



CHILDREN ORDER

The Children Order

A Guide for Children and Young People

The Children Order and the Courts

COG 3

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Introduction

The law about looking after children and keeping them safe changed in November 1996. It now makes things better for children and young people whether they live at home or not. It says that all children should have a say in what happens to them and how they are looked after. Sometimes, the courts may have to decide what should happen to children. This booklet tells you about what the courts can do. There are other booklets to tell you more about your rights under the law and how Health and Social Services Trusts, which you may know as social services, can help you and your family.

Look on the contents page for a list of what is in this booklet. You may not want to read it all at once. You may find it easier at first just to read the parts you need to know about. You can read the rest later if you want.

We have tried to make the booklet as clear as we can, but the law can be difficult to understand sometimes. If there is anything that you are not sure about **DO ASK** an adult you trust to explain it to you. There is a list of other people who can help you on page 17.

1.

About the Children Order

When might you need to know about the Children order?

Most of the time children live at home quite happily with their family. But there are times when children's lives or their parents' lives change a lot and it may not be possible for everything to carry on in the same way. This is not the children's fault. Perhaps their parents decide that they do not want to live together any more, or a parent is ill and cannot look after them for a while. Sometimes a child becomes very unhappy at home and doesn't want to live there any more. Often things cannot be sorted out within the family. Social services may be able to help.

The booklet '*Getting Help from Social Services: A Guide for Children and Young People*' tells you more about this. But if social services cannot sort things out then the courts will be asked to step in. If this happens to you, then the courts will try to sort out the situation to make sure you are still looked after in the way that is best for you. The Children Order tells the court how to do this.

What is the Children Order?

The Children Order sets down some rules to try to make sure that all children are brought up in the best way possible for them. It is good news for children and young people because it says that their welfare comes first. It says that young people are important and that you should be looked after by your family whenever possible. If social services believe that your family needs help to look after you, social services must give it to them.

Parental Responsibility

The Children Order says that parents are important. It is their job to look after you. The Children Order calls this '*parental responsibility*' for you. If your parents are married or divorced, it is for both of them to look after you. If they are not married then it is for your mother to do. But your father can take responsibility for you if your mother agrees in writing or the court makes an order giving him parental responsibility with your mother.

What the Courts can do

The Children Order says that if the court has to decide what is to happen to you, then it must think about what will be best for you. In court everyone with an interest in you will have a chance to say what they think is best for you. The judge or the magistrates will decide. Even if you do not go to court yourself, the court will still want to hear what you think and feel.

The Children Order says that when courts are deciding what to do for you they must act as quickly as possible. The decisions made by the courts are called '*orders*'.

People have to do what the courts say. They have to obey the orders. There are lots of different orders the court can make and it will choose what is best for you. For example, if your parents are getting divorced and can't agree where you should live, then the court can decide. Or, if your parents cannot look after you or are even hurting you, then the court can decide whether you should be looked after by the social services. Usually this is called '*being taken into care*'. This means that you would not live at home but might live with foster carers or in a children's home, or with someone else in your family or even friends. The court will never make an order unless it thinks it will make things better for you than not making one.

Private Law – Public Law

The Children Order is in two parts: *private law*, which is about parents and children, and *public law* which is when others, usually social services, step in to protect children who they believe are not safe at home. The next part of this booklet tells you more about what the courts can do.

2.

When Parents Separate

The Children Order starts with the idea that parents, whether married or not, can work out for themselves what is best for their children. Even if your parents divorce or separate they are still both responsible for you. The court may decide what should happen to you if your parents cannot agree about this. If they can work out between themselves where you will live, or how often you will see and stay with the parent you don't live with, then the court will not make any order. If your parent cannot agree, then the court will not make an order if it believes the order will make things better for you. It could make a *residence order* which says who you will live with. Also it could make a *contact order* which will set out when you can visit or stay with the parent you don't live with, or with other people who are important to you. *You may be able to ask the court to make an order, perhaps to see a parent that you have not seen for some time, but first you will have to ask the court's permission.*

The court can also make an order called a *prohibited steps order* which stops a parent doing something, like taking you to live somewhere outside this country. Or it can make a *specific issue order* if your parents cannot agree about something, like which school you should go to.

The court can say how long the orders can last although they will not usually last after you are 16. But, if the court agrees or your parents do, you can go back to the court and ask it to change the order or to end it.

The court may ask someone to speak to you and ask you what you think – for instance who you would like to live with. *Their job is to find out what you want and to tell this to the court as well as what he or she thinks would be best for you.* The judge or magistrates will then decide.

3.

Social Services and the Courts

Social services must make sure children are properly looked after and kept safe. The Children Order says that children are best brought up by their families and social services must give help to children and their families if social services believe that they need it to help keep the family together. Sometimes, even when social services have given this help, it is not possible for children to carry on staying at home.

Teachers, health visitors, doctors and the police are some of the people who are concerned with your well-being. If they think you are not safe at home they will let social services know. Any other person who thinks you are in danger can also get in touch with the police or social services who may then decide to go to court for an order that will help make sure you are well looked after. Social services will only do this if there is no other way of keeping you safe at home. They will listen to what you think and want before deciding whether to go to court. If you, your parents and social workers can work out a plan together then social services will not have to ask the court to make an order. It may be possible for you to live away from home, maybe with relatives. You might stay at home, with a social worker visiting regularly. However, if social services believe that you are suffering harm at home and are likely to be harmed in the future, then they must ask the court for a care or supervision order to be made. Your case may go to court several times and the court may make no order or one of a number of different orders.

Sometimes if social services feel that they must do something at once (perhaps you are being badly hurt or abused) they will apply for an *emergency protection order*. This order would allow them to take you away from home quickly or keep you somewhere safe if that was needed to protect you. There is more about this on page 15.

The next section tells you more about how courts work in *public law hearings*, and the kind of decisions courts can make.

Which Court?

Nearly all cases start in the Family Proceedings Court, which is usually near your home. These cases are heard by magistrates who have special training in children's cases. Some cases will be moved to a County Court or the High Court because they are more difficult or take a longer time. Then they are heard by a judge. Courts that deal with children are never open to the general public so usually only the people involved in your case will be in the court room.

If you are at court you will sit with your solicitor and *guardian ad litem*. (You will read more about your solicitor and *guardian ad litem* on the next few pages). Everyone else will sit at tables with their solicitors. The solicitor from social services will usually speak first and may be sitting with a social worker who knows about your case. Everyone's solicitor, including yours, will have a chance to speak. A timetable is worked out to make sure that everyone does what they are supposed to by a set date so that the court can decide as quickly as possible what should happen about you. It may however take a few months before a final decision is made.

Who speaks for you in Court?

Your solicitor and *guardian ad litem* will be there to speak for you whether you are in court or not. They are usually appointed by the court to look after your interests. They are there to speak for you alone, not your parents or the social services.

Your Guardian Ad Litem

Your *guardian ad litem* is the person who will write a report to tell the court all about you and about your wishes and feelings. So he or she will need to know as much as possible about you and your case. *Guardian ad litem's* are used to talking to children and young people and are very understanding. The *guardian ad litem* will talk to you and all the people who are concerned about you and may even look up people that you don't know or see often, like relatives, to find out more about you and your family. The *guardian ad litem* will visit you and make sure that you can say what you want without anyone else listening. You may already have a social worker to talk to, but the *guardian ad litem* is a special person who is completely independent of social services and advises the court on what is best for you and on what you would like to happen. For instance, the social worker may feel you should stay in care, but the *guardian ad litem* may think you will be safe at home. The court will think very carefully about what the *guardian ad litem* says before it makes a final decision. So it is important that you talk to the *guardian ad litem* and tell him or her what you want to happen. The *guardian ad litem* will take your wishes and feelings into account when writing his or her report to the court.

It may be a few months before you go back to court for the final hearing. During this time your *guardian ad litem* will be seeing you often and getting to know you. He or she will also be speaking to your parents, social workers and other people who have looked after you. If you have brothers and sisters your *guardian ad litem* will probably talk to each of you on your own and also all together. Your *guardian ad litem* will then write a report for the final court hearing. The report will tell the court what your *guardian ad litem* thinks will be best for you. It may recommend that you should go home, or that you should live in a foster home. The *guardian ad litem* can suggest a number of different plans to the court. Your solicitor will then tell the court whether or not you agree with what the *guardian ad litem* has said in the report.

Your solicitor

Your solicitor is the person who stands up in court and speaks for you. The solicitor will be someone who knows about children and the law. Your *guardian ad litem* will usually choose him or her but sometimes the court will do this. In certain circumstances you may be able to choose your own solicitor. This will depend on whether you are old enough or mature enough to make such a decision. If you have brothers or sisters whose cases are being heard at the same time then you will usually all have the same solicitor and *guardian ad litem*. Your parents can have a solicitor too, and they will not have to pay him or her. You will not have to pay your solicitor either, you have a right to a solicitor paid for by the Government.

When you first meet your solicitor he or she will give you an office phone number. Your *guardian ad litem*, social worker, teacher or foster carer will also know how to get in touch with your solicitor. You can always phone or visit him or her at the office. Maybe he or she can visit you where you are staying. *It's important that you let your solicitor know your wishes too, because it is his or her job to tell the court this.* If you do not agree with what your *guardian ad litem* is saying then your solicitor will tell the court why you do not agree and explain what you would like to happen.

Your solicitor will tell the court about what has happened to you in the past and what you would like to happen in the future. He or she will ask questions for you of any of those people in court. This is called '*acting on your instructions*' and this is your right. If your solicitor thinks that you do not really understand what is involved, perhaps you are too young, then your *guardian ad litem* will talk to the solicitor for you. But your solicitor should always come and see you so you can talk to him or her if you want to.

Going to Court

You may not have to go to court at all if you don't want to. The court can decide without you being there. But if you are old enough to understand what is happening you should think about whether you want to be there. This is something you can talk about with your solicitor and *guardian ad litem*. You may want to know exactly what

is going on, or you may want to stay away altogether. You may choose to be in court some of the time. Perhaps you will choose to come in at the end when a final decision is made. The court can also decide that you should not go to court if what is going to be said might upset you. *When you are old enough to understand what is involved you can tell the court that you want to be there for all or part of the hearing. The court will only go against your wishes if it think it is very important to do so.*

If social services decide to ask the court for a care or supervision order they will tell the court and everyone else involved that it is what they intend to do. A day will then be fixed for the first hearing, so that the court can hear about your case and begin to deal with it.

The Directions Appointment

The magistrate or judge is likely to give a number of instructions about what should happen next. These are called directions. For instance, the court will set a timetable with the dates of future hearings, decide which people should be involved in your case and who should be asked to come to court to talk about you and your family and whether or not you yourself wish to go to court.

The Hearings

Interim Hearing The first time your case goes to court the magistrates or judge must decide where it is best for you to live for the time-being. Social services will ask people who know about you, like your teachers and doctors, to tell the court what they think. Your parents can tell the court their side of the story. Your grandparents or anyone else involved with your case may say what they think. Many children do not live with both their natural parents. A person, say, like your mother's boyfriend, who lives with you and is like a parent will also be involved in your case. He will have a chance to put his views to the court too. Your *guardian ad litem* will want to speak to the court. *Even if you decide not to go the hearing it is important that you talk to your solicitor or guardian ad litem.* Some children don't feel able to make a decision at such an early stage. Others are clear in their mind about what they want to happen. The court will take your wishes and feeling into account.

Interim Orders The court can make any of the following. These are short term orders. If the court does not come to a final decision, it may make an interim order at this stage:

- An *interim supervision order* means that you can go home, but social workers will come round and make sure that you are all right until the next meeting.
- An *interim residence order* means that you can live at home but sometimes you may have to live somewhere else for a short time with people you know, for example you might live your grandparents. This order will usually be made together with an interim supervision order.
- An *interim care order* means that social services will look after you and decide where you will live for as long as the order lasts. You will probably live in a foster home with a family or in a children's home.

The first interim care order can last for up to 8 weeks. The court can make further interim care orders lasting no more than 4 weeks until the final court hearing date is fixed when a decision about your future will be made.

The court may also decide that no interim order is needed and that you can stay at home with your family until the next court hearing date.

Appeals If you or your parents are unhappy about the interim order the court has made, you or your parents can appeal against the court's decision. This means that another court will consider whether to make a different order or no order at all. Your solicitor will see to this for you if you tell him or her that you do not agree with the court's decision and are unhappy about it.

The final hearing A date will be fixed for a final hearing to decide your case. It may be that everyone, including you, will agree about what orders should be made. The court may agree too but they will still want to read what everyone has said about you before making a decision. If they do agree then the hearing will be short.

The court will have to decide how to give you a safe future. It may make one or more orders or decide that social services can help you and your family without a court order. Everyone who has an interest in you will be able to put their ideas to the court. The court will also be told what has happened since the hearings began.

The magistrates or judge will have read all the reports written about you and your family including any by doctors or other specialists you may have seen.

These people and your parents may be asked questions by the court, your solicitor and others. You can decide, with help from your solicitor and *guardian ad litem* whether you want to be in court for all or part of the hearing.

Orders the Court Can Make

Orders After the hearing the magistrates or judge will think very carefully about what has been said. They will first decide whether to make any order at all. They will only make an order if that order will be better for you than not making an order.

Supervision Order This usually means you will live at home. A social worker will act as your supervisor. He or she will see you often and give you help and advice when you need it, and make sure you are safe. The order lasts for one year but it can be made to last longer.

Residence Order The court may make an order that you live somewhere other than at home. You might go to live with your grandparents or other relatives, or a natural parent. Whoever you go to live with will become responsible for you as long as the order lasts and can make decisions about you, like which school you should go to.

Care Order If the court decides that it would be better for you not to live at home a care order can be made. This means that social services will decide where you live and other important things, like schooling until you are 18. They will usually make these decisions with your parents, and with you if you are old enough to understand. Social services must tell you about their plans for you and you should tell them what you would like to happen. They must take account of your wishes.

Contact After the court makes a care, or any other order, it may think about how you should keep in touch with other people in your life, such as your parents, sisters, brothers, friends and relatives. This is called contact. Contact may mean regular visits, visits which are not so frequent, perhaps during holidays or letters, phone calls and cards.

You have the right to stay in touch with your parents, or the person responsible for you. If a care order is made social services must make sure that your relatives and friends can stay in touch with you. The court will want to know about these contact arrangements whenever it hears about your case. Social services may feel that it would be better for you if you did not have visits or letters or calls from someone in particular. In an emergency, and for no more than 7 days, social services can stop you having contact with that person. If they want to stop contact for longer they must go to court and ask for an order stopping contact. On the other hand there may be someone who wants to have contact with you. That person can ask the court for an order. You may want to have contact with someone yourself and you may be able to apply to the court in the same way. Contact can be asked for at time even after a care order has been made.

Education Supervision Orders If you are between the ages of 5 and 16 years old the law says that your parents must make sure you receive an education. If you are not going to school regularly, or receiving an education in some other way, then your education and library board can ask the court to make an education supervision order.

If this order is made the court will appoint an education welfare officer to act as your supervisor. He or she will give you help and advice and try to sort out your problems about school. He or she may tell you, or your parents, what do to make sure you are properly educated and so it is important that you tell your supervisor what you would like to happen. An education supervision order lasts for a year but can be made to last longer.

Appeal Social services, your parents and you can appeal against the making of a care or supervision order. We talked about appeals on page 12. This means that another court will think about your case and may make a different decision. While you are waiting for a date for your appeal to be heard the court may make an order to keep you safe.

Changing the Order If the court has made a supervision order then you, your parents, the person supervising you or someone else with responsibility for you, can ask the court for the supervision order to be varied. This means the length of the order or some of the conditions of the order can be changed. Perhaps you may want to live with someone other than the person named in the order.

If the court has made a care order then you, social services, your parents or a person who has responsibility for you can ask the court for the care order to be changed to a supervision order.

Ending the Order You, your parents, whoever is responsible for you or social services can ask the court for a care or supervision order to be discharged. This means asking for the order to come to an end and explaining to the court why a care or supervision order is no longer necessary.

If you, or anyone else, asks for a care or supervision order to be discharged or varied there will be another court hearing so that the magistrates or judge can decide what is best for you. A *guardian ad litem* will usually be involved in your case again to tell the court what you want to happen. The court may discharge or vary the other or put another order, like a residence order, in its place.

Child Assessment Order If social workers are worried about you, but do not think you are in any immediate danger, they may ask the court to make a child assessment order. This means the court can decide that you should be seen by a doctor or some other specialist who will examine you. The child assessment order can last no more than a week. Depending on what the court says, you may have to stay away from home overnight during this time, but only if it is necessary as part of the examination. If you are old enough to understand what is involved, you have the right to refuse to be examined but you may want to talk about this first with your *guardian ad litem*.

Emergency Protection Order If you are in immediate danger, you may have to be taken away from home quickly. Neighbours might call the police if they think that you are being hurt at home. You might have told your teacher that someone has hurt

you and then be afraid to go home. Or you might already be in a safe place, like a hospital, and social services want to stop you being taken from home if you might be harmed there. Social services or anyone else like the police, or a neighbour can go to a magistrate at any time and apply for an emergency protection order. Because it is an emergency, the magistrate can make an emergency protection order without you or your parents being there.

If an emergency protection order is made, you can be taken to a safe place or kept in a safe place for up to 8 days. The order can be made to last for a further 7 days if the court thinks this is necessary to keep you safe. You or your parents can ask the court for the order to come to an end. You can do this after 72 hours have passed since the order was made but only if you or your parents were not in court at the time the order was made. Social services can only do those things which the court orders. They may perhaps want you to be examined by a doctor but they can only do this if the court decides it is necessary. You can choose not to take part in the examination and it cannot take place if the doctor thinks that you are old enough to understand what is involved in making that decision. You must be allowed to go home if social services think you will be safe at home before the order comes to an end.

Secure Accommodation Order Some children, who may come to harm by running away from wherever they are living, or who are a danger to themselves or others, may need to stay for a while in a place that is secure. This means that it is locked to stop them from running away and suffering further harm or from hurting others.

Social services can ask the court for a secure accommodation order. Before the court makes the order it must be sure that you have run away in the past and are likely to run away again and if you do run away you are likely to suffer harm. Or that if you are not put in secure accommodation you are likely to hurt yourself or other people.

In an emergency, you can be put in secure accommodation for up to 72 hours without a court order. After that social services must go to court. Because it is so serious, the court cannot make a secure accommodation order unless your solicitor is with you, if you want one. You will usually also have a *guardian ad litem* with you in court. The court can make the first order for no more than 3 months. After that the court can make an order for up to 6 months. The court must say exactly how long the order will last. You can ask your solicitor to make an appeal to the High Court against this order.

7.

Useful Addresses

This booklet has told you about the Children Order and the orders that the courts can make to help make sure you are well looked after and kept safe from harm.

If you would like more advice or information then you should get in touch with one of the people listed under “People who can help you” and ask the to help you.

People who can help you

Children Freepost 1111,
London NI 0BR
Freephone Helpline 0800 1111

NSPCC Child Protection Line
Freepost 0800 800 500

Voice of Young People in Care (VOYPIC)
Telephone 01232 244888

Citizen’s Advice Bureaux
You can find out where your local one is in the telephone directory

Other People

The Ombudsman
Freephone 0800 669933
Freepost, The Ombudsman,
Belfast BT1 6BR

More about the Children Order
Three other general guides on the Children Order have been produced for children and young people:

The Children Order and You – A Guide for Young People (COG2)
This leaflet explains what the Children Order is about.

The Children Order & Getting Help From Social Services (COG4)
This booklet explains what help children can get from Health and Social Services Trusts and how to go about getting it.

The Children Order and Living Away From Home – Your Rights (COG5)

This booklet explains the rights children have who are being looked after by Health and Social Services Trusts.

Where to get more copies of this booklet

Further copies of this booklet (COG3) and the other booklets are available from social services.