

## **GUIDANCE ON PLACING RESTRICTIONS ON THE LIVING/CONTACT ARRANGEMENTS OF PARENTS WITH THEIR CHILDREN**

### **1. BACKGROUND AND INTRODUCTION**

A practice has developed in Hull, as in some other Local Authorities, whereby a parent is asked to leave the family home, and/or have supervised contact with his/her child/children, as the main feature of a safety plan when there are child protection concerns.

This is most commonly seen in cases where there is domestic abuse or potential/unassessed sexual risk, although it is not confined to those situations.

In many cases these restrictions have not only been limited to brief periods during s47 enquiries, but have often continued for lengthy periods of time, while the outcome of specialist assessment is awaited and/or interventions are completed.

In some cases it is unclear what needs to happen for the situation to be resolved and restrictions finally removed.

### **2. LEGAL FRAMEWORK**

A Local Authority has no legal powers to impose conditions in regard to the living arrangements of parents unless it shares parental responsibility through a court order (i.e. a Care Order or Interim Care Order.)

Therefore, if a parent agrees to move out of the family home, and/or have supervised contact with his/her child/children, this is necessarily voluntary in nature, whatever the timescale for the arrangement.

Any attempt to fetter a parent's care of, or contact with, his/her child/children will risk a breach of his/her Human Rights under Article 8, the right to family life.

There are examples of challenges on these grounds being upheld within the Courts (including a case in Hull.) There is also a recent example of a complaint which reached the Ombudsman (December 2020, Newcastle) which was again upheld in regard to a father being excluded from the family home, even though this exclusion was brief.

It is important to note that these principles would apply equally to anyone who has obtained parental responsibility by virtue of a Court Order.

However, it is also important that we are cautious in our approach to fathers without parental responsibility. For example, there will be situations where a father without parental responsibility has been acknowledged as the father of the children over time, and has either lived in the family home, or had on-going contact with the children. This is rather different from a putative father who has not been involved with his children. There will of course be many variations on these scenarios and each situation will be subtly different.

It is also important to remember that step-parents do not automatically have parental responsibility.

It is clear that, where parents choose to become involved with new partners who are deemed to pose a risk, and choose to introduce them into the lives of their children, those partners do not have rights in regard to contact with the children. However, the Local Authority still needs to be clear about its rationale for trying to limit the exercise of parents' discretion in regard to whom they wish their children to have contact with. There needs to be clarity about the bottom line.

### **3. THRESHOLD FOR INTERVENTION**

Whether a case is regarded as section 17 or section 47 must be based on the definitions of those sections of the Children Act 1989, as amended by later legislation. This is clearly explained in the statutory guidance 'Working Together to Safeguard Children' 2018.

If extreme measures are considered necessary to protect a child: i.e. a parent needs to leave the family home and/or only have supervised contact, it is highly unlikely that the case can be anything other than s47. Of its very nature, such draconian action should only be predicated on the basis of a risk of significant harm.

During enquiries undertaken under s47, it may be appropriate to ask a parent to move out of the family home for a short period. However, as already explained, even if a short period of time is proposed, it must be very clear that there has been discussion about the voluntary nature of this arrangement. There must also be clarity about what steps the Local Authority will take if this does not happen.

It is not sufficient at any stage to state that the Local Authority will 'seek legal advice.' The next steps must be stated explicitly.

Where the threshold for s47 is met, it is inappropriate to suggest to parents that the case can remain at s17 as long as they comply with what is being requested of them. Progressing to a Child Protection Conference should not be used as a 'threat' if there is non-compliance: this is not only contrary to the principle of working together with families, but also suggests that working under a Child Protection Plan means that the Local Authority has additional powers in regard to imposing the restrictions required, which it does not.

**The key consideration is the impact on the child, not the compliance or otherwise of the parents.**

### **4. WORKING IN PARTNERSHIP WITH PARENTS**

Whatever the threshold of intervention in family life is deemed to be, that intervention is always based on the social work principles of working with families in an open, honest and respectful way.

Hull has adopted the Signs of Safety framework, which supports this ethos and provides tools and approaches to enhance partnership working with parents and direct work with children.

It is important to note that the Signs of Safety approach does not mean that strengths are emphasised and risks minimised. Rather, it is a framework which supports the honest identification of risk, whilst ensuring that strengths are also recognised and built upon.

Safety Plans must be co-created with parents, with the extended family, the community network and, of course, with other agencies.  
The ability of parents to recognise the identified risk is clearly fundamental to this process.

At every stage of intervention there should be clarity about the timeline for assessment, the provision of services and the changes required.

Where there is reluctance from a parent to continue with restrictions, there should always be absolute clarity about what steps the Local Authority would take if agreement was rescinded.

## **5. DECISION-MAKING**

The circumstances of each child and family are unique. There is no template or checklist which can define the decisions which need to be made. The decision-making is always a matter of professional judgement based on many inter-related factors.

The risk must be placed in the context of all historical information, and all current information, from all agencies involved. Assessment must not only be based on the 'here and now'.

Multi-agency assessment and planning is vital. The role of each agency must be clearly understood and agreed. For example, schools and nurseries have a key role in regard to monitoring the impact on children of their lived experiences.

It is essential to determine whether parents can recognise the risks: and, if so, whether they have the capacity to act on those risks and make changes, and whether they will be able to sustain those changes over time.

It is often the case that the presenting problem, or incident which has led to a referral, e.g. an incident of domestic abuse, or a concern about allegations of sexual harm which could imply potential risk to a child in the household, takes place in the context of other concerns, such as substance misuse or mental health problems.

Circumstances of neglect often provide a context within which other forms of abuse take place. However, there are also scenarios where harm is hidden behind the surface, with good home conditions and apparently good basic care.

As indicated above, the timeline for any agreement in regard to restrictions must be explicit and agreed. Any subsequent suggested changes must also be clearly discussed and agreed.

Where it is proposed to impose restrictions, or to continue them beyond the original timescale, the decision must be made by the Group Manager.  
Similarly, the Group Manager must be consulted where it is suggested by a family that the children are cared for by someone else for a period of time, instead of one of the adults moving out of the home. This situation has its own complexities and would need careful consideration. It is not a simple alternative solution.

These cases are highly complex. Good quality supervision and other types of reflective case discussion are crucial. 'Holding' the risk is extremely challenging and practitioners need to feel supported in this.

Timescales for intervention must be clear, with a focus on reviewing and driving forward change. This will ensure no DRIFT and DELAY.

## **6. DRIFT**

Drift in regard to the resolution of the restriction situation carries with it a number of potential increased dangers.

Where there is reliance on incidents which have occurred, for example reports of domestic abuse, these will become historical. Therefore there will be increasing difficulty in relying on them should there be a need to enter the PLO process or issue care proceedings.

Parents who are only engaging in the restrictions reluctantly, may be increasingly likely to flout them. However this may be difficult to evidence.

Children who have been sharing information with their social worker or others, may cease to do so, given that there is no change as a result. Their trust in professionals is therefore undermined. Worse still, if they are being actively silenced, our attempts to seek their views only add to their emotional harm.

On-going monitoring of these situations needs to be proportionate and effective. The longer the situation continues, with no evidence of change and no action being taken, monitoring is likely to become routine and ineffective, with parents seeing that it is easy to evade or mislead professionals.

Each case must be judged on its merits. While it is not necessarily appropriate to wait for a 'trigger event' in order for action to be taken, it is equally the case that action must be taken swiftly when there is a new incident. If it is not, then threshold may well be lost.

Professional curiosity needs to be exercised constantly in these complex situations. For example, explanations given by parents must be queried and challenged when they appear to lack credibility.

## **7. BAIL CONDITIONS AND POLICE INVESTIGATIONS**

Where bail conditions have been imposed by the Police, there needs to be absolute clarity as to the detail and duration.

Bail conditions do not constitute a Safety Plan: a Safety Plan must be more than this. Whilst there needs to be multi-agency planning and co-operation, the lead role in safeguarding always remains with the Local Authority.

Assessment of risk cannot be delayed due to police investigations taking place. These may be protracted and, in any event, cannot in themselves be used to justify restrictions on family life.

Information from police investigations may provide useful information for the assessment of risk and are therefore relevant. However, it cannot be the case that the duration of 'on-going police investigations' is given as the timescale for restrictions.

The decision of the police to discontinue an investigation, or the decision of the CPS not to proceed with a prosecution, does not necessarily mean that no risk exists.

Even if criminal proceedings take place, and the verdict is not guilty, the difference in the criminal and civil burden of proof means that this cannot be relied upon as proof that the person involved does not pose a risk of significant harm to children.

## 8. RECORDING

The general principles of good case recording, and the sharing of records with parents, always applies.

It is important not to rely on an assumption that parents understand the voluntary nature of what they are agreeing to. For example, the Safety Plan now stipulates that agreements are voluntary. However, this should always be discussed, and that discussion must be clearly recorded.

This applies equally when any variations to restrictions are agreed, or any changes to the timescale are made.

Recording that the restrictions are being kept 'under review', e.g. through Core Groups, is not sufficient to justify on-going restrictions which are contrary to parents' ultimate wishes, even though they have agreed. The timescale must be clear and explicit.

When a parent does not wish to comply with the Local Authority's/multi-agency plan, the next steps which the Local Authority is going to take need to be specific.

There are circumstances where restrictions exist through other processes, for example, Orders made in private proceedings; or Probation conditions. While these are legitimate restrictions, it is important for them to be documented accurately in the records.

It is also essential to record accurately **all** communication with the different professionals involved: even minor inaccuracies in these cases can lead to major misapprehensions.