to end a care order, you will have to show the court why you think it is in your child's best interests for the care order to be discharged. The court will then look at any current risk to your child.

The court may decide to replace the care order with a supervision order, which means Children's Services will no longer have parental responsibility for your child but will supervise how you care for your child instead.

If the court discharges the care order, you and any other person with parental responsibility will take over caring for your child. If you cannot agree about the arrangements for the care of your child between you the court can order:

- who your child should live with; and
- what arrangements to be made for your child to spend time with other people they know.

These are known as child arrangements orders.<sup>55</sup>

## **Can I appeal against a care order?**

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You have 21 days from the making of the care order in which to appeal to a higher court for the decision to be overturned. You can only appeal if you have good reason, called 'grounds', which must be either

- The judge made a mistake in law – in other words he or she applied the law wrongly in your case; or
- The judge failed to take into account an important piece of evidence; or
- The judge took into account a piece of evidence that he/she should not have relied on.

It is important to ask the solicitor or barrister who represented you in the care proceedings to advise you on whether you have grounds to appeal.

## **Do I need permission to appeal?**

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It depends on which judge heard your case: if your case was heard by

- magistrates, you do not need permission to appeal;
- a district judge, or a circuit judge, you do need permission to appeal. You must ask the judge at the end of the case for permission to appeal, or, if you did not do that or it was refused, you must make a new application to the higher judge for permission to appeal.

## **Which Court do I appeal to?**

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If your original case was heard by:

- magistrates or a district judge, your appeal will still be in the family court, but you appeal to a circuit judge;

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- a circuit judge, you appeal to the High Court, or if you are appealing against a placement order, to the court of appeal.

## **What do I need to do if I want to appeal?**

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You must file a notice of appeal. This is a document that sets out your grounds of appeal. This must be filed at court within 21 days of the judgment in your case. If you need to apply for permission you must file an application with your notice of appeal.

***Detailed advice on appeals is beyond the scope of this advice sheet, but the most important thing is that you file your appeal notice on time. You should seek further advice about your appeal from a solicitor as soon as possible.***

## **Part 4: WHERE TO GET FURTHER INFORMATION**

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**Citizens Advice** is an independent organisation providing free, confidential and impartial advice on all subjects to anyone. You can find the address and telephone number of your local Citizens Advice in the telephone directory. They may be able to help you find a local children law solicitor and there is also on line advice.

Website <http://www.citizensadvice.org.uk/>

Advice on line Website [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**Coram Children's Legal Centre** operates a Child Law Advice Service which provides free independent legal information and advice to children, parents, carers and professionals on child, family and education law <http://childlawadvice.org.uk/>

**Direct.gov** website has information about legal aid and how to check if you are eligible to claim it <https://www.gov.uk/legal-aid/how-to-claim>

**Family Rights Group:** is an organisation which provides free telephone advice to family members who are involved with Children's Services about the care and protection of their children.

- Contact FRG's telephone advice line for further advice, on 0808 801 0366. It is open Monday-Friday 9.30am-3.00pm.
- You can also visit <http://www.frg.org.uk/need-help-or-advice/advice-sheets> where you can download other relevant advice sheets.
- There are parent and family and friends carers discussion boards at: <http://www.frg.org.uk/discussion-board-for-homepage>
- Family Rights Group can also put you in touch with a **Family Group Conference Service**. Email [office@frg.org.uk](mailto:office@frg.org.uk)

### **Family Lives**

Helpline: 0808 800 2222

textphone: 0800 783 6783 website: <http://familylives.org.uk/>

online chat, text support and email available via website

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**The Grandparents' Association** is an organisation which provides advice and support to grandparents about caring for, or having contact with, their grandchildren. They can be contacted at:

Moot House, The Stow, Harlow, Essex CM20 3AG

Office: 0845 434 9585

Helpline: 01279 444964

E-mail: [info@grandparents-association.org.uk](mailto:info@grandparents-association.org.uk)

<http://www.grandparents-association.org.uk/index.php>

**To find a solicitor who specialises in childcare law:** you can contact

**i) Solicitors Regulation Authority**, Ipsley Court, Redditch, Worcestershire B98

0TD Telephone: 0870 606 2555

**ii) The Law Society of England and Wales**, 113 Chancery Lane, London WC2A

1PL Tel: 020 7242 1222 Minicom: 0870 600 1560 Fax: 020 7831 0344

E-mail: [info.services@lawsociety.org.uk](mailto:info.services@lawsociety.org.uk) [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

***You can search their website for details of local solicitors who are members of the Law Society's Children Law Accreditation Scheme***

<http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law>

## References

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**AA:** [Adoption Act 1976](#)

**ACA:** [Adoption and Children Act 2002](#)

**CA:** [Children Act 1989](#)

**FPR:** [The Family Procedure Rules \(for England and Wales\) 2010](#)

**Vol.1 Guidance:** [Children Act 1989 Regulations and Guidance, Volume 1 Court Orders](#)

**PLO:** [Public Law Outline – Family Procedure Rules 2014 Practice Direction 12A](#)

**WT:** [Working Together 2015](#)

Last updated 10<sup>th</sup> February 2017

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<sup>1</sup> Recent government guidance requires doctors to be alert to potential risk to any child who comes to their attention even if the child is not their patient. See General Medical Council (GMC) guidance 2012 [What to expect if your doctor is worried about your child's safety?](#), a parent information sheet.

<sup>2</sup> Statutory guidance: Volume 1 Court orders and pre-proceedings, DfE, April 2014 (para 22) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/306282/Statutory\\_guidance\\_on\\_court\\_orders\\_and\\_pre-proceedings.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306282/Statutory_guidance_on_court_orders_and_pre-proceedings.pdf)

<sup>3</sup> [Re: B-S \(Children\) \[2013\] EWCA Civ 1146](#)

<sup>4</sup> DfE, 2014, Volume 1 Guidance: Court Orders and pre-proceedings, Chapter 2

<sup>5</sup> DfE, 2014, Volume 1 Guidance: Court Orders and pre-proceedings, Chapter 2

<sup>6</sup> DfE, 2014, Volume 1 Guidance: Court Orders and pre-proceedings, para 24

<sup>7</sup> Para 5, schedule 2 CA

<sup>8</sup> s.20 CA

<sup>9</sup> s.44 CA

<sup>10</sup> s.46 CA

<sup>11</sup> [Re N \(Children\) \(Adoption: Jurisdiction\) \[2015\] EWCA Civ 1112](#)

<sup>12</sup> s.44 CA

<sup>13</sup> [Re X \(Emergency Protection Orders\) \[2006\] EWHC 510 \(Fam\);](#)

<sup>14</sup> s.44(6) CA

<sup>15</sup> s.44A CA

<sup>16</sup> s.22 (4)&(5) CA

<sup>17</sup> s.22 (4)&(5) CA

<sup>18</sup> s.44(13) CA

<sup>19</sup> s.46 CA

<sup>20</sup> [A v \(1\) East Sussex CC \(2\) Chief Constable of Sussex \[2010\] EWCA Civ 743](#)

<sup>21</sup> s.46(4) CA

<sup>22</sup> s.46(10)

<sup>23</sup> s.31 CA

<sup>24</sup> [Public Law Outline 2014, FPR PD12A](#)

- <sup>25</sup> DfE, 2014, Volume 1 Guidance: Court Orders and pre-proceedings, Chapter 2
- <sup>26</sup> DfE, 2014, Volume 1 Guidance: Court Orders and pre-proceedings, Chapter 2  
<https://www.education.gov.uk/publications/eOrderingDownload/children%20act%20guidance-Vol1.pdf>
- <sup>27</sup> Re S (A child) Bournemouth and Poole County Court, Sir James Munby, the President of the Family Division, 16 April 2014
- <sup>28</sup> PLO – FPR practice direction 12A
- <sup>29</sup> s.33(3)(b)CA
- <sup>30</sup> Re L-A(children) (2009)EWCA Civ 822; 1 FLR 80
- <sup>31</sup> s38 CA
- <sup>32</sup> s.38A CA
- <sup>33</sup> s.8 & s.11(3)CA
- <sup>34</sup> s.34 CA
- <sup>35</sup> Re B-S (Children) [2013] EWCA Civ 1146
- <sup>36</sup> s.38 (6) CA
- <sup>37</sup> Part 25 Family Procedure Rules 2010
- <sup>38</sup> The Children’s Guardian should not be confused with the Guardian of the child in the event of the parent’s death or a “Special Guardian” made by the Court under a Special Guardianship Order.
- <sup>39</sup> r 12 FPR 2010
- <sup>40</sup> PLO practice direction, para 16
- <sup>41</sup> s.31(2) CA
- <sup>42</sup> s.1(1) CA
- <sup>43</sup> s.1(3) CA
- <sup>44</sup> s.33(4) CA
- <sup>45</sup> s.31(1)(a) and s.33(3) CA
- <sup>46</sup> s.34 CA
- <sup>47</sup> Adoption Agencies (Panel and Consequential Amendments) Regulations 2012; Chapter 2, Para 62&63  
Revised Statutory Adoption Guidance 2012
- <sup>48</sup> s.21 ACA
- <sup>49</sup> s.8 & 12 CA
- <sup>50</sup> s.14A CA
- <sup>51</sup> s.31A CA
- <sup>52</sup> s.22C CA
- <sup>53</sup> Reg 39 Care Planning, Placement and Case Review Regulations 2010; Working Together 2015  
para 33 page 20
- <sup>54</sup> s.91(15) CA
- <sup>55</sup> s.8 CA