

# Children and public law proceedings



**Whilst cases involving children are distressing for the parents, it's crucial to remember that the priority of the court is always the welfare of the child.**

Proceedings that involve children and the local authority are known as **public law proceedings**. However this doesn't mean that the general public is allowed to know the details of your case.

The local authority has the right to intervene in your family's life if they are doing so as part of their statutory duty to protect children.

It's important to keep in mind that:

- + The local authority has to investigate situations where they believe that a child is in danger of being harmed
- + The court has the final say as to what is in the child's best interests

The court has the following powers in respect of public law proceedings:

## Emergency Protection Orders

The court can make what is called an **Emergency Protection Order**, or EPO.

This is a short-term order that lasts a maximum of eight days. It enables the local authority to remove a child from their home and place them in local authority care.

This can only happen if the child is at risk of significant harm.

## Care Order

A **Care Order** gives the local authority a share in the parental responsibility of the child who is subject to it and enables them to make major decisions about their future.

If your child is subject to a Care Order, it also gives the local authority the legal right to remove your child from your care and place them with

foster carers, your extended family or in a residential unit, as appropriate.

The court can only make a Care Order if it's satisfied that:

- + The child has suffered, or is likely to suffer, significant harm
- + The harm was as a result of the care given to that child by their carers
- + There is a need for an order

## Supervision Order

A Supervision Order involves a social worker befriending and supervising the child who is the subject of the order.

A Supervision Order does not give the local authority the right to remove that child from your home and the local authority would not share parental responsibility with you.

The court can only make a Supervision Order if it is satisfied that:

- + The child has suffered, or is likely to suffer, significant harm
- + The harm was as a result of the care given to that child by their carers
- + There is a need for an order

## Children's Guardian

In all public law court proceedings, the child is entitled to have a Children's Guardian appointed. Their role is to advise the court on the child's best interests.

The child will also have their own solicitor. If the child is old enough, they'll be able to tell their solicitor what they want and this will be communicated to the court.

Otherwise the solicitor for the children will act on the instructions of the guardian.

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## What is the procedure?

At the start of all public law proceedings there will be a first appointment at court. You'll be required to attend this appointment.

The court may want to make interim orders, so it's important to remember that the court will only make such orders if it thinks that there is a need.

However if you're willing to cooperate with the local authority, the case may be allowed to proceed on a written agreement.

At an early hearing a timetable for the case will be set by the court.

## Placement applications

Sometimes when a Care Order has been made, it's because the local authority plan to arrange for that child to be adopted. You are entitled not to consent to the adoption.

If you haven't consented and the local authority wishes to proceed, it must apply to the court to dispense with your consent or place the child up for adoption.

The court will only order this if it is satisfied that you're withholding your consent 'unreasonably'.

## Legal Aid

If Social Services are involved with your family, it's important that you seek legal advice immediately.

If you're a parent and you're involved in childcare proceedings, you will automatically be entitled to Legal Aid.

## Further information

If you need to speak to a family solicitor about children involved in public law proceedings, call **0117 325 2929** or visit [barcankirby.co.uk](https://www.barcankirby.co.uk).

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