

CHAPTER 4 CONTACT

INTRODUCTION

- 1 The Children and Young Persons Act 2001 imposes a duty to promote contact between a child who is being looked after and those connected with him or her. This duty applies whether a child is accommodated:
 - a. by voluntary arrangement, or
 - b. as a result of a court order.
- 2 The Act empowers the courts to make orders in relation to contact where a child is in care.

THE LEGISLATIVE FRAMEWORK

- 3 The Act requires the court to consider the proposed arrangements for contact between a child who is the subject of care proceedings and the child's parents and other involved relatives. The court may make directions about the kind or amount of contact to be allowed.

CYPA 2001 s.33

Schedule 2, paragraph 1 covers the details.

INFORMATION REQUIRED BY THE COURT

- 4 When the Department prepares an application for a care order, an outline of the proposed contact arrangements should be drawn up, so that the court can consider the Department's proposals and the submissions of others about the proposals.
- 5 When the Department applies for an interim or a full care order, details of the proposed contact arrangements must be provided.
- 6 The CYPA imposes requirements on the Department in relation to:
 - a. refusing contact - Section 33(4) requires an order to refuse contact,
 - b. departure from the terms of an order made under section 33. This must give rise to an application to vary the order.

GENERAL PRINCIPLES FOR ALL LOOKED AFTER CHILDREN

- 7 Direct contact is likely to be the more effective way of maintaining the relationship with their natural family which will be in the best interests of the majority of children.
- 8 Means of maintaining contact can include personal meetings and visits,

letters, telephone calls, and exchanging photographs.

- 9 Contact, however occasional, may continue to be important to the child, even when there is no question of going home. It may help him or her sustain a sense of origins and keep open options for family relationships in later life.
- 10 The first few weeks are likely to be particularly crucial to:
 - a. the success of the relationship between the parent, the social worker and the care staff, and
 - b. the level of future contact between parent and child.
- 11 Parents should be involved in the assessment and planning prior to placement wherever possible.
- 12 During emergency admissions parents should be reassured that they have a continuing role in their child's life:
 - a. Early visits and meetings should be encouraged,
 - b. Parents and children should be helped to cope with their distress

These principles should be borne in mind whether or not the child is subject to an emergency protection order.

CONTACT WITH CHILDREN IN CARE

- 13 When a child is in care, the Department must allow him or her reasonable contact with:
 - a. his or her parents,
 - b. any guardian,
 - c. where there was a residence order in force with respect to him or her immediately before the care order came into force, the person in whose favour the order was made, and
 - d. where, immediately before the care order was made, an individual had care of the child under an order made under the exercise of the inherent jurisdiction of the High Court, that individual.
- 14 Contact must be reasonably practical, and consistent with the welfare of the child.
- 15 The powers to make orders about contact are set out in:

section 33(2),

sections(4) and (6), refusal

section (5), making an order when no application has been made to the Court,

section (7), imposing conditions.
- 16 Subject to any order of the court, it is for the Department to make

decisions about contact arrangements when the child is in care.

- 17 The Department has a duty to promote contact of looked after children, which includes children in care.
- 18 It has a duty to take any steps that are reasonably practicable and, if consistent with the child's welfare, to ensure that contact with the following people is promoted:
- a. the child's parents, and
 - b. anyone with parental responsibility for him or her,
 - c. any relative, friend or other person connected with him.

Paragraph 1(1) of Schedule 2, Promotion and maintenance of contact between child and family.

- 19 The people listed above must, however, keep the Department informed of their own addresses. Anyone who fails without reasonable excuse to comply with this requirement is guilty of an offence and liable on summary conviction to a fine not exceeding £500.
- 20 It is a defence in any proceedings brought under paragraph 1(4) to prove that the defendant:
- a. was living at the same address as another person who was the child's parent, or had parental responsibility for the child, and
 - b. had reasonable cause to believe that the other person had informed the Department that both of them were living at that address.

Notification of change of contact arrangements

- 21 The Department should notify those affected about proposals to change arrangements for contact.

Limits to the obligation to provide information about the child

- 22 The Department is not obliged to inform anyone about the whereabouts of the child if:
- a. he or she is in the care of the Department, and
 - b. the Department has reasonable cause to believe that informing someone would prejudice the child's welfare.

CONTACT WITH CHILDREN LOOKED AFTER BY VOLUNTARY AGREEMENT

- 23 Arrangements for contact with children looked after by voluntary agreement are a matter for negotiation and agreement between:
- a. the Department,
 - b. the child (depending on his or her age and level of understanding),

PA 2001 s.1(1).

PA 2001
2(5)(a)

PA 2001
2(5)(b)).

- c. the parents, and
- d. others seeking contact.

- 24 The Department has a duty to promote contact of looked after children, which includes children looked after by agreement.
- 25 It has a duty to take any steps that are reasonably practicable and, if consistent with the child's welfare, to ensure that contact with the following people is promoted:
- a. the child's parents, and
 - b. anyone with parental responsibility for him or her,
 - c. any relative, friend or other person connected with him.

See paragraph 1(1) of Schedule 2, Promotion and maintenance of contact between child and family.

- 26 When there is a dispute about contact for a child who is not in care, and if the matter cannot be resolved by agreement, or the representations procedure has not provided a solution, the Court may make a section 11 order on the application of:
- a. the child,
 - b. a parent, or
 - c. another person.

CONTACT AND CHILD PROTECTION ORDERS

Child Protection Orders

- 27 If in making a child assessment order, the court directs that the child be kept away from home, it must also give directions about contact between the child and other persons during the period away from home.
- 28 In considering its decision the Court:
- a. must give paramount consideration to the child's welfare,
 - b. may also wish to follow the presumption of reasonable contact between a child in care and his or her parents, guardian and other people established in Section 33, CYPA 2001, and
 - c. consider requests to be allowed contact from other people who have to be notified of the hearing.

Emergency Protection Orders

- 29 When the Court makes an Emergency Protection Order (EPO) it has the discretion to:
- a. give directions about the contact which is or is not to be allowed between the child and any named person, and

b. impose conditions

30 Subject to any of these directions, there is a general duty on the applicant for an EPO to allow the child reasonable contact with any named person.

31 The Court may give directions regarding contact not only when the EPO is made, but also at any time while it is in force. It may also vary the directions at any time.

CONTACT WITH A CHILD IN POLICE PROTECTION

32 While a child is in police protection under Section 45:

a. the designated Police Officer or,

b. where the child is in accommodation provided by or on behalf of the Department, the Department,

must allow such contact (if any) as is considered reasonable and in the child's best interests.

33 The people with whom contact may be allowed are:

a. the child's parents,

b. any person who is not a parent of the child but who has parental responsibility for him or her,

c. any person with whom the child was living immediately before he or she was taken into police protection,

d. any person in whose favour a section 11 contact order is in force with respect to the child,

e. any person who is allowed to have contact with the child by virtue of a section 33 order,

f. any person acting on behalf of any of those persons.

PLANNING AND CONTACT

34 Consideration of contact is an essential element of the plans which the Department must make for the child.

See p.59, Chapter 2 - Partnership and Participation).

35 So far as is reasonably practicable, the views of the child, if he or she is old enough, the parents and the care staff must be ascertained before a decision about contact arrangements is made.

36 The value and purpose of contact should be clearly understood and agreed so far as possible by all concerned. The agreement should set out:

a. all the arrangements, and

b. what is expected of:

- i. the parents,
- ii. the responsible authority (nearly always the Department),
and
- iii. care staff, in connection with the arrangements.

- 37 The contact arrangements should cover those made in relation to all those people with whom the child's contacts should be preserved, including:
- a. unmarried fathers,
 - b. siblings,
 - c. grandparents, and
 - d. other relatives, including those with whom contact has lapsed.

SECTION 33 ORDERS FOR CONTACT

- 38 The Department remains responsible for the child's welfare when an order for contact under section 33 is in force.
- 39 Subject to the terms of the order the Department must continue to plan and care for the child in accordance with its general duty under section 22(3)(a) of the Act.
- 40 In handling decisions about contact within the terms of the order, the Department should continue to apply the principles set out in this guidance.

THE COURT'S DUTY TO CONSIDER CONTACT ARRANGEMENTS

- 41 Before making a care order the court should consider the arrangements made by the Department for contact.
- 42 The parties to the court proceedings should be invited to comment on the arrangements

PLACEMENT AND CONTACT

- 43 The implications for contact are among the factors to be considered when deciding where to place a child.
- 44 The effect on parental contact should always be considered when it is proposed to seek court agreement for a child in care to emigrate.

THE SETTING FOR VISITS

- 45 The venue should provide privacy and be welcoming and congenial. Settings, should, whenever possible, be chosen to fulfil a relevant purpose, e.g.

- a. if family reunification is intended, visits should take place in the family home at the earliest possible stage,
- b. visits by the parents to the child in his or her residential home can provide continuity for the child in that setting and opportunities for the parents and residential staff to meet. If possible, parents should be encouraged to participate in the child's daily life, by preparing tea, for example, shopping for clothes or putting a young child to bed,
- c. Outings should be considered as some times easier for the child and parents to handle than contact indoors.

RESIDENTIAL CARE

- 46 The importance of the contact arrangements must be recognised. The following points should be considered:
- a. the potential influence of the establishment's regime on the contact experience should be taken into account, particularly for children placed in secure accommodation,
 - b. Aspects of internal organisation and timetable should not make visiting difficult,
 - c. The visiting arrangements should be flexible.
- 47 Regulations preclude the use of sanctions which could affect arrangements for contact as a form of control.

See also The Child's Wishes below.

- 48 Residential care staff may need training and preparation to help them make a positive contribution to the success of contact arrangements and to deal with tensions and difficulties which can arise.

TRAVELLING ARRANGEMENTS AND EXPENSES

- 49 Parents and others having contact may need advice and help with travelling arrangements. The Department has power to help with the cost of visiting looked after children where there would otherwise be undue financial hardship.
- 50 This power can also be used to meet all reasonable costs associated with visiting.
- 51 Parents may also need advice about benefits which could be paid during a child's extended visits home.

THE CHILD'S WISHES

- 52 The Department has a duty to consider the child's wishes and feelings (having regard to his or her understanding) which applies to decisions about contact.

- 53 The social worker, with the help of the residential care staff and any other adults in whom the child may have confided, must seek to understand any ambivalence or distress the child expresses about the possibility of seeing members of his or her family.
- 54 The staff should help the child to understand what is likely to be of greatest benefit to him or her in both the short and long-term.
- 55 When difficulties cannot be resolved the Department should accept the validity of the child's reasons for not wanting contact.
- 56 A child should not be forced to persist unwillingly or unhappily with seeing a parent or any other person.
- 57 In such circumstances the Department should seek legal advice.
- 58 A child in care has the right to apply to the court to authorise the Department to refuse to allow contact between him or herself and a named person
- 59 The Department may agree that it is in the child's best interest to initiate such proceedings.
- 60 The fact that the child or the Department has obtained an order ending contact does not mean that the issues cannot be reconsidered if the child's feelings change over time.

RESTRICTIONS OF CONTACT WITH CHILDREN IN CARE

- 61 Although planning will usually be based on the assumption that contact will be beneficial to the child there are sometimes reasons why contact must be supervised, restricted or suspended.
- 62 When a child is committed to care in circumstances where it is necessary:
- a. to refuse contact from the beginning, or
 - b. while a decision about contact is under consideration, the Department must bear in mind section 33(1) of the Act and any order under section 33(3).
- 63 The Act permits the Department to refuse to allow contact if:
- a. "it is satisfied that it is necessary to do so in order to safeguard or promote the child's welfare, and
 - b. the refusal is decided upon as a matter of urgency and does not last for more than seven days."
- 64 If the Department decides to refuse contact the child and other interested people should be informed as soon as possible, giving them as full information as appropriate.
- 65 Provisions concerned with contact under section 33 require the

authority of the Court, unless all parties are in agreement. The Department should always seek legal advice.

- 66 The Department should ensure that the welfare of the child is served best by making a decision about contact as quickly as possible.
- 67 The Department may apply to the court to vary or revoke an order made under section 33.

COMMUNICATING DECISIONS ABOUT CONTACT

- 68 All decisions about contact should be explained to parents and discussed with them.
- 69 The Department should confirm in writing to parents:
 - a. all decisions and agreements about contact arrangements,
 - b. any changes in arrangements, and
 - c. the outcomes of formal and informal reviews of contact.
- 70 Limitations, controls and postponements of contact should be agreed by all concerned, unless the child the subject of a care or emergency protection order.
- 71 All limitations, controls or postponements should be explained and confirmed in writing with the reasons.
- 72 Information should be made available for parents to help them understand the law and their position,
 - i. especially when the child is first looked after, and
 - ii. whether this is on a voluntary basis or by order of a court.
- 73 Leaflets should be:
 - a. simple and descriptive, avoiding jargon,
 - b. include information about visiting the children's home and advice about public transport,
 - c. be produced in languages other than English if needed, and
 - d. in formats suitable for people with communication difficulties.
- 74 There should be clear and full communication and understanding of all contact decisions and arrangements among all those who are involved with the child's care, including officers in charge of residential homes.
- 75 Where children are cared for by other agencies, there should be effective liaison and clear agreements with the agency about all matters relating to contact.

DISAGREEMENT WITH PARENTS

- 76 The Department should ensure that parents have clear information about how to make a complaint about contact and ask for a decision to

be reviewed.

- 77 The representations procedure should recognise that complaints from people other than parents may need to be accepted.

See p.117 and onwards, Chapter 5

- 78 Parents and children, depending on their level of understanding should be given clear information about the representations procedure.

- 79 The procedure:
- a. should enable parents to discuss their anxieties and dissatisfactions with a senior officer if they feel they have reached an impasse with their social worker,
 - b. forms the representations procedure required by the Act.

REVIEWING CONTACT

- 80 Contact arrangements should be kept under regular review.
- 81 When an order for contact is made under section 33, the Department is responsible for reviewing the plan for the child.
- 82 When there is no section 33 order the Department must review the arrangements.
- 83 The arrangements should be monitored to check that:
- i. they are working as intended, and
 - ii. any problems or necessary changes are identified, e.g. the relaxation of unnecessarily restrictive arrangements.
- 84 If there are any problems, the Department will need to consider whether or not it is appropriate to apply to the court for variation of the order. This also applies to variation in any of the conditions attached to the order.
- 85 Any difficulties should be discussed openly with the parents and residential staff or carers, solutions explored, and help given.

RECORD KEEPING

- 86 Full and clear records of contact must be kept, to ensure clear understanding of the decisions about contact which have been made and the reasons for them.
- 87 Records about contact should form part of the child's case record.