

NOWELL MELLER SOLICITORS LTD

FAMILY LAW SERVICE

LEAFLET NO.6 – CARE AND SUPERVISION ORDERS

Information for parents and children

All decisions made about children, whether by agreement or Court order, are made on the basis that the welfare of the child is the first and paramount consideration.

Orders should not be made unless it is better to make them than not to make them.

When are these orders made?

Care and Supervision Orders are only made when certain grounds have been met. These grounds are set out towards the end of this leaflet.

A Care Order

A Care Order means the Local Authority shares parental responsibility with all parents or others who have parental responsibility. Parents are not to act in a way which would be inconsistent with the Local Authority's plans. The Care Order should be exercised in accordance with a Care Plan and the parents have a say in ongoing decision making about their child.

A Care Order lasts until a child is 18 and is seldom made after a child is 16.

A Care Order is reviewed regularly, at least six monthly.

A Care Order does not necessarily mean that your child will not be returned. Under a Care Order, the Local Authority has the duty to return children to the care of their parents wherever possible, and many children remain at home or return home when subject to a Care Order.

A Care Order does not necessarily mean that there will be no contact. The Local Authority has a duty to promote contact unless it applies for a Court order to refuse contact.

A Care Order does not necessarily mean adoption. The Local Authority must make a separate application to Court to free the child for adoption if this is their plan.

Challenging an existing Care Order

You can apply for the discharge or revocation of a Care Order once it has been in force for six months.

It would be unusual to apply unless the Local Authority is not acting in accordance with its Care Plan. Another way of challenging the Care Plan is to make an application for contact under the Care Order so that the contact arrangements can be reviewed.

If the Local Authority applies for permission to refuse contact, this will also provide an opportunity for a further review of the Local Authority's responsibility.

Public Funding (Legal Aid) is often available for applications like this and it is important to stay in contact with us after the making of the Care Order so that we can review the appropriate time to make further applications.

What is an Interim Care Order?

An Interim Care Order has the same effect as a Care Order, but is a temporary order (usually for 28 days at a time) to preserve the current arrangements until some final decision can be made about your child's future.

It is particularly important during this time to cooperate with the Local Authority and with the Children's Guardian, who is the person appointed by the Court independently to represent your child's needs.

A Supervision Order

A Supervision Order does not mean that the Local Authority shares responsibility with you but simply provides a way in which a supervisor (usually a Social Worker or sometimes a Probation Officer) can become directly involved in the life of a child. The supervisor's role is to advise, assist and befriend.

Supervision Orders last up to twelve months but can be extended. Sometimes there are special conditions relating to the medical treatment of the child.

A Supervision Order can be varied or discharged as with a care order.

Other Orders and Parties

During the proceedings you, or other members of your family, can apply for a Residence Order, that your child live with that person. Sometimes the Court has to give permission for that application. Sometimes an interim (temporary) contact order can be made, or the court can consider giving parental responsibility to a particular person.

Conclusion

Whilst proceedings are ongoing you will, of course, be in constant contact with us to discuss the effect of these temporary orders and what may happen at the end of your case.

It is, however, just as important to keep in contact with us after final orders have been made so that we can review the position from time to time and consider whether further applications need to be made to the Court.

Legal Help and/or other forms of Public Funding (formerly Legal Aid) will usually be available, and we will always give a free first appointment to review the availability of funding.

Grounds for a Care or Supervision Order

1. The 'threshold criteria' must first be met.

This means that the Court must be satisfied:

- (a) that the child is suffering or is likely to suffer significant harm; and
- (b) that this is due to the care being given to the child (or likely to be given to the child if no order is made) not being what it would be reasonable to expect a parent to give OR that this is due to the child being beyond parental control.

2. The Court will then consider:

- (a) whether any order should be made at all; and, if so,
- (b) what order should be made.

In reaching its decision the Court will:

- (a) regard the welfare of the child as the most important consideration;
- (b) apply the Children Act welfare checklist;
- (c) not make an order unless it considers that doing so would be better for the child than making no order at all;
- (d) before making a Care Order consider the proposed

arrangements for contact with the child and invite comment upon them.

3. The Court will then either:

- (a) make a Care Order; or
- (b) make a Supervision Order; or
- (c) make no order.

NOTE: The above is intended as a general guide for your information. It is NOT intended as a substitute for proper legal advice. Each case is different and advice cannot be given without a proper analysis of your own circumstances.
