

**CAMERON JONES
HUSSELL & HOWE LTD
SOLICITORS**

CHILDREN PUBLIC LAW

INTRODUCTION

Cameron Jones Hussell & Howe Ltd is a local Firm providing a comprehensive range of legal services to the general public. We aim to provide an effective and efficient service in a friendly and approachable manner, and to combine modern ideas and technology with the traditional values of a family practice. This leaflet explains how we deal with domestic violence matters.

YOUR MATTER EXPLAINED

We appreciate that when Social Services become involved in relation to children this can be a traumatic event. We also appreciate that this can be an upsetting and difficult time for you and this leaflet explains how we deal with public law matters.

**COURT PROCEDURES IN PUBLIC LAW
CHILDREN MATTERS**

Emergency Protection Orders

If the Local Authority have applied for an Emergency Protection Order they have done so because they feel that there is reasonable cause to believe that the child/children would be at risk of suffering significant harm, should he not be removed from his parents care. The Local Authority will have taken this step because they feel that they would not obtain parental consent in an attempt to remove the child/children from the home. An Emergency Protection Order will give them the ability to remove the child from the

home without the parents consent. This can only be done by Order of the Court.

What happens after an Emergency Protection Order has been granted?

In some instances the making of this Order maybe enough to secure the parents co-operation and the Local Authority may feel that once the Order has lapsed (normally after a period of 7-14 days) they will be able to engage the parents' co-operation without the need to further return to Court. However, normally the making of an Application for an Emergency Protection Order is normally a clear indication on behalf of the Local Authority that they are seeking further Court involvement through an Application for a Care Order.

Can parents contest the making of an Emergency Protection Order?

The Local Authority may have applied for an Emergency Protection Order in urgent circumstances but parents are fully entitled to legal representation in an effort to prevent the order from being made or seeking to come to some agreement with the Local Authority who made the application.

The children will have their own representation within the proceedings through a Guardian. The Guardian is an Independent Officer of the Court who has been appointed to safe guard the children's interests. As the Guardian is an Independent Officer of the Court he/she will also have a Solicitor.

What happens if the Local Authority applies for a Care Order?

A lot of what happens after the Local Authority applies for a Care Order depends upon the Local Authority's immediate plans for the children. The Local Authority may feel that they need to do a lot work with the parents and in order for this work to be completed the children need to be placed with relatives or foster carers.

If the placement of the children away from the parents cannot be achieved through agreement then the Local Authority will normally apply for an Interim Care Order. An Interim Care Order will allow the Local Authority to share Parental Responsibility with the parents and make decisions relating to the children's placement and welfare.

In order to succeed in an Application for an Interim Care Order, which is normally made at the beginning of Care Proceedings, the Local Authority will have to satisfy the Court that there is a reasonable prospect of the children having suffered or suffering significant harm.

The making of an Interim Care Order is likely to be one of the initial considerations at the beginning of the case. Parents may well not agree to the making of such and are entitled to let the Local Authority that they are not in agreement. In such circumstances the Court will be asked to make a decision.

How long does an Interim Care Order last?

An Interim Care Order can last for the duration of the proceedings, until further Order of the Court.

The Court process during Care Proceedings

How long will my case last?

The Public Law Outline now states that cases must conclude within 26 weeks of the Local Authority issuing their application. This timescale will only be extended in exceptional circumstances.

What will happen during my case?

The concerns that the Local Authority had which lead them to become involved with parents would be investigated. The Court will expect the Social Worker to provide them with reports, setting out any assessment they have conducted of the parents and any family members. The parents will also be asked to file evidence which sets out their version and understandings of events.

A Children's Guardian will be appointed to the child/children and he or she will instruct their own solicitor. The role of the Guardian is to provide the Court with an independent view of the child's needs and to consider what steps should be taken in line with the child's welfare interests. The Children's Guardian will provide reports to the Court during the course of the proceedings, and will ultimately make final recommendations at any final hearing, as to what Orders, if any, should be made in respect of the child.

Sometime in cases the Court will request that there be independent expert assessments to better allow it to make a decision in respect of the children's long term welfare. This can include, for example, drug and alcohol testing, independent parenting assessments, psychological and psychiatric assessments.

If a child has been removed from their parent's care during the course of the proceedings, then the Local Authority have a duty to provide that child with contact with their parents. This type of contact often takes place in a supervised setting, such as a contact centre, and the Court will need to be satisfied that the frequency and duration of contact, meets the child's needs.

Once all reports and evidence have been prepared and all the relevant matters considered, the matter will return to Court and the decision will either be made through the Court or by consent amongst the parties where the children are to be placed and under what order.

The parents will know in advance what the Local Authority's intentions are because they will have filed a Care Plan for each child involved by that stage.

What can the Court do at the Final Hearing?

In order for the Court to make a Care Order at the Final Hearing, they have to be satisfied that the children suffered, or were at risk of suffering significant harm. In making this finding or considering this finding, the Court will have to consider a variety of factors, and then go on to consider what order is the most appropriate in every case.

A Care Order would allow the Local Authority to share Parental Responsibility with the parents and make decisions relating to the child's future and welfare. Such an Order would allow the Local Authority to put in place a plan that the children not be returned to the care of the parents. The Court would however, have to be satisfied, that it has exhausted all opportunities for the child to be brought up by their natural parents, before making such a decision.

Alternatively, at the end of the case the Local Authority may feel that the initial concerns which led them to make an Application for a Care Order in the first place are not as great

as first seemed or they have lessened throughout the duration of the proceedings. If this is the case then the Local Authority may want to remain involved with the family but not share Parental Responsibility. This could be done by the making of a Supervision Order or by the Court making no Order at all.

It is important to know that this is a very general outline of what Care Proceedings are and what they entail at a variety of different stages certain issues may arise which are not contained in this Brochure. What we can ensure you is that you will be advised accordingly at appropriate stages throughout.

We will ensure that you understand everything that is involved on what procedures have to be followed. You should only use this Brochure as a very general point of reference.

COSTS

If your matter is being legally aided then we will have set out the full position in an accompanying letter.

If you are paying our costs privately then you will have received a letter setting out our charging rates and providing you with an estimate of costs, and a request for payment on account of costs.

Please note that we cannot accept payments in excess of £500.00 in cash, but would need such payments to be made by cheque, standing order, bankers draft or bank transfer.

If you do have any concerns about the costs you may have a right to object to the bill by applying to the court for an assessment of the bill under Part III of the Solicitors Act 1974. Details available upon request.

IDENTIFICATION

It is our standard practice these days to request all clients to provide satisfactory evidence of identity. We enclose herewith a list of the items which are acceptable for establishing this. Please would you be good enough to call at the Office at an early stage bringing with you suitable identification for photocopying. Occasionally, we may be asked by third parties to produce evidence of your I.D. and we will assume unless you advise us to

the contrary that you have no objection to us passing on details of your I.D. in such case.

CONFIDENTIALITY

We will not discuss your business or disclose the contents of your file to any third party without your written consent except that:-

- Unless you instruct us otherwise, your file may be used for auditing or monitoring purposes and
- We are legally obliged under the Proceeds of Crime Act 2002 and other similar legislation to report any knowledge or suspicion of money laundering to the National Criminal Intelligence Service

COMPLAINTS

We do of course very much hope that you will not have cause to complain about the services which you receive from us. If you do however have any concerns about the way in which your matter is being handled, the costs presented to you or about our services generally, we should be grateful if you would please in the first instance contact the Fee Earner having the overall conduct of this matter in order to discuss your complaint. Should we be unable to resolve any complaint raised by you by this method, then we will ask you to put the complaint in writing to our Complaints Manager, John Hussell. He will then deal with the complaint from that point, providing you with full details of our complaints procedures. If your complaint is regarding a matter that he has conduct of, then Mrs Sally Kingsbury will deal with the complaint.

If you are still not satisfied you can contact the Legal Ombudsman (www.legalombudsman.org.uk). Tel: 0300 555 0333. Or you can email them at enquiries@legalombudsman.org.uk. Any complaint to the Legal Ombudsman must usually be made within six months of receiving a final written response from us. The Legal Ombudsman may not consider a complaint about the bill if a client has applied to the court for assessment of the bill.

CONCLUSION

We hope that the above notes and observations are helpful to you and will assist you in understanding how this matter is being dealt with. Please retain it for reference and if you have any comments or observations about our services then please do not hesitate to let us know.

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This leaflet is intended as a guide for existing clients of Cameron Jones Hussell & Howe Ltd. It is not intended to be a detailed statement of the law nor does it obviate the need to take detailed legal advice