

Glossary of Terms re Legal Processes

Following the last Area SSCB I agreed to produce a definition of terms to assist partner agencies in their understanding of legal processes. This may assist further discussion of whether it is necessary to continue CP plans if these measures are in place.

Care proceedings (aka public law proceedings) – legal proceedings in the family court to determine if a child should be in the care of, or supervised by the Local Authority. The Local Authority is the applicant. The child is a party and is legally represented. A Child's Guardian is appointed from CAFCASS to represent the child's interests, instruct their lawyer and advise the court on matters such as what order to make and the suitability of the Local Authority's care plan for the child. Care proceedings should not take longer than 26 weeks.

Private law proceedings – other legal proceedings in the family court. Typically a dispute between parents about which of them the child should live with, and contact issues. The Local Authority is not the applicant and often not involved at all. The Local Authority or CAFCASS may be asked to provide reports to the court about the child's welfare, and advise the court on what orders to make (s7 reports). The child is not usually a party, although this can happen in exceptional circumstances. A Child's Guardian would then be appointed as in care proceedings. If the court believes the child may be suffering significant harm they may request that the Local Authority provide a report advising whether Care Proceedings should be commenced. (s37 report).

Public Law Outline (PLO) – Government guidance on conducting care proceedings. Covers the whole process from start to finish but is mostly referred to when discussing the pre-proceedings phase. This is where the Local Authority prepares evidence for an application. This may involve commissioning specialist assessments. It will involve meeting with the parents and their lawyers to explain our concerns, and what the parents need to do to avoid us going to court. This phase should last a maximum of 12 weeks. This process should only be started if the Local Authority intends to apply for a care or supervision order if there is no improvement in that time. It should not be used to add weight to the Child Protection Plan, or to manage risk long term.

Parental Responsibility (PR) – the legal rights and duties of a parent. Mothers always have it. Fathers have it if they are married to the mother or are named on the birth certificate. Others may acquire it by order of the court.

Care Order – an order made in care proceedings determining that the child should be placed or remain in the care of the Local Authority. It can only be made if the court is satisfied that the following Threshold Criteria are met.

- That the child must be suffering, or likely to suffer, significant harm.
- And that the harm or likelihood of harm must be attributable to one of the following:
 - a) The care given to the child, or likely to be given if the order were not made, not being what it would be reasonable to expect a parent to give; or
 - b) The child being beyond parental control.

The court will also apply a welfare test and only make the order if it is better for the child than not making it.

It gives the Local Authority Parental Responsibility and the ability to implement a care plan for the child. A Care Order lasts until the child turns 18 unless discharged by the court at an earlier date.

Interim Care Order (ICO) – a temporary version of the above designed to place the child in the care of the Local Authority during the course of care proceedings, before the court has made a final decision about their future. Increasingly only made where there is an immediate high risk, such as risk of serious injury, that cannot wait until the final hearing. Where the circumstances are chronic or long term, such as neglect cases it is unlikely that an Interim Care Order will be made.

Supervision Order – an order made in care proceedings that allows the Local Authority to advise, assist and befriend a child. Usually made when a child remains at home with a parent but can be made alongside other orders such as SGOs (see below). It requires the same threshold criteria as a Care Order. It does not give the Local Authority Parental Responsibility. Conditions can be attached requiring actions from parents. Supervision orders usually last a year but can be extended to a maximum of 3 years on further application to the court. The Local Authority may commence further care proceedings without having to prove the Threshold Criteria while a Supervision Order is in force. Therefore if the parent does not maintain good enough care of the child under the Supervision Order we can fast track an application for a Care Order.

Interim Supervision Order – temporary version of above used during care proceedings before the court makes a final decision about the child's future. It is often used to enforce a written agreement with parents about the required standard of care. The court will then oversee the arrangements. If the parents fail to comply it is more likely that a Care Order will be made at the final hearing.

Emergency Protection Order (EPO) – can be applied for at short notice where there is reasonable cause to believe that a child is likely to suffer significant harm if not removed to accommodation provided by the applicant (the Local Authority). It is seen as a draconian order and will only be made if there is imminent danger to the child. It lasts for up to 8 days.

Police Powers of Protection (aka Police Protection) – Often wrongly referred to as Police Protection Order or PPO. It is not a court order, but rather an inherent power of the police to protect children from harm by removing them to suitable accommodation. It should only be used in exceptional circumstances where there is insufficient time to apply for a court order. It lasts for a maximum of 72 hours.

Section 20 (s20) – An arrangement where the Local Authority accommodates a child with the parent's agreement. No court order required. Sometimes used in care proceedings as an alternative to an ICO, particularly if the child is placed with a relative with the parents agreement. NB courts are critical of the use of s20 as a way of managing risk for any length of time without starting care proceedings.

Child Arrangements Order – usually made in Private Law proceedings but can be made in Care Proceedings. It determines which parent, or other person, a child should live with and what contact arrangements there should be. It gives parental responsibility to the person the child lives with if they do not already have it. It replaces Residence and Contact Orders.

Placement Order – made in care proceedings where the care plan is adoption. It allows the Local Authority to place the child with prospective adopters. It allows the Local Authority to completely restrict the birth parents' ability to exercise their Parental Responsibility. It gives Parental Responsibility to prospective adopters before an adoption order is made.

Adoption Order – establishes a permanent relationship between the adopters and the child. They are legally recognised as the parents of the child as though they were the birth parents. The child has the same rights as a birth child of that family. It removes Parental Responsibility from birth parents, and anyone else, including the Local Authority.

Special Guardianship Order (SGO) – This was brought in during 2005 to provide greater permanence than remaining in care, but without severing the links with birth families to the extent adoption does. It was designed for mainly older children who would benefit from a secure, permanent relationship with their carer but would not want to sever the ties to their birth parents. It gives the carer Parental Responsibility and enables them to exercise it to the exclusion of others. They can make all decisions without consulting with parents and can restrict the parents' use of their PR. It is now widely used following care proceedings to support placements with relatives.

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