

Appendix 1

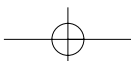
Glossary

Adoption. Note references are now to the provisions of the Adoption and Children Act 2002 ('the 2002 Act') which came into force in December 2005. The Family Procedure (Adoption) Rules 2005 are now in force ('the FPAR') and further secondary legislation listed at the front of the JSB's publication *Adoption and Children Act 2002 - the law and procedure* by Judge Heather Swindells QC and Mr Justice McFarlane. Note that the Adoption Act 1976 has been repealed by the 2002 Act, save for Part IV of the 1976 Act (subject to transitional provisions).

Adoption agency. A local authority (which may now be referred to as a **children's services authority** - see below) or appropriate voluntary organisation which make arrangements for the adoption of children may be referred to as an **adoption agency**. The basis of the Adoption and Children Act 2002 ('the 2002 Act') is built upon the role of adoption agencies, which can be 'local authorities' (under Children Act 2004 'children's services authorities') and 'appropriate voluntary organisations' (under the 2002 Act 'registered adoption societies'). The work of adoption agencies is now covered by the provisions of the Adoption Agencies Regulations 2005. The work which is done by an adoption agency in any particular case is often of critical importance, since decisions made by these agencies concerning the type and timing of future proceedings, e.g. placement for adoption under the 2002 Act, may well have a considerable effect on the final decision made by the courts.

Adoption order. An order made under section 46(1) of the 2002 Act giving parental responsibility to the adopters. The order operates to extinguish: the parental responsibility held by any person before the making of the order; any order under the Children Act 1989 and any duty to make any payments by way of maintenance in respect of the child. Under s46 (6) ACA 2002, before making an adoption order the court **must** consider whether there should be arrangements for allowing any person contact with the child; and for that purpose the court must consider any existing or proposed arrangements and obtain any views of the parties to the proceedings. Such considerations will be particularly important where a child is being adopted without other siblings from his birth family and there has been contact between the siblings prior to the adoption.

Adoption Panel. Under the provisions of regulation 3(1) of the Adoption Agencies Regulations 2005, every adoption agency (which includes all 'children's services authorities' in England and Wales and designated voluntary organisations - see above) must establish at least one **adoption panel**. Where a single agency establishes a panel, this is known as an adoption panel but if the panel is established under regulation 3(5) by two authorities or agencies together, then it is referred to as a joint adoption panel, and the regulations governing its procedures are slightly different. Under the Adoption Agencies Regulations 2005, regulation 18, every adoption agency is required to refer its proposal to place a particular child for



adoption with a prospective adopter to the **adoption panel**. The panel is required, under regulation 18 (2), to make recommendations upon each proposal to place a child which is placed before it. The regulations provide in detail for the constitution of the panel and under regulation 3(3)(e), the **adoption panel** must include at least three independent members who should, where reasonably practicable, include at least two persons with personal experience of adoption. Under regulation 5, the panel should only make recommendations when at least five members, including the chair or vice-chair and one of the adoption agency social workers, are present, but in the case of a joint adoption panel this requirement is increased to six members.

Adoption Panel Deliberations and Recommendations. Under Regulations 18 and 26, Adoption Agencies Regulations 2005, the adoption panel's deliberations must include considering the case and making *recommendations*, but note *not decisions*, on the following issues:

- a) whether adoption is in the best interests of the child and, if so, whether a placement order application or an adoption application should be made;
- b) whether the prospective adopter is suitable to be an adoptive parent;
- c) whether the prospective adopter is a suitable adoptive parent for the child whose position is being considered.

The recommendations need not be made at the same meeting of the panel, provided that the recommendation that the prospective adopter is a suitable adopter for the child concerned is made after, or at the same meeting, as the other two recommendations have been made. The Regulations 18 and 26 recommendations are then passed on to the agency, which then makes its decision under Regulations 19(2) and 27(2) based upon the Panel's recommendations. Under regulations 19 and 27, the person making the agency's decision following the panel's recommendation must not have been a member of the **adoption panel**.

Adoption Support. In preparation for implementation of the 2002 Act, the Adoption Support Services (Local Authorities) (England) Regulations 2003, introduced (with effect from 31 October 2003) on a consistent national basis, an obligation to provide **adoption support services** to include the following: counselling, advice and information; a modernised system for financial support for prospective adopters; support groups for adoptive families; assistance with contact arrangements between adopted children and their birth relatives; therapeutic services for adopted children; and services to ensure continuance of adopted relationships. Some, but by no means all, of these services had been made available previously under different parts of the Adoption Agencies Regulations 1983, but the 2003 Regulations expand and standardise the provision.

Accommodated/accommodation. Under the CA 1989, a child (defined under s105(1) as being anyone under the age of 18) may be **accommodated** or provided with the **service of accommodation** pursuant to a range of statutory provisions referred to in Part III of that Act. Thus, under section 20(1) the local authority is placed under a duty to provide

accommodation to any **child in need** who appears to the local authority to require **accommodation** as a result of there being no person who has parental responsibility for him; the child is lost or abandoned; or when, for any reason, the ordinary caregiver is prevented from providing the child with suitable **accommodation** or care. Section 20(3) also provides for a further duty to provide **accommodation** to children in need aged 16 and up to 18 if their welfare would otherwise be seriously prejudiced. Section 20(5) confers a power on local authorities to provide **accommodation** for those aged 16-20 in any community home which accepts young people of that age, if it considers that this would safeguard or promote the young person's welfare. To an extent, all of the provisions under s20 can be seen as 'discretionary' since the local authority in question has to determine whether the child is a '*child in need*', or is between 16 and 20 and meets the other criteria referred to in the relevant parts of the section.

There is, however, a vital distinction between children being provided with the service of **accommodation** under s20 and children who are the subject of care orders under section 31, or the subject of the exercise of other powers under section 21, also in Part III of the Act conferring the right to determine where the child should be **accommodated**. Thus, in relation to a child who is being provided with the service of **accommodation** under s20, the local authority does not have parental responsibility for the child and cannot acquire it unless it obtains a care order or an emergency protection order. Indeed, under the provisions of section 20(7), it is made clear that the local authority may not even provide **accommodation** for the child where there is any person with parental responsibility who objects to the child being provided with **accommodation** and who is '*willing and able*' to provide the child with **accommodation**, unless, under s20(11), the child has reached the age of 16 and consents on his own behalf. Furthermore, if a child is already being provided with **accommodation** then under section 20(8), such a person may exercise the right to remove the child from **accommodation** at any time, *unless*: under the provisions of s20(11) the child has reached the age of 16 and refuses to leave the **accommodation**; or under the provisions of s20(9) anyone else has a residence order in their favour; or anyone has care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children; in which case the holder/s of such orders has/have the right to say that the child should remain with the local authority. Where there is more than one such person with such an order, however, then under s20(10) all of them must agree. Unless any of these three provisions apply, then the only option available to the local authority, where it believes that a person who claims to be able and willing to provide **accommodation** is not in reality so 'able or willing', would be to make an application for a care or emergency protection order, since this would be the only way to prevent that person removing the child from wherever he was being **accommodated**. It should be noted that under the provisions of section 9(2) of the Children Act 1989, it is not possible to use a section 8 order to keep a child in **accommodation** provided by a local authority, since neither a residence order nor a contact order can be made to a local authority. Section 9(5) further prohibits the use of a specific issue order, a prohibited steps order, or any other form of injunction to prevent the removal of a child, since such an order would be being made with a view to achieving a residence or contact order.

Children may also be **accommodated** under the provisions of section 21 of the Children Act 1989. The parents of such children *cannot* exercise any right to remove them and the local authority is under a duty to provide **accommodation** for a child, whether or not he is a child in need, if:

- a) under the provisions of s21(1) of the Children Act 1989 he is removed or kept away from home under any of the emergency provisions of Part V of the Children Act 1989;
- b) under the provisions of s21(2)(a) of the Children Act 1989 he has been taken into police protection under the Children Act 1989, s46(3)(f) and the local authority is requested to provide **accommodation**;
- c) under s21(2)(b) of the 1989 Act he has been arrested and the custody officer authorises his detention and makes arrangements for him to be **accommodated** by the local authority under s38(6) of the Police and Criminal Evidence Act 1984;
- d) under s21(2)(c)(i) of the Children Act 1989 he has been remanded to local authority **accommodation** awaiting trial or sentence for a criminal offence under paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts Sentencing Act 2000, or s23(1) CYPA 1969.
- e) under s21(2)(c)(ii) of the Children Act 1989 he has been made subject to a criminal supervision order with a residence requirement that he live in local authority **accommodation** and the local authority have been consulted under section 12 AA Children and Young Persons Act 1969 (as inserted by CA 1989, Sch12, para 23).

Area Child Protection Committee (ACPC). The old ACPCs, which have now been replaced by Local Safeguarding Children Boards, were not governed by any statutory provisions, but were merely the creation of Department of Health Guidance. The report by the Eight Government Inspectorates entitled *Safeguarding Children* (October 2002) found, in common with the findings of the *Inquiry into the Death of Victoria Climbié* (the Laming Report), that the lack of a statutory basis for the work of the ACPCs led to a variable and piecemeal approach to the work of these bodies and suggested that they be replaced with a body with its basis in statute. Thus, ACPCs have been replaced from April 2006 by new statutory bodies established under section 13 of the Children Act 2004 termed Local Safeguarding Children Boards (LSCBs).

CAFCASS. The **Children and Family Courts Advisory and Support Service** replaced, with effect from 1 April 2001, the former variable local and regional arrangements for the provision of the services of guardian and litem in care and adoption proceedings and reporting officers in adoption proceedings, as well as bringing in those members of the probation service who acted as members of the former Court Welfare Service, in providing reports to the family courts under s7 of the Children Act 1989 and who wished to transfer into CAFCASS. Thus, the officers of CAFCASS are now referred to by different titles depending upon the function they are performing for the courts, for example: **Children and Family Reporter**

providing reports for the court under s7(1)(a) Children Act 1989 (see below); **Children's Guardian** representing the child in public law proceedings as specified in section 41 of the Children Act 1989 and adoption proceedings, currently under Adoption Act 1976; **Reporting Officer** investigating, witnessing written parental agreements and reporting on various aspects relating to the provision of parental consent to adoption; and finally, **Parental Order Reporter** representing the child in Human Fertilisation and Embryology Act 1990 cases .

CAFCASS Legal. CAFCASS has established the **CAFCASS Legal Services and Special Casework** section, whose role is described in the *CAFCASS Practice Note - Officers of CAFCASS Legal Services and Special Casework: Appointment in Family Proceedings at [2001] 2 FLR 151*. The Practice Note indicates that the role of **CAFCASS Legal** is principally to take over the Official Solicitor's responsibilities of representing children who are the subject of family proceedings in particularly difficult cases. The Practice Note states that generally it is only where it appears to the court that the child ought to have party status and be legally represented, that the question of the involvement of **CAFCASS Legal** may arise. As the Note points out, normally in public law cases an officer of **CAFCASS** in the area in which the case is proceeding will be appointed as the child's guardian, but all private law cases where it is felt necessary for the child to be joined as party and all High Court adoption cases, should be referred to **CAFCASS Legal**. **CAFCASS Legal** may represent the child in family proceedings in the High Court or in the county court, but not in the Family Proceedings Courts. The Note states clearly that, since in public law cases a **CAFCASS** officer will have been appointed as the children's guardian, it will only be appropriate for an officer of **CAFCASS Legal** to be appointed as children's guardian in public law cases, in the High Court or the county court, which are exceptionally difficult, unusual or sensitive or where either he or she, or the Official Solicitor, previously acted for the child in public or private law proceedings. The suggested terms of an order providing for a member of **CAFCASS Legal** to represent the child are also set out in the Note, which recommends discussing the appointment first, especially in urgent cases, with the **CAFCASS Legal** divisional manager or one of their lawyers by telephoning 020-7904-0867.

Care Centre. Any county court formally designated as a *Care Centre* in Schedule 2 of the Children (Allocation of Proceedings) Order 1991 (as amended) which then has full family law jurisdiction, including in all public law cases which may be either started in that court or transferred there from Family Proceedings Courts or from the High Court Family Division. To be contrasted with Family Hearing Centres, listed in Schedule 1 of the same Order, which have no jurisdiction in public law cases.

Care Order. A *care order* is an order made under s31(1)(a) of the Children Act 1989, which, under section 33, requires the local authority designated (see below) in the order to receive the child into their care and to keep him in their care while the order is in force. The order lasts until the child reaches the age of 18 and, under section 33(3), has the effect of giving the local authority parental responsibility and the right to determine the extent to which parents can meet their continuing responsibility towards their child.

Care Plan. Since the implementation in 2005 of the new provisions of s.31A of the Children Act 1989, as substituted by the Adoption and Children Act 2002, then, where any application is made upon which a care order might be made, the local authority must, within such time as the court may direct, prepare and submit to the court a section 31A **care plan**, which will have to give prescribed information and do so in a prescribed manner. Thus, in any application for a care order or interim care order, in order for the court to be able to say that it has complied with the demands now of both s.31A and s.1(5) of the Children Act 1989, the local authority must provide certain basic information to the court and to the parties. This information must include details about their management of the child's case and long-term planning for the child in the form of a **care plan**, which should have been subjected to careful scrutiny and which should accord with guidance in the form of a Circular issued by the Department of Health and the Welsh Office to all local authorities entitled *Care Plans and Care Proceedings under the Children Act 1989 LAC 29/1999*.

The Circular provides detailed guidance on the appropriate contents of a **care plan** within care proceedings and provides that a **care plan** be structured in five sections as follows:

1. Overall aims - aim of the plan and the timetable.
2. The Child's needs - including a) the child's identified needs (such as those arising from race, culture, religion or language, special educational, health or disability needs); b) the extent to which the wishes and views of the child have been obtained and acted upon; c) the reasons supporting this, or explanations of why these wishes or views have not been given absolute precedence; d) how those needs might be met; and e) arrangements for and the purpose of contact in meeting the child's needs (specifying contact relationships) and proposals to restrict or terminate contact.
3. The Views of Others - including a) the extent to which the wishes and views of the child's parents and anyone else with a sufficient interest in the child (including representatives of other agencies) have been obtained and acted upon; and b) the reasons supporting this or explanations of why these wishes and views have been discounted.
4. Any placement details and timetable - including a) the proposed placement (type and details); b) the time that is likely to elapse before the proposed placement is made; c) the likely duration of placement in the accommodation; d) arrangements for health care (including consent to examination and treatment); e) arrangements for education; f) arrangements for reunification; g) other services to be provided to the child and/or his family either by the local authority or other agencies; h) support in the placement; and i) specific detail of the parent's role in day-to-day arrangements.
5. The management and support to be provided by the local authority - including a) who is to be responsible for implementing the plan (specific tasks and overall plan); b) dates of reviews; c) contingency plan if placement breaks down; d) arrangements for input by

parents, the child and others into the ongoing decision-making process; and e) arrangements for notifying the responsible authority of disagreements or making representations.

The Department of Health Circular to Local Authorities also requires that the complete care plan prepared for the final hearing should be signed ('endorsed') by a senior local authority manager.

Any evidence in support of the **care plan** should also be made available to the court and, as the outline provides, where placement details are available, they must be made known to the court. In care proceedings which are ongoing, the proper venue for a challenge to the **care plan** is within the care proceedings, rather than by using judicial review. If it is suggested, or it appears, to the court that the **care plan** which has been presented to the court seems incomplete, or where the passage of a relatively short period of time would see the occurrence of some event, or the completion of some process vital to the planning and determination of the child's future, the court should consider making an interim order, rather than making a final order at that stage, especially given the demands of Article 8 ECHR. Where care proceedings are ongoing and it is suggested that there may be a breach of an individual's human rights under the ECHR, there is no need for separate Human Rights Act 1998 proceedings. Section s7(1)(b) of the Human Rights Act 1998 provides an appropriate remedy within the proceedings themselves and, thus, allegations of a breach can be dealt with by the court which is dealing with the care proceedings, including the Family Proceedings Courts. Where, after the making of a care order, there is a major departure from the **care plan** for a child, so that the actions of the local authority are alleged to be unlawful within the terms of section 6(1) HRA 1998 and in breach of a party's ECHR rights, the extended powers given to the courts under sections 7 and 8 HRA 1998 may be invoked to grant such relief or remedy as may be appropriate, although it should be noted that establishing a breach of a person's ECHR rights does not automatically give that person a right to a remedy. A human rights challenge, after the care proceedings have concluded, to a **care plan** or the placement of a child who is the subject of a care order, should be heard in the Family Division and, if possible, by a judge with experience of sitting in the Administrative Court. It has been said that there is 'a heavy responsibility and wide discretion placed on the court considering, after the event, the lawfulness of a local authority decision making process'. As well as the court's powers under the Children Act 1989 to regulate contact or to discharge the care order, a court hearing an application under the Human Rights Act 1998 will be able to employ the wide range of powers under section 8 of the Act, including the power to make injunctions to restrain activity which would be 'unlawful' within the terms of section 6 of the HRA 1998.

Case Conference. This is the term frequently used by children's services authority (formerly local authority social workers for what is referred to in *Working Together to Safeguard Children (HM Gov 2006)* as the '**child protection conference**'. The **initial child protection conference** brings together family members, the child (where appropriate) and those professionals most involved with the child and the family following enquiries made

under **section 47** of the Children Act 1989. The purpose of the **child protection conference** is: to bring together and analyse in an inter-agency setting, the information which has been obtained about the child's health development and functioning and the parents' or carers' capacity to ensure the child's safety and promote the child's health and development; to make judgements about the likelihood of a child suffering significant harm in the future; *and* to decide what future action is needed to safeguard the child and promote his welfare, how that action will be taken forward and with what intended outcomes.

Case Management. Where this is a reference to judicial and children's services authority **case management** of public law cases i.e. to ensure that the case proceeds as expeditiously, efficiently and effectively as possible. See the lengthy explanation offered of the term **active case management** in Part 5 of the Annex entitled *Principles of Application* contained in the **Protocol for Judicial Case Management in Public Law Children Act Cases** (see below).

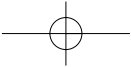
Child Protection Plan. The initial child protection conference (see above under Case Conference and also Working Together to Safeguard Children (HM Government 2006)) is responsible for drawing up and agreeing an outline **child protection plan**, which is then further developed in the core group (see below). The aim of the plan is to safeguard the child from further harm; promote the child's health and development; and, *provided it is in the best interests of the child*, to support the family and wider family members to promote the welfare of their child.

Child Protection Register. A **Register** usually maintained by the children's services authority social services in any particular area, containing a list of all children resident in the social services area (including any placed there by another children's services authority) who are considered to be at risk of significant harm and for whom there is a child protection plan. The main purpose of the **Register** is to make relevant agencies and individuals aware of those children assessed to be at continuing risk of significant harm. Police and health professionals must be able to access the **register** in and out of office hours.

Child in Need. Under s17(10) and (11) CA 1989, a child is defined as being 'in need' if he is unlikely to achieve or maintain, or have the opportunity to so do, a reasonable standard of health or development without the provision of services by a local authority, or his health or development is likely to be significantly impaired or further impaired without such services, or he is disabled.

Children and Family Reporter. Officers of CAFCASS who provide to the courts (under the provisions of s7(1)(a) CA 1989) what are generally referred to as 'welfare reports' in disputed residence, contact, specific issue and prohibited steps order applications, made under s8 CA 1989.

Children's Guardian. This is the term now used under the amendments to section 41 CA 1989, made by the Criminal Justice and Court Services Act 2000, to describe the position of the former guardians ad litem, now **Children's Guardians**, in both care and adoption pro-

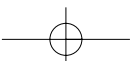


ceedings, which has been taken over by officers of CAFCASS. (see above). **Children's Guardians** thus play an active role in representing the children in such proceedings and advising the court on such matters as timetabling and the need for directions.

Children's Services Authorities. The term now used pursuant to s.10 CA 2004 to describe those bodies owing duties to safeguard and protect the welfare of children in their area under both the CA 1089 and 2004 and to improve their well-being as defined in s.10(2) CA 2004. The term 'children's services authority' is further defined under s.65(1) CA 2004 to include: county councils; metropolitan district councils; London Borough Councils; non-metropolitan district councils; the Common Council of the City of London; and the Council of the Isles of Scilly; and in Wales it includes a county council or county borough council.

Concurrent Jurisdiction. This term is sometimes used pursuant to section 92(7) of the Children Act 1989, to describe the fact that the jurisdiction of the courts under the Children Act 1989 can be exercised in all three levels of court: the Family Proceedings Courts, the county court and the High Court. It is also used to describe the situation in which a child's circumstances may be being dealt with by more than one court and so there are different courts exercising **concurrent jurisdiction** over the child. For example, a child may be the subject of a disputed application for contact which is proceeding in the county court and at the same time care proceedings have been issued by the local authority in the Family Proceedings Courts. The provisions of the Children Act 1989 do not really address this problem, but it is generally recommended that the two sets of proceedings should be consolidated on the basis that one court should, wherever possible, deal with the child and his family and make all decisions relating to that child. Nevertheless, there may be circumstances which militate against such consolidation, such as the risk of delay being prejudicial to the child, or where there is no need to consolidate because any material in one set of proceedings would, in any event, be made available in the other set of proceedings.

Concurrent Planning. This must be distinguished from **twin track planning** (see below) and is a concept used within a scheme originally developed by the Lutheran social services in the USA, now widespread throughout the states of the USA, but which is also in use in certain projects in England. **Concurrent planning** is defined as the process of working towards family reunification, while at the same time establishing an alternative permanent plan. The aim of **concurrent planning** is to reduce the number of moves a child experiences in care and to reduce temporary placements. The aim of such projects has been described by one High Court judge (Bracewell J.) as involving 'the recruitment of foster parents who are carefully selected and trained and who are willing to foster children on the basis that they will work with the natural family towards rehabilitation within a strictly timed framework, but, in the event of rehabilitation being ruled out, wish to adopt the children. Contact between carers and birth children is encouraged and there is openness between parties about the primary aim of rehabilitation, with the alternative secondary plan of permanent placement. Placement stability is a top priority.'



Contact Centre. **Contact centres** are facilities often staffed by a mix of professionals and volunteers providing a safe environment in which children can have contact with non-resident parents. **Contact centres** are usually affiliated to the National Association of Child Contact Centres (NACCC), which has agreed a Protocol with CAFCASS to ensure good liaison, mutual co-operation and the encouragement of best practice, and they currently provide for approximately 20,000 children a year to have such contact i.e. around 100,000 sessions. Around 30-40% of referrals to **Child Contact Centres** are from courts, although CAFCASS is involved in processing referrals in a larger percentage of the total. Supervised contact is nearly always court referred. Many centres have waiting lists and there are areas where there is currently no **contact centre** provision.

Contact order. A **contact order under section 8 (1) of the Children Act 1989** is an order 'requiring the person with whom a child lives, or is to live, to allow the child to visit or sat with the person named in the order , or for that person and the child otherwise to have contact with each other.' Such other contact may include forms of communication such as letters, telephone calls, mobile phone text messaging and email. A contact order can be expressed in general terms, for example, 'for such periods as will be agreed between the parties but subject to the child's other social and school commitments', or in more specific terms, for example, every other weekend between 1pm on Saturday to 5pm on Sunday.' The court may issue such directions or attach such conditions as it thinks fit to the contact order,(section 11 (7)(a) and (b); provide for it or any of its provisions to have effect for a specified period section 11(7)(c); or make such incidental, supplemental or consequential provision as the court thinks fit.(section 11(7)(d).Where the court determines on any application that no contact should take place, then an order for no contact should be made.

Contact order. A **contact order under section 34 of the Children Act 1989** refusing, regulating or allowing contact, may be made in respect of a child who is, or has just been made, the subject of a care order in those circumstances where : the child or the local authority applies to the court for an order regulating contact between the child and any person and the court may make such order as it thinks fit (section 34(2)); an application has been made by the child's parents, guardian, unmarried father with parental responsibility, anyone who, before the care order was made, had a residence order in their favour or who had the care of the child pursuant to an order made in the exercise of the High Court's inherent jurisdiction (section 34(3)(a); an application has been made by any person who obtained the leave of the court (section 34(3)(b).An order made under this section may impose such conditions as the court thinks fit.(section 34 (7)

Core Assessment. This is fully described at paragraph 3.11 of the *Framework for the Assessment of Children in Need and their Families* (Department of Health and Welsh Office (2000)(see the Lilac Book Assessment below) and at paragraph 5.60 *Working Together to Safeguard Children* (HM Government 2006) and has not been replaced by the new *Common Assessment Framework* (DfES and Welsh Office (2005). It is an in-depth assessment which addresses the central or most important aspects of the needs of the child, and the capacity of

his parents or caregivers to respond appropriately to those needs within the wider family and community context. Though led by Social Services (see below), such assessments which must be completed within 35 working days (i.e. 7 weeks) will invariably involve other agencies or independent professionals. The *Protocol for Judicial Case Management in Public Law Children Act Cases* (see below) bases its timetable in part on the basis that the core assessment will have been completed within this period of time.

Core Group. This is defined by *Working Together to Safeguard Children* (HM Gov 2006) as the group which is responsible for the development of the child protection plan (see above) as a detailed working tool and implementing it within the outline plan agreed at the initial child protection conference (see above). Membership should include the key worker, (see below) who leads the **core group**, the child (if appropriate), family members and professionals and foster carers who will have direct contact with the family.

Core Group Meeting. *Working Together* (HM Gov 2006) specifies that the first meeting of the core group should take place within 10 working days of the initial child protection conference (see above). The purpose of this first **core group meeting** is to flesh out the child protection plan (see above) and decide what steps need to be taken by whom to complete the core assessment on time. Thereafter, **core group meetings** should be held sufficiently regularly to facilitate working together, monitoring actions and outcomes against the child protection plan and making any necessary changes as circumstances change.

Designated Local Authority. The **designated local authority** is the children's services authority which is designated in the care or supervision order made under section 31(1) to have responsibility pursuant to that order. Under the provisions of section 31(8), as interpreted by the courts, the local authority designated in the care order must be the authority in whose area the child is ordinarily resident or, where the child does not ordinarily reside in a local authority area, the local authority within whose area any circumstances arose in consequence of which an order has been made. Thus, if a particular authority commences care proceedings in respect of circumstances arising in their area and the child is not at that stage ordinarily resident elsewhere and another authority then seeks to institute care proceedings in respect of the same child, a 'stop the clock approach' is adopted and the authority which first sought the care order will be the **designated local authority**.

Disclosure. Leave has been granted in care proceedings for **disclosure** of documents or evidence to a number of different bodies, where this may be crucial either in relation to the child who is the subject of proceedings, or where, as a result of findings made or evidence adduced in those proceedings, other children may be exposed to risk. The Court of Appeal has laid down guidelines which should be considered when determining whether to order **disclosure** of information obtained in the course of care proceedings to the police. Care must be exercised in relation to **disclosure**, generally that this should not be allowed to discourage those giving evidence to be frank and honest in care proceedings, where they do so in the belief that under the protection of section 98(2), any statement or admission made in such

proceedings shall not be admissible in evidence against the person making it, or his spouse in proceedings for an offence other than perjury.(see below-self incrimination) For example, leave has been given: to the police to be given **disclosure** of transcripts of evidence given and documents filed in care proceedings in respect of the circumstances relating to the death of a baby, in order to enable the police to consider how to pursue their investigation, although it should be noted that such **disclosure** was not made to allow the police to use in criminal proceedings the admission made by the father in the care proceedings; to the General Medical Council for **disclosure** of certain documents filed within care proceedings relating to a doctor who had been found, within those proceedings, to have sexually abused his daughter, in order that the GMC could consider whether to bring charges against the doctor for misconduct; for **disclosure** of the court's judgment and minutes of experts' meetings to the UKCC (nurses' governing body), following a diagnosis on a nurse within care proceedings of severe personality disorder, in order that a referral to the body might be considered, to decide on the mother's fitness to remain registered as a nurse who might possibly be given the care of young children; for **disclosure** to a chief probation officer of a report which indicated that an applicant father in section 8 contact proceedings, who was a probation officer, posed a threat to his children and could, therefore, in turn pose a threat to other vulnerable children who he might see in the course of his work. By contrast, the Court of Appeal has held, when considering two appeals against orders for **disclosure** of information relating to persons involved in care proceedings, that there is no general duty upon a local authority to disclose the identity of those found guilty of sexual abuse within the proceedings and that the court did not have jurisdiction to authorise such **disclosure**.

Disclosure of relevant documents to all those involved in family proceedings is also referred to continuously in the different steps of the **Protocol for Judicial Case Management in Public Law Children Act Cases** (see below) and is the subject of specific guidance issued in Part 8 of the Annex to the Protocol.

Disruption/disruption meeting. Term used to describe a formal meeting convened in response to an actual or potential disruption within the child's fostering or adoptive placement e.g. the suggestion that because of the child's behaviour the placement might break, or has broken, down. It would normally involve all relevant parties such as all carers, professionals working with the family or the child and, if age appropriate, the child himself.

Domestic Violence/Abuse. Even if the Domestic Violence, Crime and Victims bill is passed into law and at the date of writing this glossary in July 2004 the Bill is not yet an Act, there will still, paradoxically, be no legal definition of **domestic violence** or **domestic abuse**. A definition which was, however, originated by the 1993 Home Affairs Select Committee Report on **Domestic Violence** and subsequently used by the Crown Prosecution Service, provides that it is 'any form of physical, sexual or emotional abuse (including pestering) which takes place within the context of a close personal relationship - in most cases relationships between partners (married, cohabiting or otherwise, or ex-partners). The Law Commission, at paragraph 3.1 of *Family Law: Domestic Violence and Occupation of the Home*, when

discussing the term 'molestation', which is a term frequently used when talking about the orders which the court can issue e.g. anti-molestation orders, stated that 'Molestation is an umbrella term which covers a wide variety of behaviour; although there is no statutory definition of molestation the concept is well established and recognised by the courts and includes but is wider than violence and encompasses any form of serious pestering or harassment and applies to any conduct which could properly be regarded as such a degree of harassment as to call for the intervention of the court.' The Home Office currently defines **domestic violence** 'as any violence between current and former partners in an intimate relationship wherever and whenever the violence occurs. The violence may include physical, sexual, emotional and financial abuse.' The latest JSB paper *Domestic Violence: Statistics, Split Hearings and Proposals for Research* (JSB papers January 2004) by His Honour Judge Victor Hall, states that a preferred definition, taken from the *Blackburn and Darwen Borough Council Multi-agency Domestic Abuse Strategy*, is as follows: **Domestic abuse** is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another person, often within the context of an intimate relationship and affects the lives of children. It can be manifested in a variety of ways, including but not restricted to, physical, sexual, psychological, emotional and financial abuse and the imposition of social isolation.

Education Welfare Officer (EWO). An **education welfare officer** is an officer of the local education authority who works directly with children and their families where there are a variety of concerns about the child's education, for example, none or variable attendance of the child at school, child protection concerns etc. The **education welfare officer** may be the officer designated by the local education authority to be the supervisor of a child who has been made the subject of an education supervision order under section 36 of the Children Act 1989. Their duties also include assisting the designated teachers in schools with responsibility for child protection to monitor the children in school whose names appear on the Child Protection Register (see above) and such officers are also able to provide advice and support to other education staff on child protection matters generally.

Emergency Protection Order. An order under section 44 of the Children Act 1989, which should only be made in an emergency. The purpose of the order is to enable the child, in a genuine emergency, to be removed from where he is living, or to be kept where he is, if this is what is necessary to provide for his short-term protection. An application for an order can thus be made without notice, and an order will be made provided the court is satisfied a) that there is reasonable cause to believe that the child is suffering, or is likely to suffer, significant harm if he is not removed to accommodation provided by the applicant, or retained in the place where he is currently being provided with accommodation; or b) access to the child by the local authority is being unreasonably denied, in circumstances where section 47 enquiries are being made and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency; or c) in the case of the NSPCC, the applicant has reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm, the applicant is making enquiries but those enquiries are being frustrated and the applicant has reasonable

cause to believe that access to the child is required as a matter of urgency. The order can last in the first instance for up to 8 days, with one possible extension for another 7 days under section 45(4) and the making of the order can be challenged by the parents after 72 hours under section 45(9).

Exclusion Requirement – Sections 38A, 44A. An **exclusion requirement**, sometimes referred to as an **exclusion order**, can be attached to both an interim care order made under section 38(1) under the provisions of section 38A and to an emergency protection order made under section 44 under the provisions of section 44A. Where the court is satisfied that either an interim care order or an emergency protection order should be made, then it can go on to include an **exclusion requirement** in both orders. In the case of an order being included in an emergency protection order, the court must be satisfied that there is reasonable cause to believe that if the relevant person is excluded from the dwelling-house in which the child lives, then the child will not be likely to suffer significant harm, either if he is not removed or does not remain, or because enquiries under s44(1)(b) or (c) will cease to be frustrated and another person living in the same dwelling-house (parent or not) is able and willing to give the child the care which it would be reasonable to expect a parent to give to him and that person consents to the inclusion of the **exclusion requirement**. Under the terms of section 38A, the court must be further satisfied that there are reasonable grounds for believing that if the relevant person is excluded from the dwelling-house in which the child lives, then the child will cease to suffer, or be likely to suffer, significant harm and as with section 44A, another person living in the same dwelling-house (parent or not) is able and willing to give the child the care which it would be reasonable to expect a parent to give to him and that person consents to the inclusion of the **exclusion requirement**.

Family Aid. An old-fashioned term now rarely used, particularly because of other connotations associated with the word AID. Thus, these days the more correct term in use would be a Family Support Worker, usually someone who is unqualified, employed by social services or voluntary organisations, to provide more practically orientated support to a family e.g. help to mother with a number of children in getting the children up and off to school or nursery in the mornings.

Family Assistance Order – Section 16, Children Act 1989. A court may make a **family assistance order** in family proceedings where it has the power to make an order under Part II of the Act and the circumstances are exceptional. It may make the order on its own or in combination with any of the section 8 orders. The order requires the consent of all those named in the order and obliges the supervisor, usually a CAFCASS officer or possibly a children's services authority social worker (although the local authority will have to give its consent unless the child lives within its area), to advise, assist and befriend any person named in the order who may be any parent or guardian, any person with whom the child is living or in whose favour a contact order has been made, or the child himself. The order will last for 6 months only unless the court specifies a shorter period and cannot be renewed.

Family Centres. Provided by local authorities under Schedule 2, Part 1, Paragraph 9, of the Children Act 1989. Parents, anyone having parental responsibility for the child or who has the care of the child, and a child may attend such centres for: occupational, social, cultural or recreational activities; for advice and counselling; or they may be provided with accommodation while receiving such advice, guidance or counselling. There is considerable variation in what is now offered by such **Family Centres**, but many offer day-care provision for whole families or provide specialist support, for example, to the survivors of sexual abuse.

Family Court Adviser. A term sometimes used in some parts of the country to describe generically officers of CAFCASS providing their various services to the family courts as Children and Family Reporters, Children's Guardians, Reporting Officers etc. (see under CAFCASS above.)

Family Court Legal Adviser. Term now used to describe the former Clerks to the Magistrates Family Courts. Usually legally qualified as either barristers or solicitors, these personnel advise those magistrates sitting in the Family Courts hearing family proceedings generally including adoption, care cases, parental responsibility, and residence and contact order applications and applications for the other section 8 orders.(see below)

Family Services Unit. This is a national charity providing additional support services to children and families in some children's services authority areas around the country e.g. providing services to support family group conferences.

Forms C1-C54 inclusive. The court forms used in applications dealing with children which are listed in order in Appendix 1 of the Family Proceedings Rules 1991 as amended from time to time, thus Form C1 is the Form of Application for an Order; Form C2 can be used as an application for an order, or for directions in existing family proceedings, or to be joined or cease to be joined as a party to proceedings, or for leave to present proceedings; and so on, as provided for in the list in the Rules.

Form C. Sometimes also confusingly referred to as Form C1 (see above), **Form C** is a form devised by the British Agencies for Adoption and Fostering (BAAF) for a medical report and developmental assessment of a child under five years of age, who is being referred by an adoption agency for potential adoption or for being looked after by the local authority.

Form C Annex. Sometimes referred to as Form C2, **Form C Annex** is the form accompanying Form C, devised by BAAF, providing for a profile to be written by the current care provider of the behavioural and emotional well-being of a child under the age of five, who is being referred for potential adoption or for being looked after by the local authority.

Form D. Identical to **Form C** above but for a child up to the age of 10.

Form D Annex. Identical to **Form C Annex** above but for a child up to the age of 10.

Form E. This is another form devised by BAAF, usually to be completed by the children's services authority case accountable social worker where the child is being referred for adoption, which outlines the primary information on a child's background, history and needs and which outlines the work undertaken by the children's services authority with the child's birth family and includes the local authority's plans for the child.

Form F. There no longer exists one Form F, **although social workers do still refer to Form F. There are now three Form F's, which should more correctly be referred to as Forms F1, 2 and 3.**

Form F1 (note currently being revised by BAAF). This is a form devised by BAAF to obtain information on, as well as to assess, the parenting capacity of prospective substitute family carers, kinship carers and prospective adoptive parents, with a new section on a competence based approach to assessment.

Form F2. A form devised by BAAF to obtain information on, as well as to assess, the parenting capacity of prospective carers for a specific child, which also includes a section on a competence based approach to assessment.

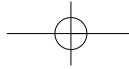
Form F3. A form devised by BAAF to obtain information on, and to assess the parenting capacity of, prospective adopters planning to adopt a child from overseas.

Form YP. Again a form devised by BAAF identical to Form C, but used for a young person aged 10 and over.

Foster Care/Parent. A child who is being accommodated by the local authority or who is in care, may under the provisions of section 23 of the Children Act 1989 be placed with local authority approved 'foster carers' or 'foster parents', who are approved under the Fostering Services Regulations 2002. It is now possible for members of the extended family to be both approved as foster carers and to qualify for payment as foster carers.

Good Enough Parenting. Term referred to in the Department of Health *'Looked After Children'* Information and Planning System pack, used by local authorities in relation to children whom they are looking after, quite literally to evaluate whether the quality of care being provided by the current care giver is '**good enough**' and, therefore, that there might be no reason for seeking to transfer care of the child to another care provider. The use of the term recognises that there is no such person as the perfect parent, nor any such concept as perfect parenting, but what should be being assessed is whether the care of the child is '**good enough**', though not necessarily perfect, on any objective standard by which it might be measured.

Hearsay – Children (Admissibility of Hearsay Evidence) Order 1993. This is the order governing the admissibility of **hearsay evidence** in any family proceedings before the High Court, county court or family proceedings Courts, which provides that evidence given in



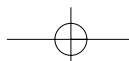
connection with the upbringing, maintenance or welfare of a child will be admissible, notwithstanding any rule of law relating to **hearsay**. The use of the word 'evidence' does not limit the type or origin of **admissible hearsay** in any way. Thus, medical or scientific records, such as charts, are admissible and the evidence admitted need not be confined to first-hand **hearsay**, but may be second or third-hand or even more remote. The consecutive running records compiled by social workers, general practitioners and health visitors will thus be admissible as evidence, even in circumstances where the individual makers of each part of the document may no longer be traceable. As a result of the order, the evidence of children not before the court also becomes admissible in the form of letters or pictures, or the interview notes of guardians with the child and the video and written evidence of what the child has said in the form of a memorandum interview.

Independent Fostering Agency (IFA). There are now over 150 **independent fostering agencies** operating in England and Wales, which try to find foster placements for a whole variety of children with different needs, pursuant to contracts made with them by local authorities who cannot find foster carers for all the children whom they are looking after. These are private profit and non-profit making organisations, but all are regulated now under the Commission for Social Care Inspection, which took over responsibility for registration and inspection of these agencies on 1 April 2004.

In care. This term should now only be used to describe those children who are in the care of a local authority under the provisions of a care order made under section 31(1)(a) of the Children Act 1989.

Kinship care. A term, derived from the New Zealand Maori words with the same meaning to describe such care, now used in some parts of the country to describe the formalised placement of a child with members of a child's extended family, which should then mean that the **kinship care** providers qualify for payments as foster carers under Regulation 38 Fostering Services Regulations 2002.

Inherent Jurisdiction. The Children Act 1989, for the most part, left untouched the **inherent jurisdiction** of the High Court, the most frequently used vehicle for which is wardship, (see below) except that section 100 prohibits the use of the **inherent jurisdiction** as an alternative to the public law orders which are available under the Act. In particular, no court shall exercise the High Court's **inherent jurisdiction** with respect to children - so as to require a child to be placed in the care or under the supervision of a local authority; so as to require a child to be accommodated by or on behalf of a local authority; so as to make a child who is the subject of a care order a ward of court; or for the purposes of conferring on any local authority power to determine any issue which has arisen, or which may arise, in connection with any aspect of parental responsibility. Nevertheless, the court's **inherent jurisdiction** may be invoked where difficult medical decisions, such as those where there is likely to be problems with the parents, have to be determined in relation to a child in the care of the local authority, for example, abortion or sterilisation issues, the giving of consent to



blood transfusions where the child is a Jehovah's Witness, the withdrawal of life support etc. The local authority will have to seek the leave of the High Court in such cases to make an application and the High Court can only grant leave where it is satisfied that the authority could not achieve the desired result through the making of an order, other than the one under the **inherent jurisdiction** and there is reasonable cause to believe that the child is likely to suffer significant harm if the **inherent jurisdiction** is not exercised.

Interim Orders – Section 38. Where the court has reasonable grounds for believing that the criteria laid down in section 31(2) of the Children Act 1989 for the making of a care or supervision order are met, or where the court has given a direction under section 37 of the Children Act 1989, then the court may make an **interim care or supervision order**. The first **interim order** may last for anything up to 8 weeks, but then second and subsequent orders can only be made for up to four weeks at a time.

Key Worker. The **key worker** (who should be a qualified social worker (see below) from social services or from the NSPCC) is responsible for making sure that the outline child protection plan (see above) is developed into a more detailed inter-agency plan for the protection of the child and has the lead role in inter-agency work with the family. The **key worker** should complete the core assessment of the child and the family, securing contributions from core group members (see above) and others as necessary and review progress against the objectives agreed at the core group meetings (see above).

Legitimacy. Any child born after the time of the parents' marriage is presumed at common law to be the legitimate child of both parents. The status of the **legitimacy** of a child is thus conferred as a result of the parents' marriage, either before the child was born or after, where under the provisions of section 2 of the Legitimacy Act 1976, the natural parents of a child marry each other at any time after the child's birth. **Legitimacy** can also be conferred on the children of void marriages under the provisions of section 1 of that Act, if at the time of the insemination resulting in the birth, or if there was no such insemination the child's conception, or at the time of the celebration of the marriage if later, either party believed the marriage to be valid. A child born or conceived during a voidable marriage, notwithstanding its later annulment, is also legitimate under the provisions of section 16 of the Matrimonial Causes Act 1973. Under the provisions of s67 of the 2002 Act, on the making of an adoption order, the adopted child is treated as the legitimate child of the adopters if they are a married couple.

- As if born as a child of the adopter(s).
- As the child of the relationship of the couple, where adopted by a couple or one of a couple under s.51(2) of the 2002 Act.
- As not being the child of any person other than the adopter and the other one of the couple, where adopted by one of a couple under section 51(2) ACA 2002 and in any other case, as not being the child of any person other than the adopter(s).

More complex provisions operate with regard to children born using assisted reproductive techniques. No issue of **legitimacy** arises where the wife is impregnated with her husband's sperm; any child born in such circumstances is presumed legitimate. However, a child born to a married woman after 4 April 1988 but before 1 August 1991 in England and Wales as a result of artificial insemination, with the semen of someone other than her husband, is also treated in law as legitimate and the husband is treated in law as the child's father, under the provisions of section 27(1) Family Law Reform Act 1987 and section 28(2) Human Fertilisation and Embryology Act 1990 for all purposes. The only exception is where the husband did not consent to the artificial insemination, in which case under the provisions of section 28(2), he is not the father and the child will be illegitimate. A child born to a married woman after 1 August 1991 as a result of assisted reproduction (whether in the United Kingdom or elsewhere) is treated in law as the child of the woman and her husband and thus as legitimate under the provisions of section 27 FLRA 1987 and section 28 HFEA 1990, unless again it is shown that the husband did not consent. Since the enactment of the Family Law Reform Act 1987, the status of **legitimacy** has lost much, if not all, of its importance, since section 1 of that Act provides that in relation to any enactments passed and instruments made after the coming into force of that Act, references (however expressed) to any relationship between two persons shall be construed without regard to whether or nor the father and mother of either of them, or the father and mother of any person through whom a relationship is deduced, have or had been married to each other at any time. Thus, references to 'my children' include all children whether born inside or outside marriage.

Lilac Book Assessment. This is an assessment of the needs of children and families where they are being assessed under the guidance provided in the Department of Health Guidance, the *Framework for the Assessment of Children in Need and their Families*. Such an assessment is sometimes referred to as a **Lilac Book Assessment**, since this is the only colour apart from white on the cover of the Guidance. Usually **Lilac Book Assessments** are carried out pursuant to the provisions of sections 17 and 47, Children Act 1989. The term **Lilac Book Assessment** has remained valid despite the fact that there is also new guidance in the form of the new 'Common Assessment Framework' (DES and Welsh Office 2005), which is a much briefer and more comprehensible document issued to guide all professionals working with children in the assessment of children and their families.

Line/Team Manager. The manager in the local authority social services department, or exceptionally within the NSPCC, to whom the case accountable social worker or key worker (see above) reports. Such a person may also, but will not necessarily, provide supervision to the case accountable social worker or key worker (see above).

Local Care Centre Plan. This is the plan devised by the Designated Family Judge under the provisions of Appendix E of the **Protocol for Judicial Case Management in Public Law Children Act Cases** (see below). The purpose of the **Local Care Centre Plan** is to implement the protocol without modification on a local basis and to ensure that, in each Care Centre, judicial and administrative resources are deployed in order to achieve the highest practical level of continuity of judicial case management and the earliest possible resolution of cases.

No Order Principle – Section 1(5). The term ‘**no order principle**’ has been described by the Court of Appeal as a complete misnomer and potentially a very misleading term to use in describing the provisions of s1(5). The more correct term is the ‘positive advantage principle’, for which see below under ‘positive advantage principle’.

Official Solicitor. Most of the **Official Solicitor’s** functions in relation to proceedings involving children have now been taken over by CAFCASS Legal (see above), with the exception of child abduction cases, where the **Official Solicitor’s Department** undertakes the functions of the Central Authority for England and Wales under the Hague Convention on Civil Aspects of International Child Abduction. The Practice Note *Official Solicitor: Appointment in Family Proceedings* ([2001] 2FLR 155) makes it clear that the **Official Solicitor** will not, from 1 April 2001, represent children who are the subject of family proceedings, other than in very exceptional circumstances and only after liaison with CAFCASS. In the booklet entitled ‘*Official Solicitor to the Supreme Court - A Guide to our services for the Judiciary*’ (issued June 2004) it is noted that the **Official Solicitor** will, however, act for a non-subject child whose welfare is not the subject of proceedings and will act as guardian ad litem in Family Law Act 1996 injunctions where a respondent child is under a disability and will take work as a last resort in cases involving the administration of estates or trusts where the interests of a child might otherwise go unprotected.

Paramountcy Principle. The principle to be found in section 1(1) of the Children Act 1989, which provides that when a court determines any question with respect to a child’s upbringing, administration of property, or income, the child’s welfare must be the court’s paramount consideration. The House of Lords have confirmed that where both parent and child in proceedings before the court are children within the meaning of the Act, the needs of the younger non-parent child are paramount.

Parent. A **parent** is the natural or adoptive **parent** of a child, or they are those persons deemed to be the child’s **parents** under the provisions of sections 27 and 28 of the Human Fertilisation and Embryology Act 1990. (see above under Legitimacy). These provisions operate to confer motherhood on the person who gives birth to the child, even though the child may not be biologically related to her but born as a result of egg donation, and fatherhood on the husband or male partner who consents to the wife or female being inseminated with donated sperm, or the egg donated by another woman being so inseminated. It should be noted that an unmarried father, even without parental responsibility, qualifies as a **parent** and under the terms of section 9(5) of the Children Act 1989, can apply for any of the section 8 orders in relation to the child.

Parental Responsibility. Section 3 of the Children Act 1989 defines **parental responsibility** as all the rights, duties, powers and responsibility which, by law, a parent of a child has in relation to the child and his property. All parents of a child who have ever been married have parental responsibility and divorce does not remove such responsibility, whereas natural fathers of a child can only have parental responsibility where they either a) registered

the child's birth (in force since 1 December 2003); b) made an agreement with the child's mother which has been registered with the Principal Registry of the Family Division in London; or c) have a court order giving them parental responsibility (see section 4 as amended and section 12(1) Children Act 1989).

Permanency Planning. Plans which should be made by the children's services authority to achieve permanence in the child's life, particularly where the child is being looked after under the terms of a care order and the child is drifting in local authority care with no chance of living life in a family which is permanently committed to him and where he can feel committed to them. This was the key message of the White Paper *Adoption - A New Approach*, published in 2000, with a foreword written by the Prime Minister in which he stated that children who could not live with their birth parents and who were thus already vulnerable, were being badly let down. He claimed that there were clear problems with the way the system of adoption operated and that there was scope to increase the use of adoption and the new adoption legislation is intended to achieve more adoption more quickly. Such **permanency planning** is thus generally taken to involve a much greater emphasis on placement of children in care with prospective adoptive parents.

Placement for adoption. A placement of a child by an adoption agency which under section 18 ACA 2002 must either be with the parents' consent pursuant to s.19 or pursuant to a placement order under s21 (see below).

Placement Order. An order made by the court under s.21 of the 2002 Act authorising a local authority to place a child for adoption with any prospective adopters who may be chosen by the children's services authority.

Placement Panel. This is a term sometimes wrongly used in different localities to describe the process by which all proposed placements of children are authorised and thus covers both those placements authorised by the Adoption Panel (see above) and those authorised by a Fostering Panel. Regulations 24-32 of the Fostering Services Regulations 2002, require the establishment of Fostering Panels to approve the placement of children with prospective foster carers and thus to approve the foster carers. A Fostering Panel thus operates in a parallel fashion to the Adoption Panel, but makes recommendations instead with regard to the prospective placement of a child with foster parents instead of with adoptive parents.

Placement With Parent Regulations 1991. These regulations are those made pursuant to the Children Act 1989 governing the placement of children, who are still subject to a care or interim care order, back with: their parents, anyone holding parental responsibility, or anyone in whose favour a residence order in respect of the child was in existence at the date the care order or interim care order was made.

Police Protection. Under section 46 of the Children Act 1989, any police officer is empowered, without any court order having to be made, to remove a child from, or authorise the retention of, a child in a particular place for up to 72 hours where he has reasonable cause

to believe that the child would otherwise be likely to suffer significant harm.(see below) Removal may be from the child's home or any other place where the child is living and retention may be in a hospital or other safe place, such as a local authority children's home or foster home.

Positive Advantage Principle. Under section 1(5) CA 1989, a court cannot make any order under any of the provisions of the Act unless it considers that doing so 'is better for the child than making no order at all.'

Prohibited Steps Order. A **prohibited steps order** under s8(1) CA 1989, is an order which prevents someone from doing something which might ordinarily be done by one parent in fulfilling parental responsibility in respect of the child e.g. giving consent for medical or dental treatment, collecting the child from school, giving consent for the child to go on a school trip, having the child's ears pierced.

Proportionality. The *Core Guidance on the Human Rights Act* (Home Office 2000) explains this concept as meaning that any interference with a Convention right must be **proportionate** to the intended objective. The *Core Guidance* states that this means that even if the particular policy or action which interferes with a Convention right is aimed at pursuing a legitimate aim, for example, seeking a care order in care proceedings to protect children's health or their rights, this will not justify the interference if the means used to achieve the end are excessive in the circumstances, thus in the example, if a supervision order would achieve the same degree of protection but by a different, more **proportionate**, means.

Protocol for Case Management in Public Law Children Act Cases. This Protocol was issued in June 2003 with the avowed aim of reducing significantly the delays in care cases under the Children Act 1989. The Protocol sets a guideline of 40 weeks for the conclusion of care cases, but directs that although some cases will take longer than this, many more cases should take less. The Protocol is described as a collation and distillation of best practice and sets out the Route Map of the 6 Steps leading to the making of orders at the Final Hearing. Step 1 covers The Application (Days 1-3); Step 2 - The First Hearing in the Family Proceedings Courts (on or before Day 6); Step 3 - The Allocation Hearing and Directions (by Day 11); Step 4 - The Case Management Conference (between Day 15 and 60); Step 5 - The Pre-hearing Review (by week 37); and Step 6 - The Final Hearing (by week 40). The different steps are then amplified in a detailed discussion of each which follows in the remaining part of the Protocol. These are followed by the Appendices, which contain various standard directions forms, case management questionnaires and checklists and other Guidance documents, including the Practice Direction and the Annex which are invaluable for all those dealing with care cases.

Recovery Order – Section 50. A court may make a **recovery order** under section 50 of the Children Act 1989, if there is reason to believe that a child has been unlawfully taken away, or is being unlawfully kept away from the responsible person (defined by section 49 as meaning any person who, for the time being, has care of the child by virtue of a care order,

emergency protection order, or pursuant to the exercise of police powers of protection), or the child has run away from the responsible person, or the child is missing. The **recovery order** can be made on the application of any person who has parental responsibility for the child and can thus include the local authority, the NSPCC, or the police. The application must name or describe the child and may be made without notice. The effects of a **recovery order** are: to direct a responsible person to produce the child or to inform the authorities of his whereabouts; authorises the police to search using reasonable force if necessary; and allows removal of a child by an authorised person.

Refuge. Where it is proposed to use a voluntary or private children's home as a **refuge** for children at risk of harm under the provisions of section 51, the Secretary of State may issue a certificate authorising the use of the home as a **refuge**. In addition, where a local authority arrange for a foster parent to provide such a refuge, again the Secretary of State will issue a certificate under the provisions of section 51(2). Thus, any person who provides a **refuge**, which has been certified, for a child who has run away, either from his parents (or carers) or from accommodation provided while he is in care, or from police protection, or who is subject to an emergency protection order, will not be guilty of various offences of child abduction listed under the provisions s51 (7). The purpose of the certification exemption is to protect voluntary organisations such as Barnardos and the Children's Society and certain certificated foster parents who assist 'runaways' who have decided for themselves that they wish to remain away from home. Under the terms of reg 3(9) of the Refuges (Children's Homes and Foster Parents) Regulations 1991, a child may be accommodated in a **refuge** for no more than 14 days and no more than 21 days in any three-month period.

Relative. The only definition provided of the term **relative** occurs in section 72 Adoption Act 1976, where **relative** in relation to a child is defined as meaning 'a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by affinity' (i.e. by marriage) and includes, where the child is illegitimate, the father of the child and any person who would be a **relative** within the meaning of this definition if the child were the legitimate child of his mother and father.

Rehabilitation to parents. Rehabilitation to the parents occurs where it is determined that a child, who may be either accommodated or on a care order, should be returned to live with his parents, although it should be noted that such **rehabilitation** should be carefully planned. Where the child is rehabilitated with the parents whilst still the subject of a care order, the order gives the local authority the right to remove the child at any time, despite any objections by the parents.

Related Jurisdictions – Section 8(4). It is provided in section 8(3) of the Children Act 1989 that for the purposes of the Act, family proceedings means: any proceedings under the inherent jurisdiction of the High Court, with the exception of seeking an application for leave under section 100(3) of the Act and proceedings under any of the enactments listed in section 8(4). These enactments are Parts I, II and IV of the Children Act 1989; the Matrimonial Causes

Act 1973; the Adoption Act 2002; the Domestic Proceeding and Magistrates Courts Act 1978; Part III of the Matrimonial and Family Proceedings Act 1984; the Family Law Act 1996; and sections 11 and 12 of the Crime and Disorder Act 1998. Any of the orders which can, therefore, be made under the Act in such family proceedings can, therefore, be made by any of the courts hearing applications for orders under these enactments. The **jurisdiction** of the courts to make orders in such family proceedings in these circumstances is referred to by some as the ‘**related jurisdictions**’.

Removal from the Jurisdiction – Section 13. Where a residence order (see below) is in force in respect of a child, section 13 of the Children Act 1989 provides that no person may remove the child from the United Kingdom without *either* the written consent of every person who has parental responsibility for the child, or the leave of the court. The holder of a residence order may, however, remove the child for a period of less than one month. If the matter cannot be resolved between those holding parental responsibility, then the leave of the court under section 13 will need to be sought. When the court makes a residence order, however, then section 13(3) provides that the court may grant the leave required to remove the child, either generally or for specified purposes.

Residence Order – Section 8. An order under section 8 of the Children Act 1989 settling the arrangements to be made as to the person or persons with whom the child should live. See also *shared residence* below. The order gives the holder parental responsibility for the child and has the effect of cancelling any care order on the child.

Review. The term **review** is used in a number of different ways. It can be used to describe the statutory ‘**reviews**’ which are required to be held on children who are looked after by the local authority under the provisions of section 26(2) of the Children Act 1989. Under Regulations 2 and 3 of the Review of Children’s Cases Regulations 1991, as amended it is provided that the responsible authority must **review** the case of every child it is looking after within four weeks of the date upon which he begins to be looked after; then, not more than three months from the first **review**; and thereafter, not more than six months from the previous **review**. At the **review**, the care plan for a child who is under a care order, or the plan which has been drawn up for an accommodated child, must be considered carefully and if those at the **review** feel that some change is required, the plan must be revised, or a new plan made. Under the Regulations, the responsible authority must, so far as is reasonably practicable, before conducting the **review**, seek and take account of the views of the child, his parents, any other person with parental responsibility and any other person whose views it considers to be relevant. Those persons should also be involved, so far as is reasonably practicable, in the **review** and in any meeting held to consider the child’s case in connection with the **review** and also notified of the result of the **review**. The Guidance makes it clear that only in exceptional cases should a parent or child not be invited to a **review** or to a **review meeting**. The responsible authority must ensure that minutes are taken and recorded in writing at any **review** and that any information obtained in respect of the **review** and any decision made, is also recorded in writing.

The term '**review**' is also used to refer to Child Protection Review Conferences, held pursuant to the guidance contained in *Working Together* and which should be held within three months of the initial child protection conference (see above). Further '**reviews**' should be held at intervals of not more than 6 months whilst the child's name remains on the child protection register (see above).

Section 17 Assessment. This is an **assessment** conducted to determine the extent to which a child is a 'child in need' as defined by the Act (see above) and to determine the extent to which the local authority, in the light of the **assessment**, then needs to provide services to the child in need and/or members of his family. Such **assessments** should be done in accordance with the new *Common Assessment Framework* (DfES 2005) and the Guidance laid down in *The Framework for the Assessment of Children in Need and their Families* (see Lilac Book Assessment above), which emphasises that **assessment** is a process not an event. Further detailed Guidance is provided in the *Framework* as to the periods of time within which initial and then more detailed core **assessments**, should be conducted.

Section 47 Investigation. This section obliges a local authority, which has been informed that a child who lives or is found in their area, is the subject of an emergency protection order, or is in police protection, or has contravened a ban imposed under the Crime and Disorder Act 1998, or the authority has reasonable cause to suspect that the child is suffering from or likely to suffer significant harm, to conduct such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare. The *Common Assessment Framework* and the *Framework for the Assessment of Children in Need and their Families* provides a structure for helping the children's services authority to collect and analyse any information obtained about the child and any other children in the family and the local authority is able to call upon the assistance of a range of other statutory agencies, under the provisions of section 47(11), to assist them in gathering all the relevant information and to enable them to decide what further action should be taken.

Section 37 Report. Where, in any family proceedings (for definition see related jurisdictions above) in which a question arises with respect to the welfare of any child, it appears to the court that it may be appropriate for a care or a supervision order to be made on the child, the court may direct the appropriate local authority to undertake an investigation of the child's circumstances and the court can then ask that a **Report** be prepared reporting on the findings of the local authority and what, if any, action the authority propose to take in the light of the court ordered investigation. Where the court makes a request for a **Section 37 Report**, it should be noted that this is the subject of special guidance laid down in Appendix G of the **Protocol for Case Management in Public Law Children Act Cases** (see above), which should be followed in such situations.

Section 38(6) Direction. This can be attached to an interim care or supervision order made under the provisions of section 38 of the Children Act 1989, which allows the court under section 38(6) to give such **directions**, if any, as it considers appropriate with regard to the

medical or psychiatric examination, or other assessment, of the child, but if the child is of sufficient understanding to make an informed decision, he may refuse to submit to the examination or other assessment. The term or other assessment can include assessment by a social worker, or a range of other professionals who might be involved in assessing a child, such as a psychologist and it can include a residential assessment, but this must be specifically referred to in the **directions**. **Directions** can be given when the order is made or at any other time while it is in force. Under section 38(7), the court can prohibit examination or assessment altogether, or make them subject to its specific approval.

Section 7 Report. A report provided by either a **Children and Family Reporter** or a **Welfare Officer** to the court, under the provisions of either s7(1)(a) or s7(1)(b) CA 1989 in disputed residence, contact, specific issue and prohibited steps order applications made under section 8 of the Children Act 1989.

Section 8 Orders. One of the 4 different **orders**, namely 'contact', 'residence', 'prohibited steps', or 'specific issue' orders, which can be made under section 8 of the Children Act 1989.

Section 91(14) Order. An **order** which is made by the court (whether or not it makes any other order) disposing of any application for an order under the CA 1989, that no application for an order under the Act of any specified kind may be made with respect to the child concerned by any person named in the order without the leave of the court. The purpose of such an order is to prevent the distress or hardship to the child or his primary care-givers caused by repeated applications being made to the court which have no prospect of success.

Secure Accommodation – Section 25. **Secure accommodation** is defined in section 25(1) as 'accommodation provided for the purposes of restricting liberty'. Under the provisions of that section, a child who is being looked after by the local authority can only be placed in **secure accommodation** if he has a history of absconding; is likely to abscond from anywhere else; is likely when absconding to suffer significant harm; or if kept elsewhere is likely to injure himself or others. The local authority has a discretion to place a child in **secure accommodation** for a maximum period of 72 hours in any 28 day period, but thereafter, or if the intention from the outset is to keep the child in **secure accommodation** for a longer period, then the local authority or other body must seek the authority of the court under section 25 to do so and the child should be legally represented in such proceedings. The court hearing the application should satisfy itself that those making the application have satisfied the criteria laid down in section 25. These criteria are modified under Regulation 6 of the Secure Accommodation Regulations 1991, in respect of children remanded to local authority accommodation (see above under accommodation) where the court can, after consultation with the designated authority, impose a security requirement i.e. that the child be placed and kept in **secure accommodation**, above and beyond that provided for the purposes of restricting liberty. The Court of Appeal has determined that neither the paramountcy principle (see above) nor the positive advantage principle (see above) apply, so that if the court has found that any of the section 25 or regulation 6 criteria are satisfied, then it must make an order.

Self-Incrimination – Section 98. In order that the family courts be assisted in receiving full and frank information, section 98 of the Children Act 1989 introduced a statutory protection from **self-incrimination**. Thus, the section provides that in proceedings for care or supervision orders, emergency protection, child assessment orders or recovery orders, ‘no person shall be excused from giving evidence on any matter or answering any question put to him in the course of his evidence on the ground that it would incriminate him or his spouse of an offence’. Section 98(2), however, goes on to provide that ‘a statement or omission made in such proceedings shall not be admissible in evidence against the person making it or his spouse in proceedings for an offence other than perjury’. This means that statements or admissions made in such proceedings may not be used in prosecutions for other criminal proceedings, other than perjury. This is to encourage witnesses in children’s cases to be frank with the local authority and the courts and to facilitate further investigations and assessments. The protection offered by section 98(2) protects against statements such as confessions made within care proceedings being *used in criminal proceedings*, but as noted above under **Disclosure**, an admission otherwise covered by section 98(2) may nevertheless be disclosed to the police, or to other bodies, to assist them in their investigations or enquiries. It should be noted that although statements and admissions made in care proceedings are not admissible in themselves in a criminal trial, section 98(2) does not protect a party from being cross-examined about having made such statements or admissions and it should further be noted that it would appear from the case law that the words ‘statement or admission’ in section 98(2) cover not only statements made in oral evidence, but also those made ‘in the course of or in connection with the proceedings’, including statements made to an expert witness during his assessment.

Shared Residence. This is where parents share the residence of the child between them, either pursuant to an agreement which they have reached themselves, or pursuant to a court order providing for **shared residence** under the provisions of section 8 of the Children Act 1989. It has been stated by the Court of Appeal that such an order should not be seen as in any way exceptional, and also that it should reflect the reality on the ground. Such an arrangement may involve the children spending half the week with one parent and half the week with the other; or the school week with one and the weekend with the other; or term time with one parent and school holidays with the other.

Significant Harm – Section 31. The statute does not provide a full definition of **significant harm** as the term ‘**significant**’ is not defined, but it has been interpreted by the courts as according with dictionary definitions of ‘considerable’, ‘noteworthy’, or ‘important’ and the Court of Appeal has adopted that approach to the interpretation of the same word in section 33(7) of the Family Law Act 1996. ‘**Harm**’ is defined under section 31(9) using a layered approach, sometimes referred to as a Russian Doll provision, thus: ‘harm means ill treatment or the impairment of health or development *including, for example, impairment suffered from seeing or hearing the ill treatment of another* (words in italics added by the amendment made by the Adoption and Children Act 2002)”; ‘development means intellectual, emotional, social or behavioural development’; ‘health means physical or mental health; and ill treatment includes sexual abuse and forms of ill treatment which are not physical.’ It should be noted that only one

of the three alternative conditions: ill treatment, impairment of health **or** development, need to be proved to the court's satisfaction. Section 31(10), however, whilst it does not define **significant**, does provide that 'where the question of whether harm suffered by a child is significant turns on the child's health or development then his health or development shall be compared with that which could be expected of a similar child.' This is not without its problems, since the court is required to compare this subjective child with that hypothetically similar child. For example, if a child is disabled in some way and that has affected his health or development, then the court must ask itself what state of health or development could be expected of a similar child with a similar disability. It should also be noted that *Working Together to Safeguard Children* (HM Government 2006) does provide an extensive definition of **significant harm** at paragraphs 1.23-1.33.

Social Services Department. Under the provisions of Schedule 1 of the Local Authority Social Services Act 1970, the Social Services committees of local authorities, metropolitan boroughs and county authorities (and Children's Services Authorities from April 2005), currently have a number of statutory duties which must be performed and which are delegated to the **social services departments** of such authorities. These statutory duties include obligations towards children whom they are looking after, the primary decision taking role in relation to the initiation of care proceedings, as well as the key role to perform in ensuring that the welfare of children in the area of the children's services (HM Gov 2006) authority is safeguarded and promoted under the provisions of section 17 and Schedule 2 Part 1 of the Children Act 1989 and in the protection of children from harm by conducting investigations under section 47 of the Children Act 1989. As *Working Together to Safeguard Children* children's services (HM Gov 2006) authority points out, because of their responsibilities, duties and powers in relation to vulnerable children, social services act as the principal point of contact for children about whom there are child welfare concerns. They may be contacted directly by parents or family members seeking help, concerned friends and neighbours, or by professionals and others from statutory and voluntary agencies.

Social Services Inspectorate (SSI). The **Social Services Inspectorate** used to be the body charged with responsibility for the inspection of children's services but this responsibility has now been transferred to any two of the bodies referred to in s.20(4) CA 2004 and the responsibility for drawing up the Framework of Inspections has been given to HM Inspector of Schools under the provisions of s.21 CA 2004.

Social Worker. The statutory role and functions of a **social worker** derive from the provisions of the Local Authority (Social Services) Act 1970, which impose the social services functions listed in Schedule 1 upon the social services committee of local authorities, metropolitan boroughs and county authorities. A **social worker** is defined in section 55(2)(a) of the Care Standards Act 2000 as someone who engages in social work and, under the provisions of section 61 of that Act, anyone who acts as or calls themselves a **social worker** must be both qualified and registered. Anyone who is not so qualified and registered who uses the title **social worker** commits a criminal offence under section 61. The Secretary of State,

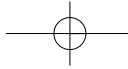
under the provisions of section 67(1) of the Care Standards Act 2000, is responsible for determining the educational requirements which must be met by those who wish to qualify as a **social worker** and for the recognition of those who have already gained their qualifications. These requirements are updated on a regular basis, but the current requirements are supplemented by the *National Occupation Standards for Social Work* published by the Training Organisation for Professional Social Work (www.topss.org.uk) and the Quality Assurance for Higher Education benchmark standards for social work degrees. Under section 56 of the Care Standards Act 2000, **social workers** must also be registered with the General Social Care Council in England and in Wales with the Welsh Assembly. Pursuant to the duty imposed by section 62 of the Care Standards Act 2000, both the General Social Care Council and the Assembly have drawn up Codes of Practice for Social Care Workers, which includes **social workers**. This can be accessed at www.gsccl.org.uk.

Special Guardian. Provided for under the new sections 14A-14G of the Children Act 1989, as inserted by the Adoption and Children Act 2002. The concept of **special guardianship** is intended for use in relation to those children for whom adoption is not appropriate, yet who cannot return to their birth families, but who would still benefit from a legally secure placement. A person may be appointed as a **special guardian** for the child provided they are over 18, but they must not be a parent of the child. The persons who are *entitled* to apply for a **special guardianship** order include: any guardian of the child; any person in whose favour a residence order is in force with respect to a child, or who has the consent of all those in whose favour a residence order is in force; any person with whom the child has lived for at least 3 out of the last 5 years; any person who has the local authority's consent where the child is in the care of the local authority; any person who has the consent of all those with parental responsibility; a local authority foster parent with whom the child has lived for at least one year immediately preceding the application; and anyone else, including the child, who obtains the leave of the court. A **special guardianship** order can be made on the application of persons jointly who need not be married and an order can be made in any family proceedings concerning the welfare of the child, regardless of whether there is an application before the court. All applicants will have to give 3 months notice of their intention to make an application to the local authority in whose area they live, unless the child is being looked after by another local authority, in which case notice must be given to that local authority. The local authority will then be under a duty to investigate and prepare a report (which will be prescribed by regulations yet to be made) to the court as to the suitability of the applicants to be **special guardians** and the court cannot make an order unless it has received such a report. The effect of a **special guardianship order** will be that whilst it remains in force, the **special guardian** has parental responsibility for the child and, subject to any other being in force in respect of the child, the right to exercise that responsibility to the exclusion of anyone else, apart from another **special guardian**.

Specific Issue Order. An order made under section 8 of the Children Act 1989, giving directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for the child, such as which school the child should attend, or whether the child should have particular medical treatment.

Specified Proceedings. ‘**Specified proceedings**’ are defined by section 41(6) of the Children Act 1989 as meaning any proceedings:

- (a) on an application for a care or supervision order;
- (b) in which the court has given a direction under s37(1) (for local authority investigation) and has made, or is considering whether to make, an interim care order;
- (c) on an application for the discharge of a care order, or the variation or discharge of a supervision order;
- (d) on an application under s39(4) (for the discharge of a care order and substitution of a supervision order);
- (e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;
- (f) with respect to contact between a child who is the subject of a care order and any other person;
- (g) under Part V of the Act (emergency provisions);
- (h) on an appeal against:
 - (i) the making of, or refusal to make, a care order, supervision order, or any order under s34 providing for contact with a child in care;
 - (ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order;
 - (iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in sub-paragraph (i) or (ii);
 - (iv) the refusal of an application under s39(4) to substitute a supervision order for a care order; or
 - (v) the making of, or refusal to make, an order under Pt V;
- (i) which are specified for the time being, for the purposes of this section, by Rules of Court. These include under the provisions of the Family Proceedings Courts, (Children Act) Rules 1991, as amended, and under the Family Proceedings Rules 1991, as amended: applications for a parental order under section 30 of the Human Fertilisation and Embryology Act 1990; proceedings under s25 of the Children Act 1989 (applications for secure accommodation orders); applications under s33(7) (causing a child in care to be known by a new surname or to be removed from the UK); proceedings under Schedule 2, paragraph 19(1), of the Children Act 1989 (approval for arrangements by local authority to assist a child to live abroad); applications under Schedule 3, paragraph 6(3), (application by a supervisor to extend

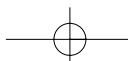


or further extend a supervision order); and any appeals against any determinations made in such proceedings. Applications under s36 for an education supervision order are not specified proceedings for the purposes of section 41(6).

Strategy discussion/meeting. Whenever there is reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm, there should be a **strategy discussion or meeting** involving social services, police and other agencies as appropriate, in particular any referring agency, for example, a teacher or a health visitor. The purposes of a **strategy discussion** are to: share available information; decide whether section 47 enquiries should be initiated or continued if already in motion; plan how enquiries should be handled; agree what immediate action is needed to ensure the child's safety and/or offer services or support; and to determine what information about the discussion will be shared with the family (unless such information sharing may place a child at risk of significant harm or jeopardise police investigations into any alleged offence). A **strategy discussion** may take place at a meeting or by other means, for example by telephone, but any information shared, all decisions reached and the basis for those decisions, should be clearly recorded by all parties to the discussion.

Supervision Order. A **supervision order** made under section 31 (1)(b) of the Children Act 1989, should only be made by the court in consultation with and with the agreement of the local authority to be named in the order (Schedule 3, paragraph 9), and it puts the child under the supervision of a designated local authority, who will then allocate a supervisor from its social services department. Section 35(1) imposes 3 specific duties on the supervisor: to advise, assist and befriend the child; to take all reasonable steps to ensure that the order is given effect: and to consider whether to apply for variation or discharge of the order where it is not being complied with, or he considers that it is no longer necessary. The provisions of section 35 are then further amplified by detailed provisions under Schedule 3, Parts I and II. Under Schedule 3, Part I, paragraph 3, obligations are imposed on the responsible person (i.e. the person with parental responsibility or with whom the child is living) to take reasonable steps to ensure the compliance of the child with the **supervision order** and that he complies with any directions given by the supervisor. Under the terms of paragraph 6 of Schedule 3, Part II, the **supervision order** can last for 12 months, but can be varied by a court to a care order, discharged, or renewed for up to a maximum of 3 years.

Tipstaff. The **Tipstaff** is an Officer of the Supreme Court, whose functions include recovering children wrongfully removed from their carer and also include arresting any persons guilty of contempt of court. The only way in which the **Tipstaff** can be involved in any case is by an order of the High Court, which should be directed to the **Tipstaff** to recover a child and deliver him to a named person, or to arrest a person named in the order and bring him before the court. A standard form order should be used to avoid delays, which may or may not contain a bench warrant and the original order should be sent to the **Tipstaff**. A copy should be retained on the court file, but no other copy should be distributed to anyone else. Once the **Tipstaff** has received the order, he then sends a form to the applicant's solicitors requesting details of the parties involved. This is then sent back to the **Tipstaff**, who can telephone the

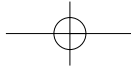


applicant's solicitors if he needs any further information. This concludes any involvement of the court and contact between the **Tipstaff** and the applicant's solicitors. The **Tipstaff** will then, having consulted with the police, make the necessary arrangements to enforce the order.

Twin Track Planning. **Twin track planning** involves making it clear to the natural family at the outset that the local authority is considering two options i.e. rehabilitation with a strictly limited timescale, or adoption outside the family and that such **twin track planning** in no way pre-empts the outcome. Whenever care proceedings are commenced, the court should be proactive at an early directions hearing (under the Protocol (see above) probably at the Allocation Hearing identified in Step 3) by inquiring of a local authority whether **twin track planning** is suitable for the case and giving appropriate directions. There should be appropriate liaison with the director of social services, the chair of adoption and fostering panels and with the officers of CAFCASS and any other concerned persons.

Wardship. The historical role of the High Court in children's cases was that of **wardship**, where the High Court effectively steps in at the invitation of an interested party and takes over in place of the child's parent. The child is then referred to as a 'ward of court' and no major step in the child's life can then be taken without the court's consent. The authority of the High Court to do this derives from what is referred to as its inherent jurisdiction. However, the effect of invoking the inherent jurisdiction, apart from **wardship**, is not as wide-ranging, nor does it confer parental responsibility on the court. It does, however, allow the court to make orders in relation to a child in difficult circumstances (see above Inherent Jurisdiction). Since the implementation of the Children Act 1989, local authorities can no longer apply in **wardship** proceedings for a care or supervision order. Originally it was thought that this might mean the end of **wardship** hearings, but the need for the **wardship** jurisdiction to be exercised from time to time still exists, principally as outlined by the Court of Appeal in very limited circumstances. Thus, the Court of Appeal has indicated in a number of cases that a child can be made a ward of court where: the question which the court is determining could not be resolved in a way which secured the best interests of the child under the provisions of the Children Act 1989, for example, where it was not possible to frame a prohibited steps order under section 8, in such a way as to anticipate the way in which a ward's father might act; the child is at risk of danger from which he can only be protected by making him a ward of court, for example, where the ward needs the protection offered by the continuing nature of **wardship**; and finally, where conferring the status of **wardship** might protect the child from external potentially injurious influences, for example, where the press have become overly interested in a child and the most effective means of providing continuing protection for the child against such publicity is to make the child a ward, or continue **wardship** where he is already a ward of court.

Welfare Checklist – Section 1(3). Where the court is considering an opposed section 8 order application, or an application for a care or supervision order (including interim care and supervision orders), or for an education supervision order, the court is required under section 1(3) of the Children Act 1989, to have regard to a **checklist** consisting of: the child's wishes



and feelings considered in the light of his age and understanding; the child's physical, emotional and educational needs; the likely effect on the child of any change in his circumstances; the age, sex, background and any relevant characteristics of the child, which should include the child's race, language, religion and culture; any actual or potential harm which the child might have suffered or be likely to suffer; the capacity of the parents and any relevant others to meet the child's needs; and the range of powers available to the court in the proceedings in question.

Welfare Officer. The term may also be used to describe a children's services authority social services worker who, where the child has been placed by the authority as an adoption agency, provides in the ensuing adoption application pursuant to s43 ACA 2002 a report to the court on the suitability of the adoptive applicants and on any other matters relevant to the operation of section 1 ACA 2002.

