

CYPA 2001 s.100 &  
Schedule 10

## **CHAPTER 7**

### **EDUCATION SUPERVISION ORDERS**

#### **INTRODUCTION**

- 1 This section of the Act empowers the Department of Education to apply to the court for an education supervision order. It does so by inserting an amendment into the Isle of Man Education Act 1949 at Section 70A. This chapter will be of particular interest to professionals working in the education field. But the supervision is undertaken by officers under the authority of the Department of Health and Social Security, so it will be important for social workers and others also to understand the implications of the Section and how it relates to the rest of the Children and Young Persons Act.
- 2 In essence an order puts the child under the supervision a social worker of the Department of Health and Social Security. The grounds for an application are that the child is of school age but is not receiving suitable full time education.
- 3 As an order must be sought by the Department of Education close cooperation between the two departments is essential to its effectiveness. The Schedule, which is added to the Education Act 1949, also imposes a statutory obligation on the supervisor to take account of the views of the parents and both departments will need to seek their cooperation and support throughout the process.
- 4 The purpose of an order is to ensure that the child receives efficient full-time education suited to his or her age, ability, aptitude and any special educational needs, and that sufficient support, advice and guidance are provided to the parents and the child to enable that.
- 5 To remain consistent with the rest of this volume from here on in this Chapter "the Department" will refer to the Department of Health and Social Security; the Department of Education will be referred to in full.

#### **SCOPE OF LEGISLATION**

IoM Education Act  
s.70A(1)(3)&(4)

- 6 The court will only make an education supervision order if the child is:
  - a. of compulsory school age,
  - b. not being properly educated,
  - c. not already in care of the Department, andthe Department has been consulted before the application was made.
- 7 The general responsibility of the Department of Education to ensure that children of compulsory school age receive efficient full-time

IoM Education Act  
Schedule 4A  
(inserted under  
CYPA 2001  
Schedule 10)

CYPA 2001 s.1 (2)-  
(5)

education suitable to age, ability, aptitude and any special educational needs extends to children in care. But the powers which an order would give to an officer of the Department are already available under a care order.

- 8 The supervisor may attach directions to the order in consultation with the child and the parents. Once made the directions apply to both. "Parents" includes anyone who has parental responsibility for, or de facto care of, the child.
- 9 It is important to remember that an application for an education supervision order is covered by the rules governing "family proceedings". So when a court is considering an order the child's welfare is the paramount consideration.
- 10 In particular the court will take account of:
  - a. the views of the child and his or her parents,
  - b. the child's physical and emotional as well as his or her educational needs,
  - c. the likely effect of a change of circumstances,
  - d. age, sex, background, condition and behaviour,
  - e. harm or risk of harm,
  - f. the capacity of the family to meet his or her needs.
- 11 It may call for welfare reports to clarify these issues. It may also adjourn the hearing to give time to prepare them. But the presumption of no order unless there is positive evidence that it would be better to make one does not apply to education supervision.

## **EFFECTIVENESS OF EDUCATION SUPERVISION ORDERS**

- 12 The Education Department will review its policy and guidelines to ensure that applications for education supervision orders reflect the spirit and principles of the Act. The guidelines will then be made available to schools and to the public.
- 13 The potential effectiveness of an education supervision order in particular circumstances is a matter of professional judgement.
- 14 Parents are sometimes hostile to the control and structured programme of work necessary to conduct supervision. Without a basic level of cooperation an order is unlikely to be effective. The Education Department will always seek that cooperation when it considers an application.
- 15 On the other hand an order may be of great help where parents have reached "the end of their tether" and the child has developed a

IoM Education Act  
s.70A(4)

pattern of poor attendance over which they have little control.

### **DUTY TO CONSULT**

16 When proposing to seek an order, the Education Department must consult the Department. The guidelines will indicate how this will be managed in practice. The principles will be reflected in the guidelines.

- a. Consultation will be completed as quickly as practicable and the outcome confirmed in writing.
- b. It will indicate:
  - i. if the Department is already involved with the family,
  - ii. if there are any reasons why an education supervision order might not be appropriate.
  - iii. If there are disagreements remaining between the two Departments.

17 The two Departments have different responsibilities and it does not necessarily follow that disagreement is unhealthy or “wrong”. It is for the Education Department to decide whether to proceed but, as a matter of good practice, it will draw any difference of view to the attention of the court.

### **Supervising officer**

18 Although the application is made by the Department of Education the order, if it made, places the child under the supervision of the Department of Health and Social Security.

19 If the Department already has contact the family there will be issues of continuity to consider in appointing an appropriate officer. But there may be times when the Department will decide on a complete separation between the supervision of this order and other reasons for contact. There will be occasions when two officers in contact with the family for different reasons will maintain clarity of purpose.

20 The religious, cultural, racial and linguistic background of the child and the family may also influence the choice of supervising officer.

### **Reports to the court**

21 The Education Department will provide the court with a report when it applies for an order. It will include the following matters:

- a. *Record of school attendance*

This will distinguish between justified and unjustified absences especially during the twelve school weeks prior to court action. It may also be helpful to provide general information on attendance over a longer period.

- b. *Social and educational circumstances*
  - i Basic information about the child.

IoM Education Act  
s.70A(1)

|  |   |
|--|---|
| <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 2</p> <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 1</p> <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 8</p> | <ul style="list-style-type: none"> <li>ii Social and family circumstances.</li> <li>iii Physical, emotional or educational needs.</li> </ul> <p>c. <i>Assessment of need and plan of action</i></p> <ul style="list-style-type: none"> <li>i Assessment of the causes of the poor attendance including: <ul style="list-style-type: none"> <li>1 a medical assessment if relevant</li> <li>2 the views of <ul style="list-style-type: none"> <li>a. the child,</li> <li>b. the parents,</li> <li>c. the school(s)</li> <li>d. other agencies in contact.</li> </ul> </li> </ul> </li> <li>ii Description of action already taken and its results,</li> <li>iii Reasons for the application,</li> <li>iv Likely educational disadvantage to the child should an order not be made,</li> <li>v Plan for supervision including targets, timing and monitoring and prognosis,</li> <li>vi Agreements with the child, the parents and the school.</li> </ul> <p>22 The report will be prepared in consultation with the child and the family. If they disagree with any of the information or the conclusions drawn from it this will be drawn to the attention of the court. If there are particular factors which have a bearing on the application, such as religion, racial origin, cultural or linguistic background these too will be drawn to the attention of the court.</p> <p><b>Before an application is made</b></p> <p>23 Before applying for an order the Department of Education will seek the support of all the parties involved to resolve the problem of poor school attendance by informal means.</p> <p>24 An order limits the normal rights of the parents in relation to the education of their child. It is important that they understand these effects before the court hearing: <ul style="list-style-type: none"> <li>a. The supervisor must take account of their views, for example, about where the child should be educated. In the end he or she can override them if it appears to be in the best interests of the child to do so,</li> <li>b. If an order is made they have a legal duty to comply with directions made by the supervisor and there a penalties attached to the requirement.</li> </ul> </p> <p><b>The duties of the supervisor</b></p> |
|--|---|

|   |  |
|---|--|
| <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 1(1)</p> | <p>25 The education supervision order's objective is to ensure that the child "is properly educated". To that end the supervising officer must "advise, assist, befriend and give directions to" the child and the parents. His or her second duty is to consider what further steps to take if that does not have the desired effect. The purpose of supervision is to diminish its necessity by enabling the parents to achieve the objective themselves.</p> <p>26 There is no specified frequency of contact. The amount will vary from case to case and should be determined by the degree of success in achieving the objective.</p> <p>27 To undertake the task successfully a supervisor needs:</p> <ul style="list-style-type: none"> <li>a. insight and understanding of child development and family behaviour,</li> <li>b. knowledge of and skills in counselling,</li> <li>c. effective guidance techniques,</li> <li>d. knowledge of educational resources and the child's needs,</li> <li>e. capacity to be able to work effectively with the school, the child and the family, in cooperation as far as possible.</li> </ul> |
| <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 1(2)</p> | <p>28 The supervisor and the Department of Health and Social Security will need to create a structure that sets clear objectives. A realistic programme of tasks for the child, the family and the school should be agreed with each. And the tasks for the child and the family will be specified in directions where necessary.</p> <p>29 The order will to be subject to regular review by the Department to monitor its success and to decide on alternative strategies if they seem to be necessary, and to consider whether the child has any special educational needs which may require further assessment or review.</p> <p>30 The supervisor may sometimes conclude that the education supervision order provides insufficient control to secure the best interests of the child. In that event the Department may consider that an application for a care or supervision order is the most appropriate course. The conditions which the court will consider relevant in that event are identical whether there is an education supervision order in existence or not.</p>   |

IoM Education Act  
Schedule 4A  
paragraph 1(3)

### **Change of school**

- 31 Parents lose their right to have the child educated in accordance with their wishes while the order is in force. For example, they no longer have the right to move their child to another school and have no right of appeal against admissions decisions. But their temporary loss of rights in this matter should not prevent a change of educational provision should it be necessary. Nor should it prevent discussion with them about the arrangements for the education of their child. Both the spirit of the Act in general and the terms in which the relevant schedule is drafted make clear that all decisions should be reached, as far as possible, collaboratively.

### **The use of directions**

- 32 In formulating directions the supervisor must consider:
- a. the wishes and feelings of the child (taking account of age and understanding),
  - b. the wishes and feelings of the parents,
  - c. whether what he or she proposes is reasonable.
- 33 Other than that the Act does not specify what the directions can or should include. They might say, for example,
- a. where and when the parents and the child should attend meetings with the supervisor;
  - b. that the parents are required to discuss progress with teachers at the school;
  - c. that the child should have medical treatment or examination;
  - d. that he or she should be assessed by an educational psychologist.
- 34 Directions may sometimes be useful to give the parents added authority where that has been lacking. But the benchmark should be that they should only be used only where necessary to secure a result. If the same thing can be achieved by voluntary agreement that should be the route preferred.
- 35 When they are given, they should be explained in detail and conformed in writing. Both parents and child should receive a personal copy.

|  |  |
|--|--|
| <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 8</p> | <p><b>Compliance with directions</b></p> <p>36 When a parent or a child persistently fails to comply with a direction given under the order, the Department will investigate the circumstances and consider what action to take to secure the welfare of the child.</p> <p>37 Judgements about compliance should be considered against the best interests of the child rather than against a strict bureaucratic protocol. There is a delicate balance to be found between giving reasonable time to for the child and the family to respond and causing behaviour to harden and undue delay to constructive intervention because too much time has been allowed before action.</p> <p>38 If parents fail to comply with a reasonable direction the supervisor should explain that they must follow the directions and may be guilty of an offence if they persistently fail to do so. The advice must be confirmed in writing. If the failure persists the supervisor must ensure that the matter is drawn to the attention of the court.</p> <p>39 The parents may seek to defend themselves on the ground that their behaviour was reasonable or that the demands of the supervisor where unreasonable. If they fail they will face a maximum fine of £1,000.</p> |
| <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 5</p> | <p><b>Revocation and cessation</b></p> <p>40 An order normally lasts for one year. Exceptions occur when:</p> <ul style="list-style-type: none"> <li>a. the Department, the child or the parents successfully apply to the court for a revocation,</li> <li>b. the child is no longer of compulsory school age,</li> <li>c. the Department successfully apply to the court for an extension of the order (maximum three years),</li> <li>d. a care order is made.</li> </ul> <p><b>Extension</b></p> <p>41 An order may be extended for up to three years on each application from the Department. If it considers an extension necessary to achieve the objective it must make one during the final three months of the existing order.</p>   |

|  |   |
|--|---|
| <p>IoM Education Act<br/>Schedule 4A<br/>paragraph 4</p> | <p><b>Child subject to a supervision order or a criminal supervision order</b></p> <p>42 A child who is the subject of an education supervision order may also be the subject of a supervision order under Part 4 or a criminal supervision order under Part 8 of the CYPA 2001. If there are different supervising officers for each, it will be necessary for them to co-ordinate their respective roles and to ensure that the parents and the child are aware of how it will work in practice.</p> <p>43 The other two orders have primacy over an education supervision order. There should never be a conflict of directions in practice but if there is, the education supervision order is disregarded.</p> |
|--|---|