

CYPA 2001 Part 5

## **CHAPTER 5 PROTECTION OF CHILDREN INTRODUCTION**

- 1 The legislative framework for protecting children is contained in this part of the Act. It allows effective protective action when necessary. It also allows for parents and others connected with the child to challenge these actions before a court.
- 2 It is concerned essentially with immediate, short-term, time-limited measures to protect children judged to be at serious risk of significant harm. The Department has a positive duty to investigate cases of suspected child abuse and to take appropriate action.
- 3 The emergency protection order (EPO) is intended, as its name implies, to deal only with emergencies. Short of that, but when significant harm is nevertheless suspected and voluntary arrangements have failed, the child assessment order is available.
- 4 The Police also have the power to detain a child for his or her protection in an emergency. And there are provisions to cover the abduction and recovery of children who are the subject of compulsory intervention
- 5 In order to avoid removing the child from a situation of risk where that is possible the court has the power to exclude the person who appears to present the greatest threat to him or her as an alternative.
- 6 The grounds for an EPO provide, in particular, for cases where attempts to see a child about whom there is serious concern have been unreasonably frustrated. The order is limited to what is necessary to protect the child. The parents and certain others are able to challenge at the hearing. If they were not present they can ask the court to discharge the order after 72 hours.
- 7 The child assessment order is not for emergencies. It is designed to enable the Department to arrange for a child to be examined or assessed in the face of non co-operation by the parents. It is to be used where it is strongly suspected that an order or other action is needed to protect the child, but the evidence of an assessment is lacking.
- 8 Proceedings under Part 5 are not classified as family proceedings. The court must either make or refuse the order applied for. It can make an emergency protection order instead of a child assessment order if that seems necessary. But it cannot make any other kind of order.

<p>CYPA 2001 s.41</p>	<p>9 The overriding principle in the Act is that the child's welfare is paramount. There must be a presumption of no order unless the evidence shows that it is necessary to protect the child. This principle applies equally to child protection orders.</p> <p>10 However the court does not have to consider the "checklist" which it must use for example when considering a care order unless it is practicable to do so. In an emergency the necessary information may well not be available.</p> <p>11 Applications for an emergency protection order may be made without all the parties being present and appeal against it is limited to specific circumstances. Apart from these differences the provisions generally follow the main principles and approaches of public law proceedings in the rest of the Act.</p>
<p>CYPA 2001 s.41(1)(b)</p>	<p><b>CHILD ASSESSMENT ORDERS</b></p> <p>12 The child assessment order enables an assessment of the child to be made where significant harm is suspected but the child is not thought to be at immediate risk. The Department:</p> <ul style="list-style-type: none"> <li>• suspects significant harm</li> <li>• needs an assessment to prove it, but</li> <li>• the parents or others responsible have refused to co-operate in a voluntary assessment.</li> </ul> <p>13 Its purpose is to gain enough information about the state of the child's health or development or the way in which he has been treated to decide what further action to take. It is less interventionist than the emergency protection order, interim care order and interim supervision order.</p>
<p>CYPA 2001 s.41(1)</p>	<p><b>Applications</b></p> <p>14 Only the Department may apply for a child assessment order. The court has to be satisfied that:</p> <ol style="list-style-type: none"> <li>a. there is reasonable cause to suspect significant harm,</li> <li>b. an assessment of the state of the child's health and development, or of the way he has been treated, is required to establish the fact,</li> <li>c. a child assessment order is necessary to get such an assessment,</li> <li>d. it is in the child's best interests,</li> <li>e. making the order will be better for the child than not doing so.</li> </ol> <p><b>Significant harm</b></p>

	<p>15 This order will usually be most appropriate where the harm to the child is long-term and cumulative rather than sudden and severe. Where there is/are for instance:</p> <ul style="list-style-type: none"> <li>a. nagging concern about a child who appears to be failing to thrive,</li> <li>b. parents apparently unaware that their child's health or development is seriously impaired,</li> <li>c. apparent wilful neglect or physical or sexual abuse, but it has not been possible to identify immediate risk.</li> </ul> <p>16 Of course emergency action will be necessary where:</p> <ul style="list-style-type: none"> <li>a. disclosure of the abuse is itself likely to put the child at immediate risk of significant harm;</li> <li>b. there is an urgent need to gather particular forensic evidence which would otherwise be lost.</li> </ul> <p><b>Establishing evidence</b></p> <p>17 An order must be needed to establish basic facts about the child's condition and:</p> <ul style="list-style-type: none"> <li>a. an interim care or supervision order seems justified but cannot be sought because vital information is lacking,</li> <li>b. information cannot be obtained without an examination or assessment,</li> <li>c. that cannot be achieved without an order.</li> </ul> <p><b>No immediate danger</b></p> <p>18 The Department will know enough of the circumstances to be satisfied that the child is not in immediate danger. A competent professional, with advice from others as necessary, should be in a position to make, and state, that judgement on the basis of the child's emotional state and physical well being.</p> <p>19 If the family refuses to allow a child about whom there is serious concern to be seen (as opposed to being examined or assessed) it is impossible to meet the condition in the previous paragraph. In those circumstances only an emergency protection order will serve to protect the child.</p> <p><i>Illustration</i></p>
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	<p><i>A problem has come to light through contact by a health visitor, a social worker, a doctor, a teacher, another professional, a relative, a neighbour or a family friend. The Department has made enquiries and suspects that all is not well. But the parents are either hostile or passively resistant to the investigation. An officer has arranged an appointment for the child to see a doctor, for example, but they have failed (or refused) to keep it. The Department concludes that there will never be a satisfactory assessment but has insufficient evidence to go for care proceedings on current information.</i></p>
<p>CYPA 2001 s.46</p>	<p><b>Prior investigations</b></p> <p>20 An application will be preceded by an investigation. The court will expect to receive details about:</p> <ol style="list-style-type: none"> <li>a. how it arose,</li> <li>b. the Department's attempts to satisfy itself about the child's welfare,</li> <li>c. arrangements with the child's carers.</li> </ol>
<p>CYPA 2001 s.41(4)</p>	<p><b>Commencement and duration</b></p> <p>21 The court can allow up to 7 days for the assessment to complete an initial multidisciplinary assessment. To be able use the order effectively for its purpose the Department will normally make the necessary arrangements in advance of the application. The court should receive details of the arrangements proposed.</p> <p><b>Effect of an order</b></p> <p>22 There are two main effects:</p> <ol style="list-style-type: none"> <li>a. The person who has care the child of must produce him or her to the person named in the order and must comply with its directions or requirements, and</li> <li>b. It authorises the carrying out of the assessment in accordance with the terms of the order.</li> </ol> <p>23 A child of sufficient understanding may make an informed decision not to consent to the assessment. Professionals will need to tread a fine line between informing that decision as fully as possible but not coercing the child into agreement, however much it appears to them to be in his or her interests.</p> <p><b>Directions</b></p>

<p>CYPA 2001 s.41(5)</p>	<p>24 The Department and other professionals involved will advise the court about what the assessment should cover to achieve its purpose. On the basis of that advice the court may include directions about, for example:</p> <ul style="list-style-type: none"> <li>a. the behaviour or condition to be assessed and who should undertake it.</li> <li>b. who should be present and who should be excluded.</li> <li>c. who should receive the results.</li> </ul>
<p>CYPA 2001 s.41(7)</p>	<p><b>Child away from home</b></p> <p>25 There will be circumstances in which a child can only be properly assessed if he or she is away from home. The court can include that condition in the order, but only under specific circumstances:</p> <ul style="list-style-type: none"> <li>a. it is done in accordance with the directions in the order;</li> <li>b. it is necessary for the purposes of the assessment;</li> <li>c. it is limited to the periods specified in order.</li> </ul> <p>26 The direction can be combined with other things. Contact with others; the parents allowed to stay with the child overnight (or not if that seems in the interests of the child). As always the court must give paramount consideration to the child's welfare when considering contact and will wish to ascertain his or her views and feelings on such matters.</p>
<p>CYPA 2001 s.41(3)</p>	<p><b>An Emergency Protection Order instead of an Assessment Order</b></p> <p>27 The court may decide that the child's situation is more serious than the Department originally judged. New information indicating an emergency may have emerged or the court may simply take a different view of the level of risk to the child.</p> <p>28 The court is specifically required not to make a child assessment order if it is satisfied that there are grounds for making an emergency protection order. In that event, it will treat the application as for an Emergency Protection Order, and consider the case under Section 42.</p>
<p>CYPA 2001 s.41(8) &amp; (9)</p>	<p><b>Notifications, variations and revocations</b></p> <p>29 The list of notifications which the Department is required to give of its intention to apply for an order reflects its non-emergency nature. It means that the application may be challenged by the parties at</p>

that stage. This is reinforced by the parties' right to apply to have the order revoked or varied.

### **Failure to produce the child**

30 There are no specific sanctions against failure to meet the conditions in an order but the Department has options available.

- a. The court can be asked to vary the terms of the order.
- b. An Emergency Protection Order can be sought.
- c. In a case of acute emergency the police can be asked to use their powers to remove the child.

31 Two considerations must be balanced in making this decision. Families in this position may be distressed, confused and chaotic and failure to arrive at appointment (for example) may be a product of that. They may need help and structure rather than force. On the other hand someone who has abused a child may be prepared to go to extreme lengths to prevent him or her being seen and assessed for fear of what it will reveal.

### **Child assessment orders and family proceedings**

32 An order can co-exist with a private law (Section 11) order or an education supervision order but not with another public law order. The Department already has the powers necessary to act under a care order and can ask the court to add them to a supervision order or to an Emergency Protection Order.

### **Results of the assessment**

33 The starting assumption is that follow up to address problems revealed by the assessment will be by providing services to the child and the family. Parents willing to accept help but who may not be coping adequately may be helped by services of the kind discussed in detail in Volume B of this series of guidance notes.

34 The initial assessment may show that the child's health and development is being impaired but not identify the problem or the treatment adequately. In that case the Department will consider whether a further assessment is required.

- Can it be arranged with the parents on a voluntary basis?
- Should it be pursued by way of an application for an interim care or supervision order?

35 The Department will have to consider whether the grounds for an order are satisfied. If the problem is clear and voluntary intervention is not possible that will normally indicate that they are.

36 If the child is kept away from home for the purposes of the assessment and so serious a situation is revealed by it that the child cannot be allowed to return home, the Department will seek an

emergency protection order.

### **Practice issues**

#### *Frequency*

- 37 The order should be used sparingly.
- a. A substantial effort to persuade the family of the need for an assessment and to and to gain voluntary agreement to suitable arrangements must have failed.
  - b. It should be contemplated only where there is reason for serious concern for the child.
  - c. It should not be used for a child whose parents are reluctant to use the normal child health services.

#### *Collaboration and consultation*

- 38 Attempts to secure the co-operation of the parents should continue after an assessment order has been obtained. With or without an order it is a critical contribution to a useful assessment on which to base future constructive action.
- 39 The assessment should be pursued on a multi-disciplinary basis with pooling of information and consultation on handling the case. Any proposal to apply for an order and should first be considered at a case conference convened under the child protection procedure.

#### *Gender, race and culture*

- 40 Arrangements for an assessment need to be sensitive to issues of gender, race and culture. The family may resist professionals appointed by the Department, but be amenable to either the family doctor or an independent professional examining, or participating in the examination of the child. Arrangements of this kind may provide sufficient information about the child's welfare. On the other hand the emphasis on a multi-disciplinary assessment suggests that the opinion of just one health professional will rarely be sufficient.

#### *Removal from home*

- 41 Some parents will have fears about the possible removal of their child as a result of the assessment. The professional practitioner

needs to be clear that the law starts from the assumption that the child's best interest normally lies within his or her own family with the support of the Department where necessary.

- 42 There will be cases where the results of the assessment dictate that the child should live away from home. The practitioner must not shirk from his or her responsibility to discuss this possibility with the family. He or she should make it clear that, even when the child is living away, the Department will want to working in partnership with the parents. Only in that way can the best interests of the child be achieved.

### *Children with disabilities*

- 43 These parents may be particularly worried by this kind of intervention. They will require sensitive reassurance that the intention is to enhance the life and abilities of their child. There is no intention to undermine their relationship with him or her.

### **Multi-disciplinary assessment**

- 44 The medical and physical difficulties and needs of the child must always be seen in the context of his social needs. And both must be assessed in the context of the capacity and resources, abilities and limitations of the parents, the extended family, and the local community, to meet them. So an assessment should always have a multi-disciplinary dimension. All professional practitioners engaged in working with the family should be encouraged to contribute to a multi-disciplinary assessment both to pool information and to make proposals for future action to support the family.

### **Planning**

- 45 An order is limited to seven days. Careful multi-agency planning is needed to ensure that a detailed assessment programme can be presented to the court for it to be able to make the necessary directions.
- Can the work can be achieved within the timescale?
  - What will be covered during the assessment?
  - What are the practical arrangements?
  - How will the parents be involved?
  - How will trauma to the child be minimized?

### **More detailed assessment**

	<p>46 It may not always be possible to do more than an initial assessment within the seven days to indicate whether further work is necessary. Voluntary agreement is always the first consideration. Even if only one parent consents, provided they have the necessary control, that is enough since the Act empowers each parent to act alone. But legal advice should be sought in that case. The parent who objects could seek an order under private law proceedings to resolve the dispute.</p> <p>47 If the parents remain uncooperative and there is sufficient information to satisfy the grounds, an interim care or supervision order with conditions should be sought.</p> <p>48 Parents should always be told:</p> <ul style="list-style-type: none"><li>a. why the Department wants a further assessment</li><li>b. why it may be apply for a further order if they refuse</li><li>c. the legal effect of the order and its implications</li><li>d. the court procedure that will be followed.</li></ul> <p>49 This information will be confirmed in writing backed up by easily understandable leaflets explaining the Department's powers and duties and the rights and responsibilities of parents.</p>
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<b>EMERGENCY PROTECTION ORDERS</b>	
CYPA 2001 s.42	<p><b>Introduction</b></p> <p>50 The purpose of this order, as its name suggests, is to enable the child in a genuine emergency to be removed from where he is or be kept where he is, if and only if this is necessary to provide immediate short-term protection.</p> <p>51 The essential features of the provision are:</p> <ul style="list-style-type: none"> <li>a. the court has to be satisfied that the child is likely to suffer significant harm or cannot be seen in circumstances where that might be the case;</li> <li>b. an order is limited to eight days with a possible extension of seven days;</li> <li>c. it is possible to apply for a revocation;</li> <li>d. it confers limited parental responsibility on the Department;</li> <li>e. it may include directions;</li> <li>f. it can only be made by a court of summary jurisdiction, the High Bailiff or the Deputy High Bailiff;</li> <li>g. the Department may apply in the absence of other interested parties and orally with leave of the court;</li> <li>h. the application must name the child or describe him or her as clearly as possible.</li> </ul> <p>52 There must be evidence that the situation is sufficiently serious to justify such severe powers of intervention. Refused access to the child in suspicious circumstances is an obvious example.</p>
Summary Jurisdiction Act 1989 Section 3	
CYPA 2001 s.43	<p><b>Removing an alleged abuser</b></p> <p>53 It may be necessary to remove the child from the situation but a better solution may be to remove the situation from the child. Where the cause of risk centres on one alleged abuser it is possible to get him or her excluded from the house and the area rather than the child. This could be achieved on a voluntary basis. Failing that the Act gives the court the power to exclude someone in this position as a requirement under an emergency protection order.</p> <p>54 This useful power is of course only helpful when the non-abusing parent or carer has no wish to protect, shield or collude with the alleged abuser and is willing to care for the child.</p> <p>55 The court can attach the power of arrest to an exclusion order. In such a case the police can arrest someone in breach of the</p>

<p>CYPA 2001 Schedule 5</p>	<p>requirement, without warrant and bring him or her before court to seek a remand in custody.</p>
<p>CYPA 2001 s.42(1)</p>	<p><b>Grounds for an order</b></p> <p>56 The court may only make an order if, <u>and only if</u>, it is satisfied that one of the grounds is satisfied. Note that (a) [reasonable cause to believe there may be significant harm] and (b) [access is being frustrated where the Department believes that it is a matter of urgency] are alternatives. The first is about known risk; the second is about suspected risk and lack of access.</p> <p>57 The welfare principle and the presumption against making an order applies to emergency protection.</p>
<p>CYPA 2001 s.42(1)(b)</p>	<p><i>Frustrated access or information</i></p> <p>58 The conditions are:</p> <ul style="list-style-type: none"> <li>a. The Department or its agent is trying to investigate its reasonable belief that a child is suffering, or is likely to suffer, significant harm.</li> <li>b. The investigation is being frustrated because access to the child being unreasonably refused.</li> <li>c. There is reasonable cause to believe that access to the child is required as a matter of urgency.</li> </ul> <p>59 Condition c) distinguishes this situation from the grounds for a child assessment order. It is an emergency. Enquiries cannot be completed because the child cannot be seen. There is reason to suspect significant harm.</p> <p>60 The court will have to decide whether the refusal of access was unreasonable in the circumstances:</p> <ul style="list-style-type: none"> <li>a. Were the reasons for access properly explained?</li> <li>b. Was the request itself reasonable?</li> <li>c. Did the parent or carer offer a reasonable alternative, like an immediate visit to the GP for example?</li> <li>d. Were the circumstances reasonable; what time of day was it for example?</li> <li>e. Was the level of pressure reasonable? "now" might not be but "within 24 hours" might be,</li> <li>f. Did the speed of response demanded match the perceived level of risk to the child?</li> </ul> <p>61 An application on the grounds of frustrated access should demonstrate that the demand was reasonable and the refusal was not.</p> <p>62 The Department is under a positive duty to apply for an appropriate</p>

<p>CYPA 2001 s.46(6)</p>	<p>order if it is refused access or denied information about the child's whereabouts when it is conducting enquiries. It must apply for an emergency protection, assessment, care or supervision order unless it is satisfied that it is unnecessary.</p>
<p>CYPA 2001 s.47</p>	<p>63 If the court makes an emergency protection order and considers that adequate information as to the child's whereabouts is not available to the Department but is available to someone else, such as the person who was last known to be looking after him, it can require that person to disclose information about the child's whereabouts. And it can authorise entry to premises to search for the child.</p>
<p>CYPA 2001 s.42(1)(a)</p>	<p><i>Emergency Protection</i></p> <p>64 The alternative condition for an order is that there is immediate and significant risk to the child unless he or she moves or stays in the same place. The order can stipulate either.</p> <p>65 There is a distinction in the two alternative grounds between who has reasonable cause to believe that significant harm is (or may be) being done. In the case of immediate emergency protection the court must judge. In the case of denied access the Department must suspect.</p> <p>66 No actual harm may have befallen the child for an order to be made. It is enough to show that he or she is likely to suffer significant harm in the near future. The most obvious examples are of a baby born into a family with a long history of violent behaviour to young children; or the sibling of other children who have suffered serious abuse in similar circumstances.</p> <p>67 Other considerations for the court are:</p> <ul style="list-style-type: none"> <li>a. What is it that necessitates urgent action?</li> <li>b. Can removal be achieved with the cooperation of the parents?</li> <li>c. Where will the child be accommodated?</li> <li>d. Can the decision wait until the parents have had an opportunity to prepare their case for interim hearing?</li> </ul>
<p>CYPA 2001 s.44(5)</p>	<p>68 The court may take account of any evidence including reports, opinions, health visiting, social work or medical records which seem relevant to the application.</p> <p>69 As with all orders under the Act, even when the above conditions apply, the court will not automatically make an Emergency Protection Order. It must still consider the welfare principle and the presumption of no order.</p> <p>70 The parents may not be present at the hearing. With only one side of the case before it the court will want to examine very carefully the information it is given, especially when the basis of the application is</p>

<p>CYPA 2001 s.42(2)</p> <p>CYPA 2001 s.47(1) &amp; (2)</p>	<p>likelihood of future harm or inability to see the child. It may make the initial order for a very short time so that an extension to the order will be on notice to parents and others.</p> <p><b>Application procedure</b></p> <p>71 Only the Department can apply to the court for an Emergency Protection Order.</p> <p>72 An Emergency Protection Order can be heard without other persons having to be given notice of the hearing (<i>ex-parte</i>). They can be included, but the very fact that the situation is an emergency requiring immediate action usually makes this impracticable or unwise.</p> <p>73 The rules of court require that the parties to the proceedings, and anyone else who has actual care of the child, receive a copy of the application and the order within 48 hours of the hearing. The Department, rather than the court, is responsible for this. Explanatory notes are printed on the back of the Emergency Protection Order. They explain in plain language what is happening and what the parents can do next. The Department will consider producing similar written information in other languages where it seems useful to do so.</p> <p><b>Effects of an order</b></p> <p>74 An order has three effects.</p> <ol style="list-style-type: none"> <li>a. Anyone in a position to do so must produce the child on the Department's request.</li> <li>b. It authorises or prevents removal of the child.</li> <li>c. It gives limited parental responsibility to the Department to do what is necessary to safeguard and promote the child's welfare.</li> </ol> <p><b>Directions about disclosure of a child's whereabouts</b></p> <p>75 An Emergency Protection Order includes a formal direction to any person who is in a position to do so to comply with any request to produce the child to the Department.</p> <p>76 The court may order someone to disclose information about the whereabouts of the child. The person named in the order will normally have previously refused the information. When the Department does not know for sure that the child is at particular premises it will normally to ask the court to attach this direction to an order to avoid further applications. Failure to comply with this direction would be contempt of court. Incrimination of self or spouse cannot be used as a defence, but information disclosed to comply cannot be used as evidence against the person who gives it (except for perjury).</p>
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<p>CYPA 2001 s.47(3)</p>	<p><b>Powers of entry</b></p> <p>77 The court has the power to authorise the Department's agent to enter and search premises for a child and this authority will normally be included in an order as a matter of course.</p>
<p>CYPA 2001 s.47(4 - 7)</p>	<p>78 The Department may suspect that other children may be at risk in a premises it intends to search. The Act allows for it to seek an order naming or describing them and including them in the same search.</p> <p>79 If another child is found, and there are grounds for an emergency protection order, the order to search can be treated as applying to that child as well. If that happens the court must be notified of the action taken or planned.</p>
<p>CYPA 2001 s.47(8) &amp; 49</p>	<p>80 It is a criminal offence intentionally to obstruct the Department exercising its powers of entry and discovery. If this does occur, or is anticipated, the court can issue a warrant authorising the police to assist.</p>
<p>CYPA 2001 s.42(3) &amp; (4)</p>	<p><b>Removal of the child</b></p> <p>81 The Department has parental responsibility but is authorised to exercise it only in order to safeguard and promote the child's welfare. So if the officer finds that the child is not actually harmed and is not likely to suffer harm he or she may not remove the child in spite of the order. If a suspected abuser had already left and seemed likely to stay away that would be a case in point. But the order is not invalidated by a change of circumstances which still leave the child at risk.</p>
<p>CYPA 2001 s.45(2)(b)</p>	<p>82 The child is entitled to know why he or she is being moved in terms appropriate to age and understanding. A duty to provide this information is equally binding on the police, if they have taken the child into police protection.</p>
<p>CYPA 2001 s.42(8) &amp; (9)</p>	<p><b>Returning the child</b></p> <p>83 The Department is under a duty to return the child as soon as it is safe to do so. The person responsible must return the child to the care of the person from whose care he was removed. If that is not reasonably practicable he or she must return the child to someone who has parental responsibility or to someone who will provide appropriate care. However, in the last case the court must endorse the placement.</p>
<p>CYPA 2001 s.42(10)</p>	<p>84 As long as the original order is in force the child can be removed once more if there is further cause for concern, without getting another order. This possibility should always be made clear to the parents when a child on an unexpired order is returned.</p>
	<p><b>Contact</b></p> <p>85 There is a general duty on the Department to allow the child</p>

<p>CYPA 2001 s.42(11) &amp; (5)</p>	<p>reasonable contact with:</p> <ol style="list-style-type: none"> <li>a. his parents,</li> <li>b. others with parental responsibility,</li> <li>c. the people with whom he was living before the order was made,</li> <li>d. a person who has a contact order,</li> <li>e. a person who is allowed contact by virtue of an order under section 33,</li> <li>f. someone acting on behalf of any of these people.</li> </ol> <p>86 The court also has discretion to give additional directions about contacts the child must be allowed to have and the conditions imposed on them. They can be varied at any time while the order is in force.</p> <p>87 If reasonable contact can be negotiated between the parties in the light of the wishes and feelings of the child it should be. But the Department may wish to limit contact with families or seek directions to control it when they believe it to be contrary to the welfare of the child. There may, for example, be allegations of sexual abuse where the contact needs to be supervised.</p>
<p>CYPA 2001 s.42(6) &amp; (7)</p>	<p><b>Examination and assessment</b></p> <p>88 The court may make directions about undertaking or not undertaking medical, psychiatric or other assessments. And the Department will always seek directions on assessment or examination where this is likely to be an issue.</p> <ol style="list-style-type: none"> <li>a. These directions can be made throughout the time the order is in force. And the parents or the Department may apply for them to be varied at any time,</li> <li>b. As with other examinations child may refuse to submit to them if he is of sufficient understanding to make an informed decision.</li> </ol>
<p>CYPA 2001 s.44</p>	<p><b>Duration</b></p> <p>89 In the first instance an order may be granted for up to 8 days, to which a further day is added if the last day is a Sunday or a public holiday. When the child has already been in police protection the 8 days start from the date that the child was taken in.</p> <p>90 The court may extend the period once only, for up to seven days. The court may only extend the period if it has reasonable cause to believe that the child is otherwise likely to suffer significant harm. If there has been a genuine emergency and the Department believe care proceedings should follow it should normally be possible to satisfy the court as to the grounds for an interim order within the</p>

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<p>CYPA 2001 s.44(7)</p> <p>CYPA 2001 s.44(5) &amp; (6)</p> <p>CYPA 2001 s.44(6)</p>	<p><b>Appeals and revocations</b></p> <p>91 The right of appeal against an emergency protection order is limited to:</p> <ul style="list-style-type: none"> <li>a. someone with the right to apply for revocation who was present on notice at the original hearing,</li> <li>b. an extension order.</li> </ul> <p>92 Otherwise there are opportunities available to challenge the order and seek to have its directions varied at any time after a lapse of 72 hours.</p> <p>93 The following people may apply for the order to be revoked.</p> <ul style="list-style-type: none"> <li>a. the child,</li> <li>b. a parent,</li> <li>c. anyone who has parental responsibility,</li> <li>d. anyone with whom the child was living before the order.</li> </ul> <p>94 They may apply at any time but the case will not be <u>heard</u> until the lapse of 72 hours from the making of the order.</p>
<p><b>POLICE POWERS</b></p>	
<p>CYPA 2001 s.45(1)</p> <p>CYPA 2001 s.45(5)</p> <p>CYPA 2001 s.45(2)</p>	<p><b>Grounds and first steps</b></p> <p>95 The police have important powers to provide emergency protection. When a constable has reasonable cause to believe that a child is likely to suffer significant harm he may:</p> <ul style="list-style-type: none"> <li>i. remove him or her to suitable accommodation and keep him there,</li> <li>ii. prevent someone from removing him or her from an existing safe place.</li> </ul> <p>96 This is “police protection”. Further action must be taken, or the child released, within 72 hours.</p> <p>97 As soon as possible after taking the child the constable must take the following steps.</p> <ul style="list-style-type: none"> <li>a. inform the Department what has happened and where the child is,</li> <li>b. tell the child (if he seems capable of understanding) what is happening and what will follow, and discover what he or she thinks about it,</li> <li>c. see that the case is inquired into by the officer designated by the Chief Constable for this purpose,</li> <li>d. see that the child is moved to accommodation approved by the Department (unless he or she is there already), and</li> </ul>

	<p>e. as far as practical, inform the following people of the steps they have taken, the reasons for them and what they propose to do now:</p> <ul style="list-style-type: none"> <li>i. the child's parents,</li> <li>ii. anyone who has parental responsibility</li> <li>iii. anyone with whom the child was living.</li> </ul>
CYPA 2001 s.45(2)(d)	<p><b>The designated officer</b></p> <p>98 The Chief Constable will nominate an officer or officers to oversee the exercise of police protection. Whenever a constable makes use of these powers he or she must immediately make an enquiry into the circumstances.</p>
CYPA 2001 s.45(4)	<p>99 The enquiry is to establish whether there is still reasonable cause for believing that the child would suffer significant harm if released. If the answer is no the child must be released. Police protection continues until either a decision is made that the criteria no longer exist (which may be due to police protection being superseded by a Court Order or decision) or by time expiry.</p>
CYPA 2001 s.45(6) & (7)	<p>100 The designated officer will be the principal point of liaison between the police and the Department on issues concerning emergency protection. He or she may apply on the Department's behalf, following consultation, for an emergency protection order.</p> <p>101 He or she must do what is reasonable in all the circumstances to safeguard the child and to promote his or her welfare. But neither the designated officer nor the Department acquire parental responsibility during police protection.</p>
CYPA 2001 s.45(8)	<p>102 He or she is responsible for controlling contact with the child under while he or she is under police protection. This responsibility passes to the Department once the child is in accommodation provided by it.</p>

<p>CYPA 2001 s.45(8)</p>	<p><b>Contact with the child</b></p> <p>103 The following people may have contact with the child:</p> <ol style="list-style-type: none"> <li>a. the parents,</li> <li>b. anyone with parental responsibility,</li> <li>c. anyone with whom the child was living previously,</li> <li>d. anyone with a contact order or allowed contact under Section 33 (with a child in care),</li> <li>e. anyone acting on behalf of any of these people.</li> </ol> <p>104 The wishes and feelings of the child must be fully considered and the designated officer or the Department must be of the opinion that the contact is reasonable and in the child's best interests. In other words a fairly wide range of discretion on this matter is allowed to the officers before the case comes to court.</p> <p><b>Inter-agency liaison</b></p> <p>105 The Department and the Chief Constable will review their channels of communication at regular intervals under the aegis of the Area Child Protection Committee. This should ensure that no child taken into police protection need be accommodated in a police station, and that his reception into the Department's accommodation is achieved with the minimum of trauma. Court application for Emergency Protection Orders and Interim Care Orders should always be used in preference to police protection wherever possible.</p>
<p>CYPA 2001 s.46</p>	<p><b>THE DEPARTMENT'S DUTY TO INVESTIGATE</b></p> <p>106 The Department is under a duty to investigate whenever a question of child protection arises. An investigation, however brief, is a necessary precursor to an application for either an Emergency Protection Order or a child assessment order. An initial investigation is triggered when a child is taken into police protection or is suspected of being at risk of significant harm. A more detailed investigation must follow the making of an Emergency Protection Order.</p>
<p>CYPA 2001 s.46(3)</p>	<p><b>Purpose of enquiries</b></p> <p>107 The Department will use the enquiry to decide the following questions:</p> <ol style="list-style-type: none"> <li>a. Should it make any application to the court or exercise any of its other powers under Act?</li> <li>b. Should the child be accommodated in accommodation approved by the Department (if not already there)?</li> <li>c. In the case of a child under police protection should the</li> </ol>

	<p style="text-align: center;">Department or the police seek an Emergency Protection Order?</p>
CYPA 2001 s.46(6)	108 Satisfactory answers to those questions depend on reasonable access to the child. If the Department is denied that it will seek an order to enable it to gain the necessary access or information about his or her whereabouts and condition unless it can be sure that the child's welfare can be safeguarded without doing so.
CYPA 2001 s.46(5)	109 The Act makes a specific reference to " matters connected with the education of the child". When the Department concludes that such matters should be investigated, it must consult the Department of Education.
CYPA 2001 s.46(7) & (8)	<p><b>Review and action</b></p> <p>110 If the Department decides not to apply for a court order it must consider whether it would be appropriate to review the case at a later date. If it does decide to do so it must set a date for the review.</p> <p>111 If the Department concludes that action is necessary to safeguard or promote the child's welfare it must take the action identified by the enquiry.</p>
	<b>ABDUCTION FROM CARE AND RECOVERY</b>
CYPA 2001 s.48	112 Abduction of a child in care, in police protection or on an emergency protection order is an imprisonable offence. It includes keeping or "inducing, assisting or inciting" the child to run away.
CYPA 2001 s.49	<p>113 The court may make a recovery order if a child:</p> <ol style="list-style-type: none"> <li>a. appears to have been abducted as described in the previous paragraph,</li> <li>b. is staying or has run away,</li> <li>c. is missing.</li> </ol> <p>114 The application must come from the designated police officer or the Department. The order:</p> <ol style="list-style-type: none"> <li>a. directs any person who is in a position to do so to produce the child on request to an authorised person,</li> <li>b. allows a person authorised by the court to remove the child,</li> <li>c. requires any person who has information about the child's whereabouts to disclose it if asked,</li> <li>d. can authorise a constable to enter and search specific premises, using reasonable force if necessary, where there are reasonable grounds for believing the child to be.</li> </ol>
CYPA 2001 s.49 (5) (7) & (8)	<p>115 An authorised person is:</p> <ol style="list-style-type: none"> <li>a. someone named in the order,</li> </ol>

	<ul style="list-style-type: none"><li>b. a police constable,</li><li>c. an officer authorised by the Department to execute the court order. In this case the person must carry and show evidence of his or her authority to act in this particular case.</li></ul> <p>116 Intentionally obstructing an authorised person from carrying out the order is a criminal offence.</p>
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