



CHILDREN ORDER

**The Children Order**

**A Guide for Parents**

**The Children Order and  
Social Services**

**COG 6**

## **The Children Order and Social Services**

### **1. How the Children Order benefits you**

*Bringing up a child is one of the most rewarding experiences that anyone can have. It's also one of the most demanding. All parents encounter problems, but sometimes these problems can be overwhelming. It's at times like this that children and parents need all the support they can get.*

This is why the Children (Northern Ireland) Order 1995 places particular emphasis on Health and Social Services Trusts (which you may know as social services), providing a service to help families with children in need.

This booklet is designed to explain the range of services available from social services and to help you get the best for your children. If you feel you do need help, the next few pages tell you where and how to get it.

### **The Children Order and parents**

The Children Order is designed to help and protect children. The Children Order is also important for anyone involved in bringing up children – that's not just parents – but grandparents, child minders, foster carers and anyone else involved in looking after children.

### **What is the Children Order**

The Children Order came into force on the 4<sup>th</sup> November 1996. It is the most important reform of the law concerning children this century. It makes the law simpler and easier to us. It brings together the law concerning the care and upbringing of children in both *private law*, which applies to children who are affected by a private dispute, such as a divorce, and *public law*, which covers children who are in need of help from social services.

Above all, the Children Order is about how we, as a society, believe children should be cared for. It creates a code of law about the upbringing of children to ensure that we achieve the very best for this and future generations. It aims to help children in need by providing services to their families.

## **The Children Order**

**Makes children's welfare the paramount consideration in court proceedings**

**recognises, that wherever possible, children are best brought up within their families**

**aims to prevent unwarranted interference in family life**

**requires social services to provide services for children with a disability, children who are assessed to be in need and the families of those children**

**promotes partnership between children, parents and social services**

**improves the way courts deal with children and families**

**gives rights of appeal against court decisions**

**protects the rights of parents with children being looked after by social services**

**aims to ensure children looked after by social services are provided with good standards of care**

## **2. What the Children Order Says**

The Children runs to more than 250 pages. But its philosophy is very simple – and can be summarised in a number of key themes.

### **Children come first**

The welfare of children comes before anything else. Parents are expected to look after their children to the best of their ability. *Social services* have a duty to safeguard and promote the welfare of children in need in their area. *The courts* must put the child's welfare first whenever legal proceedings are necessary.

### **Families matter**

For the vast majority of people, the family is at the centre of their lives. Not all families are the same. For example, some children are cared for by a lone parent or a grandparent. Whatever the arrangement, the family offers a source of affection, comfort and fulfilment.

*The Children Order acknowledges the importance of families in children's lives by stressing that:*

- Where possible, the best place for children to be brought up and cared for is within their families;
- Children should be removed from their families only when this is necessary for their protection and well-being.

### **Parental responsibility**

An important theme of the Children Order is that parents have a number of key rights – and at the same time a number of important responsibilities. The concept of parental responsibility is defined in the Children Order as '*all the rights, duties, powers, responsibilities and authority which, by law, a parent has in relation to a child and his property*'.

*The Children Order makes clear that parents never lose their responsibility unless their child is adopted. Parents' rights under the Children Order include:*

- The right to have a say in any decisions made about their child;
- The right to have their views heard in court cases involving their child.

These rights and responsibilities apply to parents, whatever their situation whether they are married, separated or divorced. Although an unmarried father does not

automatically have parental responsibility, he can acquire it if the child's mother formally agrees in writing or if a court says so. If a court decides a child needs to go into care to be protected, social services gain parental responsibility, but must share this with the parents and negotiate how it will be exercised. Social services have the right to modify how parents will exercise their parental responsibility in the interests of their children's welfare.

## **A Partnership**

The Children Order emphasises the importance of partnership in looking after children.

*Partnerships should be formed between:*

- **Social Services and Parents:** Social services must listen to the views of parents for whom they are providing a service and give them a say in how their child is cared for.
- **Parents and Social Services:** Parents with a child in need can best serve his or her interests by working with social services to get the help and support they need.
- **Social Services and Others:** Social services are expected to work together with voluntary or private agencies and education, health and housing agencies to provide the best possible services for children in need in their area.

### **3. The Role of Social Services**

*Social Services are made up of people whose job it is to give local people a service, for example services for children's welfare and helping parents and others.*

#### **A response service**

Under the Children Order, social services are expected to provide a range and level of services that are appropriate to safeguard and promote the welfare of children in need in their area. They should do this in partnership with parents and take account of the child's religion, race, culture and language. Social services must also provide information about services available in their area.

If parents want to complain about the service they get, social services will have a procedure to enable them to do so.

#### **Children in need**

The law makes social services responsible for the welfare of children in need in their area. Children in need are broadly defined as children whose health and welfare may suffer significantly without support from social services, and children who have a disability. This definition does not imply that such children are neglected by their families – it can apply to a child whose family is temporarily in difficult circumstances and unable to cope.

#### **Helping the families of children in need**

If social services believe any child to be in need, that is children assessed to be in need by social services and children with a disability, they should consider giving advice and possibly assistance to help the family improve the child's quality of life and to enable the parents to bring up the child themselves, wherever possible. Services could include toy libraries, playgroups, nurseries, child minders – and for more pressing problems, home help, family centres or respite care.

The aim is to ensure that families with a child in need can look to social services for advice and support if they need help in coping. Social services may recover the cost of providing services, except for advice, guidance or counselling, if they believe that the child or family can reasonably afford it and the family or child are not getting income support, family credit, disability working allowance or an income-based jobseekers allowance.

## **Protecting children's welfare**

By providing services to children and families in need, social services should be able to prevent serious problems arising. But sometimes the difficulties may be so great that it proves impossible for families to stay together. Social services may feel they must step in to protect the welfare of a child, but only if the child's family can no longer do so.

#### **4. Family Services in the Home**

*Whenever possible, social services should help families stay together, so long as this is in the child's best interests. They may do this by giving support to those parents with children in need who are finding it difficult to cope.*

Since all families and children have differing needs, social services must provide a range of services to cater for these varying situations. This may mean putting together a package of services to help a family, such as a home help in the family home and a nursery place for a young child. Actual arrangements would be agreed and worked out between parents and social services.

#### **Advice, guidance and counselling**

Often some friendly advice can work wonders. It is easy to get so overwhelmed by your problems that you can't see a way out. Sometimes it takes someone at a distance from the situation to see what might be done to help. A social worker may not need to be involved. There are many volunteer or befriending schemes to help families deal with difficulties. Some family centres also provide guidance and counselling for children and parents who are having problems. There's a list of some sources of help at the back of this booklet.

#### **Help in the home**

Sometimes advice is not enough. Take the example of a mother who has to go into hospital for an operation. She will be in hospital for a few weeks and will then have to take things easy for a few months. The father is working long shifts and there is nobody to look after the young children, or help with the cooking, cleaning and washing. How will the family cope if they don't have other resources to fall back on? The mother arranges an appointment with social services and together they agree that a child minder and home help will be available to help look after the children and help around the house.

#### **Day Care**

Another example of help is day care. For example, a young mother is suffering from stress and finding it hard to cope with two children under the age of three. She's at the end of her tether and taking it out on her children. What can she do? If she talks to social services, they may suggest they arrange a place for one or both of her children with a child minder, playgroup or nursery – as well as looking at what else might be required. This would improve the quality of life for the children and relieve the burden on her. For older children, supervised youth clubs and holiday outings give them a chance to meet with other children and give their parents a breather without worrying about their children's safety.

## **Services for children with a disability**

At some point, parents of children with a disability may need extra help. They should feel free to turn to their social services, who may be able to provide services such as day care, respite care and holidays to help children lead lives which are as fulfilling as possible. This relieves the pressure on parents and helps children with a disability to stay with their families. Social services are obliged to keep a register of children with a disability, but registration is not a requirement in order to obtain services. Parents are not required to register their children.

## **5. Accommodation away from Home – A voluntary arrangement**

*Sometimes the best solution for a family with a child in need is for social services to look after the child under a voluntary arrangement with the parents, on either a short or a long term basis.*

### **High standard care**

When children are living away from home, social services are expected to ensure that good standards of care are being provided. If social services offer accommodation for a child, parents should consider this just as much a service as a home help or child minder. They should remember that any such arrangement is voluntary. Accommodation can be provided for shorter or longer periods, but the aim, where possible, is to get families back together. Parents may take their child home at any time, but most will wish to make planned arrangements for their child's return to minimise upset or distress.

If social services are providing accommodation for a child they must find out and take account of the wishes and views of the child and the parents, and think carefully about each child's individual needs, taking into account their religion, race, culture and language. Wherever possible, the child should be placed with relatives or friends of the family. When more than one child is being looked after, they should usually be kept together.

Placement should be kept as near as possible to the family home. Children with a disability should be placed in accommodation suited to their particular needs wherever possible.

### **Contact**

Social services must encourage regular contact between children and their parents, friends and relatives. If the child's parents are not living together, social services must take into account the child's need to keep in touch with both parents if this is possible and will not be harmful to the child. They may also offer facilities such as suitable meeting places, transport and supervision and may contribute towards the cost of visits.

## **6. How to make a Complaint**

*From time to time, disagreements between families and social services may occur. If parents or their children are dissatisfied with the service they are getting or have a grievance, social services will have a simple procedure that enables them to pursue their complaint.*

### **Minor problems**

Not all problems that arise on a day to day basis should automatically be grounds for making a complaint. If a minor problem exists, it is best to draw it to the attention of the person you are dealing with at social services. Many minor problems can be resolved promptly to everybody's satisfaction. They do not necessarily need to go through the complaints procedure.

### **More serious problems**

If a problem exists which cannot be sorted out amicably between you and a member of staff, it may be taken further, and social services must tell parents how to go about making a complaint. This will then be considered by social services with an independent person not connected with social services. If you are still not happy with what social services and the independent person decide, you can make a complaint to a panel which will include a person who is independent of social services. Their recommendations as to what action should be taken are then passed to social services who will decide what they should do.

If you are not satisfied with the decision of the panel or the way the procedure was conducted you can complain to the Commissioner for Complaints, who you may know as the Ombudsman. You can find the address of the Ombudsman on page 12.

Social services must provide information about their complaints procedure and review its workings every year.

### **Personal records**

The law says that information held about a person, for example on file or computer, should be shared with that person, unless there are good reasons why it should not be. A person can ask for the information to be changed if it is incorrect or add a comment to the record when it is disputed.

## **7. Children, Parents and the Courts**

*In every case, social services will do their best to help children and their parents stay together, but the first priority is always the child's welfare. If social services feel that a child is at risk of significant harm from the family situation, they are legally obliged to step in – even if the parents disagree.*

Social services will try to work with the family, but if they cannot get the parents' agreement for any action they want to take, they must seek a court order. There is a range of court orders social services can seek.

### **Supervision Order**

This places a child under the supervision of a social worker if the court decides that a child is suffering or is likely to suffer significant harm due to a lack of reasonable care or parental control. Social services do not acquire parental responsibility and the parent remains the responsible person.

### **Care Order**

This places a child in the care of social services if a court decides that the child is suffering or is likely to suffer significant harm due to a lack of reasonable care or parental control. Social services acquire parental responsibility which they share with the parent. See page 4 about how the exercise of the parent's rights can be modified.

### **Education Supervision Order**

This places a child of compulsory school age under the supervision of an education and library board if the court decides that he or she is not receiving suitable full-time education, for example, not attending school regularly. The education and library board does not acquire parental responsibility.

### **Emergency Protection Order**

The emergency protection order will place the child under the protection of social services for a maximum of eight days (with a possible extension of up to seven days), if a court decides it is in the child's interests.

No-one has the right to appeal against the making of this order, but a parent (or the child) can ask the court to discharge the order. However, the hearing can't take place until 72 hours after the order was made. The right to ask for the order to be discharged does not apply if the parent received a formal notice at least one day before the hearing and was present in court when the order was made.

## **Child Assessment Order**

If social services are concerned about a child but feel there is insufficient evidence to apply for a care order or an emergency protection order, an application can be made for a child assessment order which may require a child to attend a clinic or other place for a medical, psychiatric or other assessment during a period of up to seven days.

## **Secure Accommodation Orders**

This authorises social services to restrict a child's liberty by keeping him or her in secure accommodation. Social services must inform parents if they intend to apply for a secure accommodation order. *This does not affect the parents' rights to take the child home when the accommodation has been provided under a voluntary arrangement between the parents and social services (see page 8).*

### *Parents' Rights*

- To be informed about action being taken that concerns their child
- To put their case to the court
- To be involved, whenever possible, in the decision-making about their child when he or she is being looked after by social services
- To have the court resolve disputes over contact with the child
- To be told of any applications to court (unless the situation is so serious that social services must act immediately) .

## **8. Where to go for more Help**

*This booklet can only give a brief explanation of what the Children Order means for parents and children. If you think you need help, social services will be happy to discuss and advise on your situation.*

### **Useful Addresses**

#### **Citizen's Advice Bureau**

You can find out where your nearest one is by asking at your library or looking in yellow pages.

#### **The Ombudsman**

Freephone 0800 669933

Freepost, The Ombudsman, Belfast BT1 6BR

#### **Further Reading**

A booklet, *A Guide to the Children Order* (COCI) gives basic information about the Children Order.

A booklet, *The Children Order and the Courts – A Guide for Parents* (COG7) gives further information about how the courts operate in cases that involve children and explains how the law affects parents.

These booklets can be obtained from social services.