

Public law
working group



Recommendations to achieve best
practice in the child protection and
family justice systems:

Supervision orders

October 2022

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What we are asking

This is an interim report that we have prepared for the purposes of consultation. There are seven consultation questions, which are on p17. The consultation period will open on 1 November 2022 and close on 30 November 2022. The best practice guidance at the heart of this report is [appendix C](#), which runs from p73 to p107 and includes the two accompanying PDFs. For more information about how to respond to the consultation, please see the accompanying launch email.

Acknowledgements

In preparing this interim report, we have been greatly assisted by many working in or in relation to the child protection and family justice systems.

We are grateful to Professor Judith Harwin and Lily Golding for their 2022 research and report, *Supporting families after care proceedings: supervision orders and beyond: Parental perspectives on care proceedings, supervision orders and care orders at home*,¹ which has proved a key foundation for this interim report. A full summary of that important work can be found later in this report.

We are indebted to Kate Hughes KC for her invaluable assistance in respect of Welsh law. We extend our warm thanks to the Family Justice Young People's Board, to the Nuffield Family Justice Observatory, to the parents who participated in Professor Harwin's research project and to those legal professionals who took part, from time-to-time, in round table discussions. We wish to thank the members of the Private Office of the President of the Family Division for the administrative support and assistance; and to Francesca Paveley, the former clerk, and Martha Thompson, the clerk to The Hon. Mr Justice Keehan, for all their hard work in supporting the working group. Finally, we thank Josh MacAlister for meeting with us to discuss current issues.

¹ Available online:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064405/Harwin_Report_on_Parental_Perspectives.pdf

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Glossary

BPG	best practice guidance
CA 1989	Children Act 1989
Cafcass	Child and Family Court Advisory and Support Service and Child and Family Court Advisory and Support Service Cymru
DfE	Department for Education
DFJ	designated family judge
FGC	family group conference
FJB	family justice board
FJYPB	Family Justice Young People's Board
IRO	independent reviewing officer
NFJO	Nuffield Family Justice Observatory
SG	special guardian
SGO	special guardianship order
SGSP	special guardianship support plan
SSW-b(W)A 2014	Social Services and Well-being (Wales) Act 2014

Introduction

1. In December 2018 the President of the Family Division asked me to establish and chair this working group to address the operation of the child protection and family justice systems. The principal objectives of the working group were to recommend (a) changes to both systems which could be implemented readily and without the need for primary or secondary legislation to effect the same and (b) longer-term changes which would require primary or secondary legislation and/or the expenditure of public funds.
2. Our first substantive report on special guardianship orders was published on 15 June 2020 and contained a set of best practice guidance.² The final report was published on 1 March 2021.³ It contained three further sets of best practice guidance dealing with (a) support for and work with families prior to court proceedings, (b) case management and (c) s 20 / s 27 accommodation.
3. The final report made two recommendations in respect of supervision orders:
 - i. Recommendation 40: An additional sup-group be set up to examine supervision orders. We recommend that an additional sub-group of this working group is set up to review and make proposals relating to practice, statutory guidance, regulation and law to enhance the effectiveness of supervision orders as a public law order which have not been reviewed since the enactment of the CA 1989.
 - ii. Long-term changes: Recommendation 13: A review of supervision orders. The Government should review the components of a supervision order with the

² Available online: <https://www.judiciary.uk/wp-content/uploads/2020/06/PLWG-SGO-Final-Report-1.pdf>

³ Available online: https://www.judiciary.uk/wp-content/uploads/2021/03/March-2021-report-final_clickable.pdf

recommendation that they are revised to provide a more robust and effective form of public law order.

4. In large measure the reasons for setting up this sup-group are encapsulated in the 2019 report by Harwin, J., Alrouh, B., Golding, L., McQuarrie, T., Broadhurst, K., Cusworth, L., *The contribution of supervision orders and special guardianship to children's lives and family justice* (March 2019).⁴
5. Accordingly, the supervision order sub-group was established to consider whether and, if so, how supervision orders could be made more robust and effective. The focus of the work of this sub-group has been on standalone supervision orders made at the conclusion of care proceedings to support family reunification. The members of the sub-group agreed to establish three strands to undertake various aspects of our work:
 - i. Strand one undertook a comparative study of child-in-need plans, child protection plans and supervision orders. We considered this to be a vital exercise inform how supervision orders could be made more robust and effective whilst, at the same time, not unnecessarily replicating the features of these two plans.
 - ii. Strand two undertook a comparative study of how supervision orders, or similar equivalent orders, were implemented and used in other international jurisdictions.
 - iii. Strand three undertook an analysis of the available research, sought the views of focus groups with parents with experience of their child/ren living with them under either a standalone supervision order or with experience of their children

⁴ London: Nuffield Family Justice Observatory. Available online: <https://www.nuffieldfjo.org.uk/resource/the-contribution-of-supervision-orders-and-special-guardianship-to-children-s-lives-and-family-justice>

living at home under final care orders, organised round table discussions with family lawyers and had the benefit of the survey undertaken by the Nuffield Foundation.⁵ We are grateful to the Department for Education for providing the funding for research to be undertaken by Professor Harwin and Lily Golding from Lancaster University's Centre for Child and Family Justice Research into parental perspectives on supervision orders. This research was undertaken to inform the work of the sub-group on whether and, if so, how supervision orders could be made more robust and effective.

6. The report is invaluable reading. The principal findings of the study are summarised by Professor Harwin later on in this interim report. In brief, when a supervision order was effectively implemented and support and advice provided to the parents / carers they found it to be a useful and helpful order to enable them to protect and promote the well-being of their child or children. However, nearly all the parents / carers involved in the study expressed the view that the supervision order could have been made to work better and more effectively for them and their families.⁶
7. There was a lively debate amongst the members of strand one, and then the full sub-group, about whether we should recommend the abolition of supervision orders as opposed to recommending changes which would make them more robust and effective as a public law order. Those in favour of abolition considered it could result in many potential care proceedings being diverted from the Family Court (their rationale being that children's services departments might decide that

⁵ The report of Ryan, Roe and Rehill (2021) is available online: <https://www.nuffieldfjo.org.uk/news/survey-recommendations-review-supervision-orders> and <https://www.nuffieldfjo.org.uk/resource/supervision-orders-care-proceedings-survey>

⁶ Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064405/Harwin_Report_on_Parental_Perspectives.pdf

a child's welfare did not require the institution of public law proceedings when the only option available to the Family Court was either to make a care order or to make no order). Those against the proposition feared that, rather than having the beneficial effect of bringing about a reduction in the number of care cases issued by local authorities, it would lead, albeit unintentionally, to an inappropriate increase in the number of cases which concluded with the making of a care order. It was agreed that the remit of the sub-group was to consider how to make supervision orders more robust and effective. It was considered preferable to undertake this exercise and only if our proposed reforms of supervision orders were not successful in practice would it be appropriate to consider the far more drastic option of abolishing this order.

8. Ultimately, a clear majority of the sub-group did not support the proposal to recommend the abolition of supervision orders. Accordingly, Professor Harwin and I, as co-chairs of the sub-group, invited the Law Commission of England and Wales to consider including the issue of the abolition of supervision order in its forthcoming 14th Programme of Law Reform. The Law Commission has yet to determine whether this issue will be included within its next programme.
9. In undertaking the work of the sub-group it became clear that there is a pressing need for objective and reliable data dealing with the circumstances in which supervision orders are made and the outcome of the order for the individual family. We make a recommendation for this data collection and analysis to be undertaken or funded by the Department for Education.
10. The culmination of the work of the sub-group is set out in the best practice guidance, [appendix C](#). The key features of the supervision order BPG are three overarching principles and six core principles. The three overarching principles are:

- i. The child's welfare is paramount.⁷
- ii. Children are best looked after within their families, with their parents playing a full part in their lives, unless compulsory intervention in family life is necessary.⁸
- iii. Any interference in family life should be necessary and proportionate. That means action taken should be no more than is needed to achieve the aim of keeping the child safe and well.

11. The six core principles are:

- i. Partnership and co-production with children and families.
- ii. Multi-agency, multi-disciplinary working.
- iii. Clear, tailored plans including to address ongoing risks, and the findings and conclusions of the court in care proceedings.
- iv. Resource clarity.
- v. Formal, robust review.
- vi. Accountability.

12. It is proposed that the final version of the BPG, after the consultation, be implemented without delay on publication of the final report. In our short-term changes we recommend the following:

- i. Each local authority's children's services department implements the BPG.

⁷ See s 1(1), CA 1989. Where a local authority in Wales maintains a Care and Support Plan, the child's 'well-being' must be promoted in accordance with ss 5 – 6, SSW-b(W)A 2014.

⁸ In England, summarised in statutory guidance: *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*, p9, para 11. In Wales: s 81, SSW-b(W)A 2014.

- ii. Supervision orders are only made when all the matters set out in the supervision order template within the BPG have been considered and addressed.
- iii. Each children's services department adopts and completes the self-audit questions within the BPG in respect of every supervision order made in its favour.
- iv. Each children's services department considers adopting the 'thinking tool' within the BPG.
- v. The Government commits to provide the necessary resources to local authorities to enable them to adopt and implement the BPG to the fullest and most effective extent possible.

13. In our longer-term recommendations we invite the Government to consider:

- i. Amending the Children Act 1989 to provide a statutory basis for supervision support plans (akin to s 31A, CA 1989 in respect of care plans).
- ii. Placing local authorities under a statutory duty to provide support and services under a supervision order.
- iii. Amending statutory guidance to reflect the recommendations in this report and the BPG.
- iv. The Government undertaking or funding an external body to identify all supervision orders made by the Family Court to support family reunification and collect data on (a) the supervision plan at the end of proceedings, (b) the implementation of the plan during the life of the supervision order and (c)

change of placement or return to court for the children and their parents up to two years after the end of the supervision order.⁹

14. All those involved in the child protection and family justice systems worked under considerable pressure before COVID-19. The pandemic has required everyone to adapt to new ways of working and it increased the workload and pressure upon us all. The acute phase of COVID-19 is fortunately behind us but in our post-pandemic world the workload and pressure remain relentless. It was agreed that the time was right to recommend to the President of the Family Division that this interim report should be published for the purpose of consulting all stakeholders on our proposed recommendations and BPG. The implementation of the reforms and BPG set out in this report should result in an easing of the burden and pressure on all those involved in the child protection and family justice systems, to the inestimable advantage of all children who are or may come to the attention of children's services and/or who are or may come to be the subject of care proceedings.
15. We make recommendations for change and advise on elements of best practice which will permit social workers, senior managers, the legal professions and the judiciary to promote the welfare and protection of children by working in partnership with families under the auspices, where appropriate, of robust and effective supervision orders.
16. We would urge all stakeholders in the child protection and family justice systems to take part in the consultation process and to give your views and opinions on the recommendations we propose and on the BPG.

⁹ The highest risk of return to court was in the first two years following the supervision order: see Harwin et al, 2019: available online: https://www.cfj-lancaster.org.uk/app/nuffield/files-module/local/documents/HARWIN_SO_SGO_FinalReport_V2.1_19Mar2019.pdf

17. The simple message which has continued to guide our work, and which must guide all those who work in the child protection and family justice systems, is that the welfare of the children and young people with whom we are concerned must come first and above every other consideration.

The Honourable Mr. Justice Keehan

October 2022

Executive summary

18. The Public Law Working Group's supervision orders sub-group was established to consider how supervision orders could, if at all, be made more robust and effective.
19. The membership of the working group is drawn from a variety of professionals with considerable experience in the child protection and family justice systems. Our members include directors of children's services or senior managers, the CEO and director of Cafcass, the CEO and senior managers of Cafcass Cymru, members of the Family Bar, child care solicitors, local authority solicitors, academics specialising in this field, representatives of the MoJ, DfE¹⁰ and HMCTS dealing with family justice, judges, magistrates and a legal advisor.
20. In this interim report we make five core recommendations. We have provided a full explanation for and analysis of these in this report. In broad terms, the recommendations are as follows:
- i. Each local authority's children's services department implements the BPG.
 - ii. Supervision orders are only made when all of the matters set out in the supervision order template within the BPG have been considered and addressed.
 - iii. Each children's services department adopts and completes the self-audit questions within the BPG in respect of every supervision order made in its favour.

¹⁰ MoJ and DfE participation in the working group should not be taken as government endorsement of all the recommendations in this report or the BPG.

- iv. Each children's services department considers adopting the 'thinking tool' within the BPG.
- v. The Government commits to provide the necessary resources to local authorities to enable them to adopt and implement the BPG to the fullest and most effective extent possible.

21. In addition, in this report we make four proposals for long-term change. These recommendations will require legislative changes to be implemented and/or the approval of additional public spending by the Government. They are:

- i. Amending the Children Act 1989 to provide a statutory basis for supervision support plans (akin to s 31A, CA 1989 in respect of care plans).
- ii. Placing local authorities under a statutory duty to provide support and services under a supervision order.
- iii. Amending statutory guidance to reflect the recommendations in this interim report and the BPG.
- iv. The Government undertaking or funding an external body to identify all supervision orders made by the Family Court to support family reunification and collect data on (a) the supervision plan at the end of proceedings, (b) the implementation of the plan during the life of the supervision order and (c) change of placement or return to court for the children and their parents up to two years after the end of the supervision order

The consultation

22. The consultation will open on 1 November 2022 and close on 30 November 2022.

We encourage all those concerned with the child protection and family justice systems, and all those interested in the welfare of children and young people, to take part in the consultation. We ask for your view on the following matters but do, of course welcome more general views on the nature and use of supervision orders:

- i. Should supervision orders be retained as a public law order?
- ii. Should supervision orders be reformed to be a more robust and effective public law order?
- iii. Are the recommendations for immediate reform in this interim report sufficient to achieve the goal of making supervision orders more robust and effective?
- iv. If not, what other reforms or measures should we recommend?
- v. Are the reforms and measures set out in the BPG (p 73 onwards) proportionate and practical or are they, or any of them, overly burdensome to implement for parents/carers, the Family Court, children's services or others involved in the child protection and family justice systems? If so, how could they be improved?
- vi. Should guidance be issued by the DfE / Welsh Government to underpin the BPG set out in this report to help ensure consistency of support and oversight?
- vii. Should there be future legal and practice reforms so that supervision orders are (a) supported under a specific supervision order review pathway provided for in relevant primary and secondary legislation, (b) underpinned, supported and reviewed via the child-in-need framework in England, the care and support plan framework in Wales, or (c) underpinned, supported and reviewed through the child protection framework including through child protection plans?

Strand One: Comparison of the use of Child in Need Plans, Child Protection Plans and Supervision Orders

The question

23. Is it possible to use the statutory provisions associated with child protection and child in need (Children Act 1989) as alternatives to supervision orders?

Initial concerns about the efficacy of supervision orders

24. A supervision order places a responsibility on the local authority to “advise, assist and befriend” the child and by extension, the people with whom the child lives. Children who are the subject of such orders are allocated to social workers, who will submit a care plan during proceedings which will typically be managed under local authority arrangements for supporting children in need. The plan should be specific and purposeful in its aim to reduce risk and build on strengths to support the child in their care arrangement. The extent to which an order set up under the auspices of ‘befriending and assisting’ families and that is then overseen through child in need arrangements causes concern to some professionals who say that such orders are neither robust nor effective in protecting children.¹¹ There is a strong reality among people holding this view that the supervision order, in being outside the purview of formal child protection, lacks authority, significance and/or oversight.

25. The threshold for seeking a supervision order through the family court is that of ‘significant harm’. The breach of this threshold that results in the local authority issuing proceedings in the first place is often still a concern at the end of

¹¹ See Harwin et al, 2019: available online: https://www.cfj-lancaster.org.uk/app/nuffield/files-module/local/documents/HARWIN_SO_SGO_FinalReport_V2.1_19Mar2019.pdf

proceedings even where the court is not satisfied that removal is necessary. Supervision orders overseen within child in need arrangements are said not to offer the framework for protection that children at risk of or already significantly harmed, require and need.

26. The option of a supervision order is seen by some professionals to be a third way and confuses the principle of order/no order that is central to the Children Act 1989 and which requires state involvement in family life to be ordered only when necessary. The research conducted as part of strand one's brief confirmed that, in many instances, the courts, social workers and guardians use supervision orders as a means of securing a formal commitment to resourcing help for the family and child/ren. This has the potential to confuse decision-making because whilst the threshold of significant harm may well have been met, it is not always necessary to issue – especially if removal of the child is not required. In short, issuing to secure a supervision order (as a means of formalising support) creates unwarranted state intervention through the courts, and also creates unnecessary demand on the family justice system.

Reasons to consider the use of child protection arrangements as an alternative to supervision orders

27. If the court is satisfied and remains concerned about the risk of significant harm to a child, the provision of a supervision order is unlikely to activate the local authority child protection oversight that comes with a child being the subject of a child protection plan.
28. There is a robust, rigorous and well-regulated multi – agency system already in place to protect children from harm. Schools, health services, police and communities understand and work to this system already

29. Retaining supervision orders, or strengthening them, adds another 'watching' process which would replicate a child protection system which might be said already to be effective.
30. There is currently clear water between the responsibilities of local authorities as the lead child protection agency and the courts. Strengthening supervision orders so that the court monitors the protection of children on those orders, confuses well-established roles and functions that are required.
31. It is difficult to find what added value a protective supervision order plan offers that a child protection plan does not unless the orders fall to the jurisdiction of the court to be monitored which will in addition to the oversight through the court, cause further burden on the court system.
32. The statutory guidance *Working Together* is well known and used, and could easily be revised and strengthened to set out that proceedings which conclude with no order and where there is still concern about the safety and welfare of the child must result in a child protection conference to establish a full multi-agency plan and associated support. The quality and effectiveness of the plans could be assessed annually by the multi-agency safeguarding partnership.

Issues that remain without consensus

33. If supervision orders were to cease or to become a more formal aspect of the child protection system this may result in an increase in care orders for children to be looked after at home. That is because of the desire to support the family or the perception that, in sharing parental responsibility, children are somehow safer.
34. The authority of the court in affording a perceived second chance to parents is felt to be important among some professionals who say that this is the catalyst for parental change. The supervision order is seen as a transitory order that makes

more difference more quickly than repeated failed child protection plans. The alternative view, of course, is that harm and/or the risk of harm continue for the child in the absence of a strong enough analysis about the impact of threshold being met and a definitive recommendation for removal.

35. In cases where, after 26 weeks, a court has determined that parents have not been able to protect their child and promote their welfare, the use of a supervision order as an interim order is thought by some to be more beneficial than an interim care order.
36. Some social workers report that leaving court with a supervision order rather than a requirement to return to formal child protection arrangements is a lower threshold. This seems very much at odds with the significant harm threshold that has to have been met in order to issue proceedings in the first place. This anomaly is a concern.

Next steps

37. Specific consideration should be given to:
- i. Whether or not the current provisions of legislation, bolstered by strengthened guidance, are adequate. In particular, guidance could focus on the introduction and use of a supervision plan (similar to a care plan, but for use with supervision orders).
 - ii. Whether, when the court makes no order for removal and a supervision order is the outcome, statutory guidance should require that child protection arrangements be put in place to oversee the supervision order (or a child protection plan, if that is the alternative) for its duration. The guidance could set out that as the threshold for significant harm was crossed and proceedings

issued, the plan should be the subject of more oversight from a senior local authority practitioner – the head of practice or principal social worker for example. There could also be imposed reporting intervals back to the court and set out in the order itself.

- iii. The status of an order (a supervision order in this case), where parental responsibility is not shared with the state, but the issue of requiring parental change to protect children is front and central. Compulsion is not possible or desirable in the scenario whereby removal of the child is not in their best interest. It is therefore the view of many professionals that either the order is strengthened and supervised using the authority of the court, or it is treated as a child protection arrangement and overseen using existing and strengthened oversight given the gravity of harm that will have resulted in proceedings having been originally issued.

Strand Two: International Comparative Analysis

Introduction

38. We looked at other jurisdictions to see whether they might provide us with strategies for strengthening supervision orders. The national study of supervision orders by Harwin and colleagues¹² found that supervision orders were an important option for local authorities attempting child reunification. However, nationally the 20% rate of failed supervision orders judged by the risk of return to court for further care proceedings within five years was significant. Their findings suggested that strengthening the orders might achieve some improvements.¹³

39. We studied six jurisdictions outside of continental Europe and then more generally at six jurisdictions within continental Europe.¹⁴ In addition, we looked at Wales which, though not a separate jurisdiction, has legislation giving additional powers and duties to local authorities. Some of these jurisdictions were primarily child-protection focused. Others focused on child and family services. Some had comparable or parallel orders, others nothing comparable.

¹² Available online: https://www.cfj-lancaster.org.uk/app/nuffield/files-module/local/documents/HARWIN_SO_SGO_FinalReport_V2.1_19Mar2019.pdf

¹³ Other important findings were marked regional variation in the use of supervision orders; very little use of directions; confusion as to thresholds for making a supervision order amongst practitioners; marked differences as to their value amongst practitioners; variations between local authorities in the implementation of the supervision order, reviews etc.

¹⁴ We thought it would be useful to look at Scotland, part of the UK but with a very different legal framework, other common law jurisdictions with comparable frameworks but different social, demographic, and historical contexts, some European jurisdictions geographically and in other ways close but with entirely different legal systems and the USA, a common law system with a number of shared values

40. Some with comparable or parallel orders appear to have features which give powers or duties to courts or child protection agencies that go beyond those given to the courts and local authorities in England and Wales.

41. A note of caution needs to be injected at the outset: in addition to differing underlying legal system, legislation and norms, social contexts and services in other jurisdictions may be very different (see paragraph 46, below). That said, looking at the approach of others is still, in our view, valuable.

42. In this report we identify those features which may add to the effectiveness of supervision orders in England and Wales. We start from the proposition that those features might be useful for the following reasons:

- i. Supervision orders are rarely applied for by local authorities at the outset of public law proceedings.
- ii. If local authorities do not seek the removal of children from their families, then they are more likely to work within child in need plans or child protection plans and are unlikely to see tangible benefit from seeking a formal supervision order.
- iii. Supervision orders tend to be made at the conclusion of proceedings which at the outset sought removal, either because of significant improvements by the parents during the course of the proceedings, or because the court declines to endorse removal and imposes a supervision order by way of compromise.
- iv. Giving additional duties or powers to courts and/or local authorities may mean that supervision orders are more attractive to local authorities because they offer something over and above their existing powers available without court order.

Jurisdictions looked at

43. We looked at Ontario, New Zealand, Victoria, Scotland, the Republic of Ireland and the USA. We looked more generally within continental Europe at Austria, Switzerland, Belgium the Netherlands Germany and Norway.
44. Of these, only Ontario, New Zealand, Victoria, Scotland and the Irish Republic have anything comparable to a supervision order. None of the other jurisdictions mentioned could be said to give courts comparable powers. For example, within the United States, though child protection (as opposed to a focus on the provision of services to children and families) is the underlying approach to interventions, and notwithstanding what by English standards may seem to be draconian provisions for placement for adoption, there appears to be nothing comparable, despite a wide range of different approaches within different states.¹⁵ In continental Europe, where on the whole the approach is one of provision of services to children and families, there is again nothing comparable.¹⁶ Within those jurisdictions that do have comparable orders, in three (Ontario, New Zealand, Victoria) a history of much criticised overbearing state interventions towards the children of indigenous peoples now inform the legislation and the approach of courts and child protection agencies. Whilst, therefore, they may have provisions which could be adapted in England and

¹⁵ Notwithstanding the 'reasonable efforts' provision introduced in the Adoption and Assistance Act 1980 in the US there is a statutory duty on a state to apply to court to terminate a parent's rights if the child has been in foster carer for 15 out of 22 months. The 1997 Adoption and Safe Families Act retained the reasonable efforts provisions at federal level, but states vary in how they interpret what counts as reasonable efforts and parental fitness. The efforts at reunification take place within the court proceedings, not after. The ASFA provided financial incentives to get children adopted. See Katz, S. N and Eekalaar, J, Chap 4.3 , *Adoption of children in the United States and England and Wales*, Routledge Handbook of Family Law and Policy, 2nd ed. 2021), , Eds. John Eekalaar and Rob George.

¹⁶ We readily recognise that a reference to the entire continent in one sentence is more than somewhat sweeping. For background detail see Gilbert, N., Parton, and Skivenes, M. *Child Protection Systems: International Trends and Emerging Orientations*, Oxford: OUP, 2011.

Wales, the historical context to the legislation in those jurisdictions should not be forgotten.

Range of additional powers given to courts, by jurisdiction

45. Court's powers before and on making the order.

i. Ontario:¹⁷

45.i.1. Powers in relation to Child Protection Agency ("CPA"): The court before making an order will consider very precise details of the child protection agency's plan setting out the services to be offered under the order designed to remedy the problem and the criteria by which the child protection agency will determine when its supervision is no longer required. The court is also empowered to impose "reasonable terms and conditions" on the child protection agency.

45.i.2. Powers in relation to parents: The court can impose reasonable conditions relating to the child's care and supervision on the parents.

ii. New Zealand:¹⁸ powers in relation to parents. (Note: applications are made by the Oranga Tamariki [children's ministry]): Providing the parent or guardian has had an opportunity to make representations, the court may impose such conditions as it thinks fit on them in order to carry out their duties and to promote cooperation between them and the child protection agency. The essence of the NZ legislation is cooperation. Normally an FGC itself following a family meeting would have been held before proceedings. Thus, cooperation should have already been promoted.¹⁹ The FGC (a concept enshrined in legislation) often file their plan/report with the court. That plan may set out

¹⁷ 'Supervision order' Child, Youth and Family Services Act 2017

¹⁸ 'Support Orders'; Oranga Tamariki Act 1989, section 91

¹⁹ The sub-group are indebted to Dense Gilling, Kate Hughes and John Simmonds for the research they have done on New Zealand. The extensive notes of their discussion which followed their meeting with professionals from NZ on 22 October 2020 informed this report and are available on request.

objectives, assigned tasks and timescales. The court will take the report very seriously. The court can also impose conditions that the child must not associate with particular people or classes of people or must attend particular facilities e.g. educational, at particular times.

- iii. Scotland:²⁰ the children's hearing – (query the degree to which this is properly described as a court) can impose directions (seemingly quite wide) on the making of an order on the child who is the subject of the order (or the local authority). Whilst these are not imposed on the parent, non-compliance with a direction that in fact requires the parent to act may lead to early review on application by the social worker.
- iv. Republic of Ireland:²¹ the court may give directions both as to the authorisation to the CPA (the health board) to have the child visited as the CPA consider necessary to satisfy themselves as to the child's welfare, as well as giving parents (or a person acting in loco parentis) any necessary advice as to the care of the child. Where parents wish to challenge the way in which the CPA is exercising its authority the court can give directions in light of that challenge. The court can also direct the CPA to act as it sees fit as to the care of the child which may require the parents/carers to cause the child to attend for medical/psychiatric examination/treatment or assessment.

46. Court's powers during the currency of the order.

- i. New Zealand: There are regular court reviews during the currency of the order. Once a support order has been made, there is a continuing role for counsel for

²⁰ 'Compulsory Supervision order at Home'; Children's Hearings (Scotland) Act 2011, section 83

²¹ 'Supervision orders'; Permanent Care and Other Matters Act 2014.

the child (something more akin to a guardian than advocate in court). At the termination of the order the court must also receive a report and review

47. Court's powers on breach / non-compliance with the order.

(Note: Though a local authority in England and Wales can seek the discharge or variation of the order on non-compliance (S35 (1)(c), CA 1989 this is rarely used because the more effective remedy is to apply for the discharge of the supervision order and for a care order in its place).

- i. Victoria:²² The child protection agency can bring proceedings for breach – though in the largest number of cases this simply results in the continuation of the family preservation order (i.e. supervision order). That said, there appeared to be a significant number of such applications to the court
- ii. New Zealand: where there has been non-compliance there can be an application by the child protection agency to the court for a declaration to that effect
- iii. Ontario: the child protection agency could apply to the court to review the case if there's been a breach. It may also remove the child they suspect of being abused.
- iv. The Irish Republic: There are criminal sanctions with the possibility of fine or imprisonment for a failure to comply with the terms or directions.

²² 'Family Preservation Order'; Children, Youth and Families Act 2005, as amended by the Children Youth and Families Amendment Act 2014

48. Court having a role during the currency of the order or at its conclusion.

- i. New Zealand: there are regular court reviews during the currency of the order. At the termination of the order, the court must also receive a report and review the order.

Those features which in our opinion would be worthy of consideration in England and Wales, and those which would not

49. Worthy of consideration.

- i. The power to impose reasonable terms and conditions on the local authority (see Ontario) having scrutinised the local authority's plans for services to be offered. *Benefit:* enables the court to ensure a bespoke and robust package of services to offered by the local authority (who will be able to make representations about the matter) to the family.
- ii. The power to impose conditions on parents to promote cooperation (after an opportunity to make representations has been afforded) (see New Zealand). *Benefit:* may enhance cooperation. This may be especially where proceedings have resulted in supervision orders following an abandoned application for a care order, with all the conflict between parents and social workers so often resulting, and parents then feeling a sense of vindication or resentment at the continued intrusion of local authority. *Note: in England and Wales, pursuant to schedule 3, Children Act 1989, the court may make a requirement that the parent ("responsible person") complies with directions given by the supervisor, but only with the consent of the parent "responsible person"*
- iii. The power to give directions requiring parents to cause children to return for medical/psychiatric examination, treatment or assessment (Republic of

Ireland). *Benefit*: circumvents the need for consent under schedule 3 (see above).

50. The essential difference between supervision orders and the position in New Zealand and Ireland is the power to impose conditions on parents as opposed to the child.²³ It is fair to say that we are not aware that in practice there is evidence of parental thwarting of supervisors' directions to children in this country to justify such a change.

51. Worthy of consideration but with one important caveat and change.

i. The collaborative family focused New Zealand model. Important and useful features are in our view these:

51.i.1. The pivotal role of family meetings and family group conferences instilling from the outset the idea of cooperation and incorporating the voice of the child.

51.i.2. The requirement for the FGC to file a plan which sets out objectives, timescales, review dates, work to be done by the social worker, services to be provided et cetera

51.i.3. The requirement for a (court) review at a fixed date to examine the extent to which the objectives have been achieved.

ii. *Problem*: Once the supervision order is made there is no continuing role for the court in England and Wales. The overriding principle is that once the court has made an order, it is for the local authority to implement it without interference from the court. *Proposal*: That said, there could be a duty on the local authority, not the court, to:

²³ A supervision order may contain requirements for the supervised child to comply with the directions of the supervisor on certain specific matters (see Hershman and MacFarlane [1518]).

- 51.ii.1.First, convene a family meeting, and/or family group conference once a supervision order has been sought by the local authority or proposed at court (this could be directed by a court if there are proceedings.
 - 51.ii.2.That meeting/FGC would be charged with the duty to file a short supervision plan at court setting out the objectives of the plan, tasks of the participating parties and timescales. The plan could be drawn up by the guardian (if court proceedings are in train), or by the social worker if not.
 - 51.ii.3.On making the supervision order, the local authority would be under a duty to convene a review(s) at a fixed time(s), finally not less than one month before the expiration of the supervision order. Ideally, the review meeting (which would be attended by the parents) would be chaired by an IRO²⁴ or the like to ensure an independent voice. The review's report could then be filed at court in the event that there was an application for an extension of the supervision or for a care order.
 - 51.ii.4.This would impose a more formal structure on supervision orders directing the minds of both social workers and parents towards achieving agreed and stated goals which could then be evaluated at the formal review.
- iii. Wales: in Wales, but not England there are a number of specific duties on a local authority, including that obliging them to review their care and support plan. In summary the specific duties are these:
- 51.iii.1. To determine the eligibility for services of the child

²⁴ The national study (https://www.cfj-lancaster.org.uk/app/nuffield/files-module/local/documents/HARWIN_SO_SGO_FinalReport_V2.1_19Mar2019.pdf) found that there were mixed views on the value of IROs. Note also: whilst local authorities always review progress, in the absence of a more formal structure there are variations in frequency and quality of review.

51.iii.2. To prepare and maintain the care and support plan and to review that plan.

51.iii.3. To carry out an additional assessment if the child's needs change with duties to consult.

52. Not worthy of consideration.

- i. Proceedings for a declaration of non-compliance (New Zealand) or for a review in the event of breach (Ontario) or the imposition of criminal sanctions (Republic of Ireland). Reasons for rejecting:

52.i.1. There are already procedures in England and Wales for discharge - see above: it would seem that there are a significant number of applications in Victoria, but they generally simply result in the continuation of the family preservation order

52.i.2. It is difficult to see what more a declaration will achieve, as opposed to a care order being applied for when there may be implications for child protection arising from a failure to comply with a supervision order.

52.i.3. The imposition of criminal sanctions is draconian and contrary to the ethos of cooperation that a supervision order is intended to endorse.

Strand Three: Research and Focus Group Analysis

Report

Introduction

53. Strand three was asked to focus on consultation with parents, carers and practitioners working within the child welfare and family justice system. This was with a view to understanding, from lived experience, that which was considered to work well or needed to change as regards supervision orders.

Work undertaken

54. Strand three commenced work with an analysis of a survey previously undertaken of members of the Principal Social Workers Network ([annex A](#)). This was in turn compared with messages from prior academic research about supervision orders ([annex B](#)). This preliminary exercise was intended to provide an initial evidence base of that which was already known, and to inform and scope the next stage of direct consultation work.

55. The substantive direct consultation took three forms:

- i. An online survey conducted by the National Family Justice Observatory (NFJO). That survey was for legal and social work practitioners and for parents with experience of supervision orders ([annex C](#)).
- ii. A legal roundtable to explore emerging themes and consider reform with wider pool of legal practitioners from private practice, local authorities and the voluntary sector ([annex D](#)).
- iii. Research interviews and focus groups carried out by Professor Judith Harwin, and Lily Golding with parents with experience of their child/ren living with them

under either a standalone supervision order or with experience of their children living at home under final care orders (annex E).

56. Annexes A-E provide a summary of each piece of work undertaken by strand three.

Key messages

57. A total of 15 key messages from across the three pieces of consultation work have been derived. The first five key messages concerning the challenges and limitations of supervision orders. There are then ten key messages concerning good practice and form.

Challenges and limitations of SOs: five key messages

1. Supervision orders should be retained, but with reform.
2. There is a lack of clarity as to what the order means; 'advise, assist and befriend' is unclear in practice to professionals and families
3. Parents require greater support to understand and participate in the court process; and in particular to understand the order made.
4. There is no uniform approach as to visiting requirements, safeguarding reviewing or service delivery during the lifetime of the order.
5. There is no clear route to 'enforcement' if the local authority do not provide the necessary services, and a lack of clarity as to accountability.

Good practice and reform: 10 key messages

1. The importance of trusting, supportive relationships between parents and social workers is often key to the success of the supervision order.

2. A family group conference (FGC) to involve the family's wider support network would be beneficial in developing the supervision support plan.
3. In advance of the final order being made, a multidisciplinary support plan underpinning the supervision order should be drawn up collaboratively - a co-production between the local authority and parents. This partnership approach helps to ensure effective, practical support and services are in place.
4. Specific expectations of both parents and local authorities should be set out in the written (non-formulaic) supervision support plan.
5. Where possible, outcomes should be measurable, timed and reflected in the plan. This supports effective review and accountability.
6. The supervision support plan should be seen by the judge before the making of a final supervision order and the court should confirm all parties are clear about the expectations of the other, and the powers and duties conferred by the supervision order.
7. Agreement on the allocation of funding for services to be provided prior to the order being made and recorded assurances that the local authority is sufficiently resourced to support the child/family as provided for under the plan.
8. Following the making of a supervision order, a formal and more robust reviewing framework of the supervision plan and progress of it is required. Ideally, these reviews would i) be chaired by an independent professional; and ii) parents would have adequate independent support during the review process. Parents suggested that the latter could be by way of a 'parent supporter' role offering legal, emotional, and practical support from an early stage (e.g. pre-proceedings), throughout and following proceedings and until the end of the supervision order.
9. The first review of progress under the supervision order should provide early oversight of whether planned services are in place and implementation of the plan. The date for such reviews(s) should be set out in the supervision order plan.

10. There should be a formal process which is followed to end the supervision order; this would be by way of a meeting, ideally involving an independent professional.

Annex A

Analysis of feedback from practice leaders and principal social workers on supervision orders sub-group questions

58. Practice leaders ("PL") and principal social workers ("PSW") were asked questions on the workings of supervision orders ("SOs"). Those questions were sent to local authorities ("LAs") across England and Wales with responses received from the following LAs: Kent, Enfield, Dorset, Wolverhampton, Merton, Berkshire, Oxfordshire, Plymouth, Sunderland, Lincolnshire, Rotherham, Bristol, Barking and Dagenham, Waltham Forest, Staffordshire, Lambeth, Cheshire East, Leeds.

59. There was broad agreement for the reform of SOs by the respondents. Common responses focussed on:

- i. The need for SO to be more robust or needing *"more teeth"*.
- ii. That they are largely ineffective and *"amount to little more than CiN planning"* and were not reflective of the level of risk to the child.
- iii. SOs providing no real security for a child, that they have *"minimal impact due to the low application of visits applied by some LAs in engaging with the family or with planned interventions and limited weight to engage families of for LAs to consider high priority in statutory services"*.
- iv. There are no consequences in failing to adhere to the orders and are *"only effective when the family work openly within the local authority under the supervision order"*
- v. The fact that SOs do not provide LA *"with any clear function in children's lives"*

60. Some respondents felt that the court needed to be clearer in its reasoning as to why, in any given case, a SO was being made. It was felt that this clarity would also assist the parents and carers. That *"if an order is made, needs to be clear why, what and how they are involved and the expectations of them. Needs to have weight so that if failure to comply, there is action taken"*. One respondent stated that as worded currently, a SO disempowers practitioners and *"gives more power to the parents to engage or not engage with LAs"*. A particular difficulty was highlighted by one respondent, *"The idea of the order is for us to 'support' the family and build a relationship with the child but given we have often gone in to remove the threshold is high"*.
61. Some would welcome the issuing of statutory guidance as to the role, purpose and responsibilities under SOs. Statutory guidance might help to set minimum expectations. The duty on the supervisor to 'advise, assist and befriend' was felt, in practice, to be unclear. One PSW stated that this *"harks back to a previous era of social work far away from the current practice standards of child focussed and relationship-based intervention"*. There was confusion as to purpose of SOs, *"whether SOs are there to make the LA provide services; make the parent(s) comply with particular activities; keep an eye on SGs or put a line in the sand that threshold in care proceedings was reached – I've seen them used in all those ways"*.
62. Respondents were clear that SOs should not be seen as a "safety net". There needed to be recognition that the threshold criteria had been crossed. It should not be granted *"as a 'step down' order when care order is not granted"*.
63. It was of concern that respondents felt that the terms of a SO are *"open to interpretation and mean very little on the ground. Unlike CIN, CPP and CO where we have clear regulations or guidance regarding visiting and reviewing. There is no mechanism for the cases to be independently reviewed"*. Although one respondent commented that Leeds does have an arrangement for this following

care proceedings, whereby the IRO will chair the first review after final orders are made.

64. The picture was not universally negative. A PL in Cheshire East spoke of a more positive local experience, *"This is partly because of the lower threshold for care orders at home in our area. We have a process in place where at the 9 month review this includes an independent reviewing officer, this ensures a level of independence, scrutiny and challenge to the decision making"*.
65. Another stated that, *"many children subject to a SO also lead to a request for a child to remain subject to Child Protection Planning. The reason for these requests are because there is a perceived lack of clarity about what safeguarding review process is in place to supplement a SO. Clarification on this point would increase confidence in the use of SO"*.
66. Some responses considered the position of SOs and SGOs,²⁵ noting, in particular that *"If there is a need for a SO then... the court should not be making an SGO. ... if the significant harm threshold required for a SO is met in an SGO placement, then the care plan is the wrong one"*.

What should the making of a SO achieve?

67. Again, there was broad agreement amongst respondents. SOs should:
- i. Achieve greater effectiveness in safeguarding children/ ensure the child is no longer suffering significant harm and reduce risk of that harm arising in future.
 - ii. Achieve sustained improvement in parenting and care of the child ensuring that the child is meeting their developmental needs.
 - iii. Support LAs in being able to monitor and assist a family.

²⁵ Note that special guardianship orders are not discussed in this report.

- iv. Enable a LA to work with the whole family to improve outcomes for the child(ren).
- v. Support reunification of children/ children remaining in their families if safe to do so.
- vi. Achieve a level of direction for support and regular review to ensure change has been sustained as well as the LA taking responsibility to assist with provision of services to aid change.

68. One PSW summarised that a SO should be seen as a *"robust mechanism that can be used with confidence and reassurance of all parties as an alternative to a care order at home; or an escalation from PLO before removal is considered"*, a mid-point between a care order and a CIN/CP Plan, that a robust and effective SO would ensure that less families were subject to the draconian intervention of a care order.

69. One respondent wondered if a CIN plan could be just as appropriate, with a clause in the care plan that if a parent withdraws from the plan, when not agreed, this could be grounds for the local authority to consider re-issuing proceedings.

70. One respondent stated that SOs may have a place where the risks and opportunities of reunification / continued care by family are so finely balanced *"that stronger oversight is needed over a defined period to reach a more certain view. The making of a SO should achieve more leverage and powers for the LA and for these to be understood and worked in the framework of continued child protection thresholds rather than Child in Need"*.

What rights, duties and responsibilities should a SO grant to or place upon a local authority?

71. In terms of the duties placed on a LA by virtue of a SO, there was widespread agreement amongst the respondents that pursuant to a SO there should be

- i. Regular visiting to children (one respondent referred to a statutory schedule of visiting frequency).
- ii. On-going communication with other agencies.
- iii. Regular family and multi-agency meetings/ review. Many considered that reviews should be mandatory and prescriptive.

72. It was agreed that the LA had a responsibility (some said duty) to provide, with the co-operation of partner agencies, services and support identified in the SO Plan. In respect of that support, one PSW stated the duties / responsibilities should be *"realistic ones such as parenting programmes, direct work, FGC's facilitation of family time and not unrealistic ones such as housing issues, referral to CAMHS with the expectation a child will meet threshold"*. There should also be specific timeframes for the delivery of that support.

73. In terms of any rights granted to a LA on the making of a SO, respondents were again clear that LAs needed

- i. Access to the child, and that parental consent was not a condition precedent.
- ii. To ensure compliance with services such as medical treatment or educational provision.
- iii. An ability to return to court if minimum levels of engagement are not met.
- iv. To be able to share and access relevant information about the child and family to inform assessments, plans, reviews and safeguard the child (equivalent to s47 / CPP level).

74. One respondent did not consider anything was required over and above CiN duties, save perhaps to consider a meeting in advance of the SO lapsing.

75. Conversely another thought that consideration should be given to building on the scope of duties and responsibilities already within schedule 3, CA 1989. As set out by one PSW *"Schedule 3 sets out directions available that already could be used to supplement supervision orders (setting out certain requirements). These can be useful when trying to ensure that specific tasks are undertaken but these schedules*

are underused. At the point that such specifications are required a child is more likely to benefit from a care order and the point remains that such schedule obligations are unenforceable".

Oversight

76. Many of the respondents considered that there should be (a) review(s) of the supervision plan and a record of active decision-making as to whether an application to extend the SO is required and in the child's best interests. A number of respondents thought this should be by way of formal review process with independent oversight. As one PSW stated *"SOs are an acknowledgement of the need for ongoing support and oversight. To increase the oversight and review of plans and support for families under SOs, would seek to ensure that plans and interventions are purposeful and do not simply drift; potentially returning to previous thresholds of significant harm. I feel that to add the caveat of such review expectations and for this process to have the scope to seek to extend such orders were deemed necessary (allowing for fair challenge from the family), would greatly increase the purposefulness of SOs as a safeguarding process. In turn this may lead to more being sought in the court process and ultimately more families being supported to remain together"*.

77. It was felt by one PSW that there could be a post-proceedings process similar to pre-proceedings with regular reviews and legal advice to the parents so that they understand the possible dangers of not complying with what was agreed at court and so that the LA can be held to account.

78. Views differed as to who would be involved in the review. Some considered that the guardian/Cafcass should remain involved and update the court with a short statement. They considered that the guardian should have an active role in ensuring the plan was achieving the positive change for children required. One

respondent queried how Cafcass could remain involved if the proceedings had ended and what this would mean for the parent's access to public funding.

79. Many more suggested the allocation of an IRO to oversee LA intervention and provide appropriate rigor in review. Many considered they should have the same powers as a LAC IRO to raise practice concerns with senior leaders.

In similar vein, what rights, duties and responsibilities should a SO grant to or place upon parents or carers?

80. The respondents considered that parents had a right to a plan which sets out the support and services a family will be provided with and how involved agencies and the family will work together, and for a named social worker who will regularly visit.

81. However, our respondents identified many more duties and responsibilities for parents and carers. They suggested the "duty to comply should be clear" Those duties were summarised as follows:

- i. To allow social work involvement.
- ii. To allow the children to be seen/spoken to.
- iii. To allow access to the home.
- iv. To keep the social worker up-to-date with changes in the child's health, education, members of the child's household (including frequent visitors).
- v. To undertake any agreed work.

82. This would require a change in the law.

83. One PSW felt that it was *"difficult to place rights, duties and responsibilities on parents, if there are no consequences of not doing this or if any consequences are not enforceable."* This was repeated in other answers, that parents, *"may not fully engage in SO if they don't believe there is a need to or no repercussions if they*

don't comply". It was felt that there needed to be clear consequences for non-engagement.

84. Some considered that the LA should consider building on and clarifying the scope of duties and responsibilities envisaged by schedule 3, CA 1989 and the support plan should be a formal contract between the family and the LA regarding interventions, expectations, evidence of distance travelled and consequences that if the plan was unmet. In particular it was felt that the consensual element of schedule 3 should be considered.

Should any rights, duties and/or responsibilities be enforceable and, if so, by what means?

85. Most answers to this question interpreted the rights/ duties and responsibilities in question being those of the LA rather than any possible issue of enforcement arising as *against* a LA's failure to comply with the plan. In that the context, a number of respondents considered that access to the child was an absolute must, which should be clearly stated within the plan with a clear consequence should the LA be refused.
86. It was felt that "enforceability" in the context of a breach was likely to mean a return to court with a consideration of whether the care plan was the right one for the child. One respondent queried whether the court should have the power to make an ICO if the terms of the SO have not been complied with. A number considered that a return to court should be considered as part of the same proceedings, not a fresh application. Some said this should be a "swift" process.
87. Others were more sanguine *"The issue of enforcing consequences is not an easy debate, you would first have to determine what the specific consequences were and the impact of additional harm to the child/young person if you did enforce these", "If we set out actions and requirements from professionals or family,*

orders are relevant and specific and have due weight for compliance, then it needs to set out what the repercussion is for noncompliance and have weight."

88. Some respondents saw a return to court as being laden with delay; some wondered if matters could be directed to magistrates. Another suggested either (a) a mechanism for notice of breach to be given with a return date to court being set out as an expectation, or (b) an automatic 12-month court hearing review prior to the discharge of any SO would also focus the importance of the order rather than the order simply lapsing after 12 months. It could be truncated if the historical concerns, which led to the proceedings being issued first time around were considered alongside current circumstances.

89. It was felt that if SOs were being formally reviewed prior to lapse with robust systems of monitoring and review, this may obviate the need to return to court.

90. One respondent considered that setting a requirement to return to court within and at the end of a SO, with consideration of a care order remaining should the SO not be met, may strengthen its impact but thought this would have only limited use. One respondent stated that *"It would be more effective, in our view, to invest in adult trauma and recovery work to support the sustainability of short-term change particularly when/if the motivation is externally imposed through a supervision order."*

91. One PSW highlighted that parents may be reluctant to complain and ask for any enforcement of the LA's obligations having already had the very frightening experience of proceedings.

Can we identify cases that could be diverted from care proceedings altogether?

92. A number of respondents were of the view that this was already in place / or at least should be practice pursuant to the PLO, as set out by one PSW, *"If we had*

awareness of these shoots (of progress) already, we should not be in proceedings”.

93. Bristol, in particular, questioned the use of and necessity for SOs particularly where pre-proceedings is used effectively, *“This is on the basis that our view is that such Orders do not create change in families, it is the relationship that enables change and when we have an established relationship with a family within which we assess change to be possible we are better able to work with the family without recourse to an order. It is exceptionally rare for us to seek a SO as our primary plan. In essence we want such orders to be used only when proportionate and necessary, we want to uphold the no order principle and agree that there should be clear blue water between those families where we seek a care order and those families with whom we are able to work cooperatively to help them care for their children”*.
94. Conversely, if cases have met the threshold then it was felt that they should be placed before the court. However, one PSW warned *“Over the last few years there has been a focus on short term interventions. We would reflect that for a small number of families, their needs are so complex that we have to be prepared to provide support over a longer period of time. The alternative is that more and more children become cared for; we are acutely aware that whilst this is the right decision for most children there are a number of risks associated with being a cared for child and a care leaver. The journey can be perilous with long term implications for too many of our care experienced adults”*

Should the Children in Need return include a tag for supervision order cases so that it is possible to track their outcomes as a separate subcategory?

95. The majority considered that this would be very helpful in improving outcomes for children; that LAs should monitor children on SOs in the same way as those subject

to CiN/CP or LAC plans. That ties in with the long-term recommendation that is made generally in this interim report in respect of data collection and analysis.

Other contributions

96. We asked more generally whether the respondents had any other thoughts or suggestions. A number did and we have summarised the main themes below.

97. Different types of order: one of our respondents suggested that *“it would be helpful to have different types of orders for children subject to SGOs and those remaining in the care of their parents – something like SG assistance orders and parenting/supervision orders. One respondent questioned whether FAOs should be used more often”*.

98. Supporting parents: one respondent stated that it would be useful to look at the current provision of Parenting Orders in the Youth Justice, Education and Anti-Social Behaviour legislation (<http://www.legislation.gov.uk/ukpga/2003/38/part/3>) – which are focussed on supporting a change in parenting to improve a child’s situation – the pre-order voluntary ‘parenting contract’ aligns with social care’s PLO pre-proceedings stage and the orders have provision for ‘breaches’ to be returned to the Court.

99. Duration: A number of respondents asked for consideration of the duration of a SO. Some wondered whether there should be a maximum period of 12 months for the first order, or whether there could be some inbuilt flexibility for it to be made for longer and for it to be tailored as appropriate to a case.

100. Testing: One respondent felt that the period of time where the child is subject to a SO should allow a period of testing of the plan with greater ability to in act if the child remains at risk.

101. Sharing of parental responsibility: Some respondents wondered about whether a SO could confer some aspects of parental responsibility onto the LA for

short periods, “especially to support reunification and ensure stability over questions such as place of education”; another suggested that the parental responsibility could have limitations, for example that a LA cannot remove children under a SO and must restore the matter back to court.

102. Bristol shared their experiences, they “debated the use of a strengthened supervision order to tie in support for a child and family from other agencies... for example, could a schedule of expectations be used to ensure therapeutic services are made available in a timely way, or that the child must be prioritised for a place at a school assessed to be good or better? However, why not make this a requirement for all children in need by strengthening policy rather than through an order for a specific child/family? David Berridge’s recent research (Bristol Uni and Rees Centre) regarding educational outcomes for CIN are interesting in this regard and make a number of recommendations about raising the profile of and longer-term support available to CIN”. The comprehensive response also detailed their own experience that, “the implementation of Signs of Safety/Systemic Practice and a unit model has enabled us to work more effectively with families and thereby contain increasing recourse to courts. Our care population has fallen over the past two years and has been fairly static for the past ten to twelve months at around 66 per 10,000 – just below our stat neighbour average”.

Annex B

A comparison of key findings from professionals' focus groups in *The contribution of supervision orders and special guardianship in children's lives and family justice* (Harwin et al 2019) and *Analysis of feedback from Practice Leaders and Principal Social Workers on Supervision orders Sub-group questions*

Which themes are broadly similar?

- Supervision orders (SO) lack teeth. It is rare for a LA to seek a SO.
- Child in Need framework may be inadequate to protect children who have reached the threshold for proceedings.
- No consequences if parents fail to engage. Difficulty taking cases back to court.
- Consideration of IROs to be involved with review.
- At the time of making an order, the court should be very clear about what is expected of all parties.

Which themes are different?

- The main theme from the PLs and PSWs was the need for a more focussed legal and regulatory framework around the order.

Any disagreements between the findings?

- Within both groups there was discussion about the framework to be used, whether CP, CiN, or a new statutory framework specific to SOs, building on schedule 3, CA 1989.

- There was no equivalent among the PLs and PSWs to the idea put forward in the focus groups that SOs are useful in cases of long-term low-level neglect where it has been difficult to develop engagement from the parents, or that the SO is a useful fall-back position in those cases.

Are there new insights?

- The PLs and PLWs expressed views about what changes could be made to make SOs more effective:
- An order ought to give the LA more powers to work with families, but it does not at present.
- Some thought a statutory framework setting out visiting schedules, reviews timetables, and ensuring parents had a duty to comply, would strengthen the order; others thought the CP framework was useful; one thought the CiN framework could suffice.
- The use of formal review prior to the order lapsing, with robust systems of monitoring, to help focus on the importance of the order, with a return to court if necessary.
- Potential for a guardian to be involved in reviews during the currency of an order.
- A suggestion that a limited transfer of some aspects of parental responsibility to the LA would be helpful during a SO, for instance over decisions about education.
- The suggestion of using a family assistance order instead, especially with a special guardianship order.
- One suggested the parenting order used in criminal proceedings might be a useful comparator, as if the orders are breached they can be returned to court.
- More data collection relating to supervision orders would be helpful.

Annex C

The Nuffield Family Justice Observatory (NFJO) Report

103. We approached the NFJO for their assistance in consulting on the issue of SOs. Whilst we had some input into the questions asked within the survey, this was a standalone piece of work by the NFJO but which it was understood would form part of our learning and wider work within this group.
104. The report by the Nuffield Family Justice Observatory “Supervision orders in care proceedings: survey findings” was published in April 2021: https://mk0nuffieldfjo6t5dfm.kinstacdn.com/wp-content/uploads/2021/05/nfjo_supervision_orders_survey_findings_report_final_20210408.pdf. The focus of the survey was on standalone supervision orders made in relation to children who had returned home at the end of care proceedings or who had stayed at home or been returned during proceedings. Responses to the survey came from a range of legal and children’s social care professionals, as well as parents.
105. The majority of professional respondents (90%) thought that supervision orders should be retained. A key reason for this was the need for a proportionate order between a care order and no order when children were returning home at the end of proceedings in which the threshold for a care or supervision order had been established.
106. Reasons for making or arguing for supervision orders, or for seeing them as helpful, included:
- i. Keeping the local authority involved with the child and family.
 - ii. Encouraging the local authority to provide support.
 - iii. The need for a proportionate order.

- iv. To support children and parents where the situation had improved but where on-going help was necessary.
 - v. Where some risk remained that the return home might not be successful.
 - vi. Where children were older and did not want a care order.
 - vii. To encourage engagement between parents and the local authority—for supervision of contact.
107. Concerns about supervision orders and their use included:
- i. The support identified was not always provided.
 - ii. They were not properly enforceable.
 - iii. There was a lack of clarity about accountability.
 - iv. They added little to the support that could be provided under a child in need or child protection plan.
108. Proposals made by respondents to this survey for improving the effectiveness and robustness of the order included:
- i. Specific obligations for both parents and local authorities should be set out in a written plan.
 - ii. The support plan should be specific to the needs of the child and parents, and not formulaic.
 - iii. Measurable outcomes should be identified.
 - iv. There should be an agreed process for reviewing the progress of the support plan, which should involve an independent element.
 - v. The process for returning to court if the support plan is not being followed should be clearer and available to all parties.
 - vi. There should be more flexibility in the time periods supervision orders can be made.
 - vii. There should be more funding available for the implementation of support plans.

Annex D

Legal roundtable

109. This event, held on 28 June 2021 involved 17 participants from a variety of backgrounds: seven local authority senior or principal lawyers from England and Wales, seven private practice children's solicitors from England and Wales, one children's solicitor from a voluntary organisation, one lawyer from Cafcass Cymru, one representative from the FLBA. The vast majority of the country was represented as were the key practitioner organisations.
110. A detailed briefing note was provided in advance of the session which was conducted as a 90-minute, structured discussion. The following topics were discussed at the event:
- i. Are supervision orders valuable to retain as part of the child welfare/family justice toolkit?
 - ii. Minimum standards upon proposing, and when making, supervision orders:
 - 110.ii.1. Should care plans providing for supervision orders be developed through co-production/collaboration with families? Are there examples of this being done well?
 - 110.ii.2. Should plans be developed through co-production and collaboration with partners agencies e.g. health, schools to ensure services are delivered? Again, are there examples of this being well done?
 - 110.ii.3. What is the appropriate role, content and process for use of each of the following: recitals; written agreements; supervision support plans?
 - 110.ii.4. Can these tools have a role in tackling variability in supervision order practice and support?
 - 110.ii.5. How can the experience of court when supervision orders are being considered/put in place be improved?

- iii. Working with children and families under supervision orders:
 - 110.iii.1. How should implementation of supervision orders be reviewed?
 - 110.iii.2. How can progress under a supervision order best be reviewed?
 - iv. Legal reform:
 - 110.iv.1. Are there any of the proposals from the strand two international comparison group that appeal?
 - 110.iv.2. For how long should it be possible for SOs to be in place for?
 - 110.iv.3. Are there specific suggestions for additions or amendments to schedule 3, CA 1989?
 - v. Achieving change and driving best practice:
 - 110.v.1. How should any best practice guidance be packaged/embedded?
 - 110.v.2. Is there a need for a pilot of some sort? What would the nature and role of this be? What are the strengths, weakness, opportunities and risks associated with a pilot?
111. The key messages from the event are set out in the table in the accompanying PDF, *Interim Report: Strand Three PDF*.

Professor Harwin's report

Introduction

112. The purpose of the study was to ensure that the Public Law Working Group's recommendations were informed by parents with experience of either a supervision order for their child supporting reunification, or of a care order at home, following the making of the 2014 Children and Families Act. Forty-four parents (59 children) took part in interviews (20 with a supervision order and 24 with a child on a care order). They came from 11 local authorities in England and two in Wales. A small group of parents provided recommendations for reform.
113. Although the possibility of reunification is the first consideration in care proceedings, no study had obtained parental views of either of these two legal orders since the Children and Families Act 2014. The experience of parents regarding supervision orders has not been canvassed before.
114. All parents also provided their perspectives and experiences of care proceedings and of pre-proceedings. This was considered an essential element of the study to shed light on how they perceived the decision-making process and supports available to them.

Key findings

About the parents

- Most of the orders were made between 2018 and 2020.
- Domestic abuse, mental health difficulties and drug and alcohol misuse were widespread factors in the issue of the care proceedings.
- Over a third of the children had special needs.

About pre-proceedings and the court experience

Most parents felt that:

- they had not received enough help during pre-proceedings.
- the court treated them with a lack of respect and understanding of their mental health, substance misuse and domestic abuse problems. It made it harder for parents to present their situation and circumstances effectively.
- They wanted clearer explanations of the court process with better signposting to the next steps.

About implementation of the supervision order

- Nearly all parents felt that the supervision order could work better.
- The relationship between parents and the social workers was a key determinant of their experience of the supervision order. Trust was a critical issue. Providing guidance, practical help, being knowledgeable about the issues parents were dealing with, and fighting their corner were equally important.
- Multi-agency working was uncommon, but it was considered very useful when it did happen.
- Many parents felt that the support for their family outlined in the care plan, or a support need that emerged during the period of the supervision order, was not delivered.
- The framework for delivering and ending the supervision order was very variable. Parents wanted to see a formal review with a fully independent IRO introduced at nine months and some thought reviews should begin much earlier.
- They advised other parents to see the supervision order as an opportunity and not to be afraid to ask for support and services they needed.

- Parents who had experienced domestic abuse reported that support from children's services was limited to referral to courses on co-parenting and the Freedom Project.

About implementation of the care order at home

- Most parents felt that their family had been helped by the care order at home.
- Parents with experience of both supervision orders and care orders at home preferred care orders at home because they:
 - made parents feel safe and confident that the order would be delivered because of the legal requirements
 - provided a consistent delivery framework
 - were more likely to deliver support and services.

Parents' recommendations from the focus groups

- Ensure continuity of personnel, especially between pre-proceedings and care proceedings.
- Care proceedings need to be more humane and more understandable, with information leaflets written from the parents' perspective.
- Involve an 'independent parent supporter' to provide legal, emotional, and practical support to the parent from pre-proceedings to the end of the order.
- Use the 26 weeks' timeframe more flexibly to increase opportunities for families to stay together or be reunited.
- Retain but revamp the supervision order to provide more consistency, support, intensive services for parents, and a fully independent reviewing process.
- Overhaul the response to domestic abuse in the child protection and family justice system to include single and multi-disciplinary training for child

protection and family justice personnel, more services and a change of culture in the courts and children's services to avoid the risk of re-victimisation.

Proposals for reform

Strengthening supervision orders

- Guidance should be issued by the DfE to underpin a national best practice framework to help ensure consistency of support and oversight. It should be informed by relevant research, cross-sector insights about supervision orders and care orders at home, and the expertise of those with lived experience.
- Develop a bespoke IRO role and service that builds on the messages from this research, the LAC reviewing framework and existing approaches to review children in need plans (such as the CINRO service). Develop opportunities for IROs to chair reviews in neighbouring local authorities to promote a fully independent review.
- Enhance support, services, and funding for supervision orders to maximise their benefits. Set up a national fixed-term 'supervision order support fund', along the lines of the Adoption Support Fund, funded by central government.
- Prioritise providing access to skilled, timely advice on housing and benefits given evidence of the prevalence of these issues amongst families with a supervision order and the harm associated with housing insecurity and poverty.
- Monitor implementation of the impact of changes to the supervision order on practice to inform decisions on the need for longer-term reform and if so, whether to replace supervision orders by a family support order (lasting up to three years).

Improving the court experience

- Set up a PLWG task force with FDAC specialists to review possibilities of incorporating features of FDAC into mainstream care proceedings, to make them more compassionate and collaborative and less adversarial.
- Commission parents to co-produce with practitioners a family friendly guide to care proceedings.

Improving the response to domestic abuse

- Convene a round table to develop a multidisciplinary training programme strategy on the identification of and response to domestic abuse. The target groups should include child protection and family court practitioners and the police.
- Develop an action plan to improve the availability of information for domestic abuse survivors in private and public law proceedings to include input from survivors as experts by experience.

Conclusions

115. We now know that parents see a positive future for supervision orders, provided that they (the orders) undergo significant change. It is very clear that following the conclusions of proceedings, parents want active support and services tailored to their own needs and those of their children to increase prospects for their families to stay together safely now and in the future. This finding indicates that there is a consensus amongst parents and professionals that the supervision order should remain but must be strengthened (Harwin et al., 2019; Ryan, Roe, & Rehill, 2021). The messages from parents who had a care order at home indicate that the strengthened supervision order will need to provide

greater consistency, more support and intensive services and an independent reviewing process.

116. We recommend monitoring the implementation of the strengthened supervision order to inform decisions on the need for longer term legal reform. This would provide a basis to evaluate whether the supervision order should be retained or replaced by a new family support order lasting two or three years.

Discussion

117. The focus of our work was the route by which supervision orders could be made more effective. The following issues were of particular note:

- i. In most, if not all, cases where the court makes a supervision order, a support plan is not provided to nor approved by the court which is to be contrasted with a care plan, when a care order is made, or a special guardianship support plan, when a special guardianship order is made.
- ii. The progress of a supervision order is not formally reviewed by the local authority in contrast to a care order (there is, however, a review process for supervision orders in Wales if the child is also subject to a care and support plan).
- iii. It is widely reported that in many instances where a supervision order is made no ongoing or no effective support is provided to the family by the local authority and there is little or no involvement with the family by children's services.
- iv. The provisions of parts I and II of schedule 3, CA 1989, which provide for the directions which may be given to a child who is the subject of a supervision order and the obligations which may be imposed on a parent or carer with their consent, do not contain any enforcement provisions if the child fails to comply with a direction and/or if the parent or carer fails to comply with an obligation imposed by the supervisor (save that pursuant to s.35(1)(c), CA 1989 a local authority may apply to the court for the supervision order to be varied or discharged in the event of non-compliance). This position is to be contrasted with the criminal offence which may be committed if a parent or carer of a child who is the subject of an education supervision order persistently fails to comply with a direction given by the

supervisor: see paragraph 12(1)(ii) and 18 of part III, schedule 3, CA 1989.

- v. The provisions of schedule 3 are (anecdotally) rarely, if ever, referred to in public law proceedings.
118. We considered whether a reformed supervision order should:
- i. Contain an element of compulsion directed at the parent or carer (e.g., the creation of a criminal offence for failure to comply with the requirements imposed by the supervisor).
 - ii. Grant powers to the local authority to require actions to be taken by parents or carers and/or children and thus be more akin to a local authority's powers under a care order.
 - iii. Be reviewed by the court on a periodic basis to ensure compliance by both the parent or carer and/or by the relevant local authority.
 - iv. Extend the life to public law proceedings to enable to court to oversee the implementation of an interim supervision order prior to approving the making of a final order.
119. We decided not to recommend any of the above reforms for the following reasons:
- i. The essence of a reformed supervision order is for the local authority to work in partnership with the family to provide the support required to enable the children to be cared for by their parents and/or carers safely and securely. The promotion of the welfare best interests of the children is the key priority.
 - ii. An element of compulsion, especially criminal sanctions, would be inimical to promoting the welfare best interests of the children and/or to the concept of working in partnership with parents and/or carers.
 - iii. The same considerations apply to the granting of additional powers to local authorities upon the making of a reformed supervision order.

- iv. The family justice system is ill-equipped to 'police' the actions of a local authority children's services departments in implementing a supervision order. Moreover and importantly, it is not the function of the family court to undertake such a role.
 - v. In light of the current demands on the family justice system, it is simply not practical or achievable to extend the life of public law proceedings to oversee the implementation of an interim supervision order and, most particularly, not in respect of final supervision orders.
 - vi. To introduce an element of 'policing' or oversight would transgress and compromise the proper functions of the family court, on the one hand, and the statutory functions of a local authority, on the other.
 - vii. The keys to the successful implementation of a reformed supervision order are (a) the production of a cogent and comprehensive supervision support plan and (b) a mechanism to ensure that the support and services identified in the supervision support plan are effectively and consistently provided to the family by the local authority.
 - viii. If, despite the best endeavours of the local authority, the support and services are insufficient to protect and to promote the well-being of the children, then the local authority should consider changing and/or increasing the support and/or services provided to the family. If they are insufficient because of a lack of engagement and/or a lack of co-operation by a parent or carer, then the most likely outcome (i.e. the 'sanction') would be for the local authority to issue fresh public law proceedings to apply for (a) an extension of the supervision order, where it is considered that further time may enable positive change to be effected, or (b) a care order.
120. The culmination of the work of the sub-group is the best practice guidance set out in [appendix C](#) below. The key features of the supervision

order BPG are the three overarching principles and the six core principles.

121. The three overarching principles are:

- i. The child's welfare is paramount.²⁶
- ii. Children are best looked after within their families, with their parents playing a full part in their lives, unless compulsory intervention in family life is necessary.²⁷
- iii. Any interference in family life should be necessary and proportionate. That means, action taken should be no more than is needed to achieve the aim of keeping the child safe and well.

122. The six core principles are:

- i. Partnership and co-production with children and families.
- ii. Multi-agency, multi-disciplinary working.
- iii. Clear, tailored plans including to address ongoing risks, and the findings and conclusions of the court in care proceedings.
- iv. Resource clarity.
- v. Formal, robust review.
- vi. Accountability.

123. Our principal reasons for recommending these reforms of supervision orders are:

- i. The purpose of a supervision order is to enable children to remain in or, as the case may be, to be returned to the care of their parents or carers whilst ensuring their protection and promoting their welfare best interests.
- ii. It is key to the success of a supervision order that there is complete

²⁶ See s 1(1), CA 1989. Where a local authority in Wales maintains a Care and Support Plan, the child's 'well-being' must be promoted in accordance with ss 5 – 6, SSW-b(W)A 2014.

²⁷ In England, summarised in statutory guidance: *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*, p9, para 11. In Wales: s 81, SSW-b(W)A 2014.

clarity about the support and services the local authority will provide to the family and around the expectations of the professionals about what the parents or carers and/or the children are to achieve or tasks that they are to be undertake.

- iii. A cogent and comprehensive supervision support plan is the vehicle we recommend for clearly setting out the support and services that will be provided and the expectations of the parents, carers and/or the children.
- iv. The supervision support plan must be approved by the court before a supervision order is made.
- v. For the purposes of devising the supervision support plan, the local authority should convene a family group conference, or a similar group.
- vi. The needs and requirements of the family for support and services may change over the life of the supervision order. It is, therefore, essential that periodic reviews of the operation and effectiveness of the order are undertaken by the local authority. We recommend that the review is undertaken by a senior manager of the local authority who does not have line management responsibility for the family's social worker or for their team manager. This, we consider, will bring a degree of independence and objectivity to the review process.
- vii. This goal set out in paragraph (i) above is more likely to be achieved if the local authority and the parents or carers are able to work in co-operation with each other. Of equal importance is that parents or carers believe that they are an integral part of the planning for and the implementation of a supervision order plan, rather than feeling that the plans and expectations have been imposed upon them by social work and other professionals.
- viii. What ultimately underlies all of these recommendations is the aim of

increasing the confidence of parents, carers, children, social work & other welfare professionals, the legal professions and the judiciary that a supervision order can be a robust order for effecting change within a family, for providing protection for the children, for promoting their well-being and that the local authority will deliver, throughout the life of the order, the support and services set out in the supervision support plan. Subject to periodic reviews.

Best Practice Guidance

124. We are considering recommending to the President of the Family Division that the best practice guidance, [appendix C](#), be endorsed and published. That BPG will be the subject of a review by the sub-group following the consultation.
125. The BPG is endorsed by the principal stakeholders in the child protection and family justice systems.
126. The Public Law Working Group has established a training and implementation sub-group to drive the implementation of reform. It is hoped that local FJBs will play a key role in monitoring the implementation of the BPG, once finalised, in each area, and will take steps to ensure good practice is achieved by all those involved in the child protection and family justice systems. Local context is crucial in determining and influencing the drivers for change, which will vary nationally in relation to local needs and current practice.

Conclusion

127. The working group provisionally commends these recommendations and the BPG to the President of the Family Division.
128. We are of the view that the implementation of the recommendations and the BPG will lead to a better outcome for the children and young people who are involved with local authority children's services departments and are the subject of care proceedings. Our focus throughout has been on seeking to put the welfare best interests of these children and young people at the forefront of all considerations.
129. Following publication, the implementation of the recommendations and the BPG will be overseen at a national level by the Public Law Working Group's training and implementation sub-group.
130. We wish to thank the Family Rights Group and the members of its focus groups for the invaluable assistance they have given to this sub-group in preparing this interim report; the parents and carers who participated in Professor Harwin's research paper and gave so generously of their time and contribution their ideas to the report, *Supporting families after care proceedings: supervision orders and beyond: Parental perspectives on care proceedings, supervision orders and care orders at home*; to the legal professionals who participated in the roundtable discussions; and to the Nuffield Family Justice Observatory.

Appendix A: membership of the supervision orders sub-group

The Hon. Mr Justice Keehan, High Court Judge (Co-Chair and Chair of the Public Law Working Group)

Judith Harwin, Professor in Socio-Legal Studies (Co-Chair)

Alexander Laing, Barrister, Coram Chambers (Secretary and Secretary to the Public Law Working Group)

Alan Inglis, Barrister and Advocate

Alasdair Smith, Director of Children and Family Services, Southwark

Dr Bachar Alrouh, Research Fellow, Lancaster University

Cathy Ashley, Chief Executive, Family Rights Group

Caroline Lynch, Principal Legal Adviser, Family Rights Group

Denise Gilling KC, Barrister, member of the Executive Committee, Association of Lawyers for Children

Hannah Markham KC, Barrister

Helen Lincoln, Executive Director for Children, Families & Education (DCS), Essex County Council

Ifeyinwa Okoye, DfE, Children in Care and Permanence Division, Children's Social Care, SCME Directorate

Jacky Tiotto, Chief Executive, Cafcass

Jane Smith, Head of Operations Gwent, Cafcass Cymru

Jeremy Gleaden, Senior Social Care Her Majesty Inspector, Ofsted

John Simmonds, Coram BAAF Director of Policy, Research and Development

HHJ Kambiz Moradifar, DFJ Berkshire

Kate Davenport, Head of Service, Conwy County Borough Council

Kate Hughes KC, Barrister (Wales)

Laura Scale, Cafcass Cymru, Senior Practice Development Officer (public law)

Martin Kelly, Assistant Director - North Yorkshire County Council Children and Families Service

Natasha Watson, Principal Lawyer, Safeguarding and Litigation, Brighton and Hove Council

Oliver Lendrum, MoJ, Family Justice Policy – Public Law, Family & Criminal Justice Policy Directorate,

HH Peter Nathan, Deputy Circuit Judge, SE Circuit

Richard Morris, Assistant Director, Cafcass

Sarah Richardson, Partner, Russell Cooke Solicitors

Sharon Segal, Barrister, member of the Executive Committee, Association of Lawyers for Children

Sheila Harvey JP, Family Magistrate

Appendix B: membership of the supervision orders sub-group's strands

Strand one:

Jacky Tiotto (Chair)

Bachar Alrouh

Cathy Ashley

Nengi Ayika

Kate Devonport

Jeremy Gleaden

Judith Harwin

Martin Kelly

Alex Laing

Helen Lincoln

Ify Okoye

Sarah Richardson

Alasdair Smith

Natasha Watson

Strand two

Peter Nathan (Chair)

Nengi Ayika

Denise Gilling

Sheila Harvey

Judith Harwin

Kate Hughes

Michael Keehan

Hannah Markham

Kambiz Moradifar

Ify Okoye

Jamie Paul

Laura Scale

John Simmonds

Strand three

Caroline Lynch (Co-chair)

Sharon Segal (Co-chair)

Cathy Ashley

Sheila Harvey

Judith Harwin

Alex Laing

Helen Lincoln

Hannah Markham

Sarah Richardson

John Simmonds

Alasdair Smith

Jane Smith

Natasha Watson

Appendix C: Best Practice Guidance: Child Remaining With, or Returning Home To, Their Parent(s) At the Conclusion of Care Proceedings

1. Introduction

1.1 What is the aim and focus of this guidance?

This best practice guidance aims to provide clear messages and sample tools to support best practice where children remain with, or return home to, their parents at the conclusion of care proceedings. The guidance is concerned with best practice when plans to support children and their parent(s) are being developed, considered by the court, put in place and reviewed. **It is specifically intended to support best practice where the court may consider making a supervision order.**

1.2 Who is this guidance for and how should it be used?

This guidance is for any lawyer, social worker, judge, magistrate, family member and other person in England and Wales who falls into any (or all) of the following categories:

- Involved in care proceedings in which there is a plan, or anticipated plan, for a child to remain with, or return home to, their parent(s)
- Working to help put that plan in place
- Providing support as part of that plan
- Involved in reviewing progress under the plan.

The guidance has been drawn up by the Public Law Working Group. It should be read alongside other relevant best practice guidance. In particular, the 'Best practice guidance for work with and support for families prior to court proceedings'.²⁸ That guidance was published in March 2021 and is available to read here. Key messages from research concerning supervision orders should be referred to and held in mind (see section 2 below).

²⁸ Available online: https://www.judiciary.uk/wp-content/uploads/2021/03/Prior-to-court-proceedings-BPG-report_clickable.pdf

1.3 What does this guidance cover?

This guidance is divided into nine further sections:

- **Section 2:** Messages from research
- **Section 3:** Key principles, including six core best practice principles.
- **Section 4:** Using supervision orders to support children to remain with, or return home to, their parent(s)
- **Section 5:** Review of progress under supervision orders in England
- **Section 6:** Review of progress under supervision orders in Wales
- **Section 7:** Best practice in cases in which the making of 'no order' is proposed in England
- **Section 8:** Best practice in cases in which the making of 'no order' is proposed in Wales.
- **Section 9:** Further applications where a supervision order has been made in England or in Wales
- **Section 10:** Tools to supporting implementation of this best practice guidance and working with the core principles.

2. Messages from research

2.1 National trends

- Between 2007/08 and 2016/17, only 6% of children in England subject to section 31 care proceedings (175,280 children) had an application for a supervision order
- Most supervision orders resulted from care applications rather than supervision applications
- Between 2010/11 and 2016/17, 88% of all supervision orders made to support family reunification resulted from a care application
- There are marked regional disparities in the use of supervision orders. Over time, the Northwest court circuit has generally made less use of supervision orders than the five other court circuits. These variations were also demonstrated across the 40 Designated Family Judge (DFJ) areas in England
- Between 2010/2011 and 2016/2017 children on a standalone supervision order have the highest (20%) probability of a return to court for new sets of public law proceedings under section 31 Children Act 1989 (applications for care orders or supervision order) within five years compared to the five other types of order
- Children who were aged less than five years old when placed on a supervision order are significantly more likely to return to court for new section 31 public law proceedings than older children.

Harwin, J., Alrouh, B., Golding, L., McQuarrie, T., Broadhurst, K., Cusworth, L. (2019). The contribution of supervision orders and special guardianship to children's lives and family justice. London: Nuffield Family Justice Observatory. Available [here](#).

2.2 Messages from case tracking

The following messages are based on findings following tracking 194 children from 4 local authorities in England during the course of the supervision order and for up to four years beyond:

- A minority of the children (6%) had a permanent placement change or further section 31 proceedings. However, 24% experienced neglect or abuse. Neglect (18%) predominated and was most frequent amongst children aged one to four years
- Case complexity was significantly associated with the risk of abuse and neglect during the supervision order. Domestic violence, substance misuse, material difficulties and non-engagement with services were particularly likely to significantly increase risk
- Children with emotional and behavioural difficulties (26%) or school attendance concerns (9%) were also at significantly increased risk of abuse or neglect during the supervision order
- Of all the difficulties that the children experienced, housing and financial difficulties affected the greatest proportion over the four-year follow-up period. By the end of the follow-up period, 56% of the children had been exposed to parental housing difficulties and 49% to financial difficulties
- During the course of the supervision order and the follow-up period, the majority of children were dealt with as children in need cases, including in case in which abuse or neglect recurred.

Citation as per 2.1 above.

2.3 Messages from research on parental perspectives of supervision orders

The following key messages are from a 2022 qualitative study into parental perspectives of supervision orders and care orders at home conducted by Professor Judith Harwin and Lily Golding. The study was commissioned by the Department for Education to ensure the views, experiences and recommendations of parents

regarding informed the Public Law Working Group's review of supervision orders including the development of Best Practice Guidance. Forty-four parents with 59 children took part in the study. Twenty parents had experience of supervision orders; 24 had a child living at home on a care order, spanning 11 local authorities in England and two in Wales. The account of their experiences is based on individual interviews and focus groups with a small number of parents who set out their recommendations for reform.

The full research report is available to read in full [here](#). [Those using this guidance are strongly recommended to engage with the fuller messages from the research including those about system reform.](#)

Parents' messages about pre-proceedings and the court experience

- Most parents felt that they had not received enough help prior to proceedings being issued.
- The court treated them with a lack of respect and lacked understanding of their mental health, substance misuse and domestic abuse problems. This made it harder for parents to present their situation and circumstances effectively
- Some parents from minority ethnic groups reported a lack of cultural sensitivity
- Some parents did not understand why they were not allowed to work or remain in education during the proceedings when their child was not living at home. They worried it would push them into poverty and harm their job prospects
- Parents wanted clearer explanations of the court process with better signposting to the next step
- A few parents, with previous experience of ordinary care proceedings, had their case heard in a Family Drug and Alcohol Court (FDAC). They felt that FDAC offered a better approach
- Parents welcomed the making of a supervision order because it meant they could be a family again
- There was significant variation in how and the extent to which court orders were explained. Parents particularly appreciated it when their social worker, and occasionally their solicitor, sat down with them explaining the effects, powers and duties of the order. It helped alleviate anxiety and fears.

Parents' messages about developing supervision order plans

- The opportunity to contribute to the supervision order plan was mixed. The best plans directly involved the parent co-writing the plan with the social worker. The rationale for this approach was that the parent could then identify their needs and the social worker would be better able to advocate effectively on their behalf

- Some parents did not know what services were available. All parents wanted to know not only what is available in principle, but what would actually be delivered in reality.
- Co-written care plans were very rare. Some parents were not aware that it was their right to express their view on the care plan or to disagree with its contents
- Parents with care orders at home were more likely to report being consulted over the care plan than parents with experience of a supervision order
- Fear of surveillance and unannounced visits was particularly likely where parents had previous care experience, or having children removed through care proceedings. It reactivated old, or not so old, memories.
- Parents saw it as disrespectful when plans had errors in names, ethnicity or were not kept up to date.

Messages about implementing supervision orders

- Parents had mixed views on how helpful the supervision order had been. Nearly all parents felt that the supervision order could work better.
- The relationship between parents and the social workers was a key determinant of their experience of the supervision order. Trust was a critical issue. Providing guidance, practical help, being knowledgeable about the issues parents were dealing with, and fighting their corner were equally important. Examples of guidance parents described needing included coping with child behaviour, corresponding with housing services, integrating into their community. Most parents praised children's nurseries, schools and health visitors for supporting them and arranging services for their children
- Multi-agency working was uncommon, but it was considered very useful when it did happen
- Parents who had experienced domestic abuse reported that support from children's services was limited to referral to courses on co-parenting and the Freedom Project
- The engagement of the wider family had sometimes been identified in the care plan, but family group conferences were rare. Sometimes relatives stepped in to help parents when children's services had under-delivered
- Many parents felt that the support for their family outlined in the care plan, or a support need that emerged during the period of the supervision order, was not delivered
- The framework for delivering and ending the supervision order was very variable. Parents wanted to see a formal review introduced at nine months and some thought reviews should begin much earlier.
- They advised other parents to see the supervision order as an opportunity and not to be afraid to ask for support and services they needed.
- Parents especially appreciate it when their social worker or occasionally their lawyer, sat down with them and explained the effects, powers and duties of the supervision order.
- Parents with dyslexia wanted to receive electronic documents from the court instead of hard copy. It meant they could use their own specialist software and understand the documents more easily.

3. Key principles

The overarching principles and legal duties pertinent to children subject of care proceedings will apply. These include that:

- The child's welfare is paramount.²⁹
- Children are best looked after within their families, with their parents playing a full part in their lives, unless compulsory intervention in family life is necessary.³⁰
- Any interference in family life should be necessary and proportionate. That means, action taken should be no more than is needed to achieve the aim of keeping the child safe and well.

This best practice guidance sets out six core best practice principles. These are:

1. Partnership and co-production with children and families.
2. Multi-agency, multi-disciplinary working.
3. Clear, tailored plans, including to address ongoing risks, and the findings and conclusions of the court in care proceedings.
4. Resource clarity.
5. Formal, robust review.
6. Accountability.

These core principles should be applied during (and indeed following) care proceedings where the plan is for a child to remain with, or return home to, their parent(s). The principles should be followed and applied whenever a supervision order is proposed, or may be made. They should also apply where proceedings conclude with 'no order' being made.

²⁹ See section 1(1) Children Act 1989. Where a local authority in Wales maintains a Care and Support Plan, the child's "well-being" must be promoted in accordance with sections 5 and 6, SSW-b(W)A 2014.

³⁰ As summarised in statutory guidance in England: Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children at page 9, paragraph 11 and in Wales as set out in section 81, SSW-b(W)A 2014.

Core principle	Guidance
<p>1. Partnership and co-production with children and families</p>	<p>Trusting, supportive relationships between children, families and social workers are key. They are central to the success of plans to support children to remain with their parent(s). And central to plans for children to return home to the care of their parent(s).</p> <p>Plans to support children to remain at home or return home should be drawn up in partnership. They should be a co-production between children's services, children and family. Significant adults from the family and friends' network should be involved. How children will be involved, and their views reflected, in the process of co-production should always be carefully considered and agreed.</p> <p>Family group conferences (or similar) will have a role to play. This includes in:</p> <ul style="list-style-type: none"> i) Identifying the support available within the child's family and friends' network ii) Understanding the help and services the child and family need to keep the child safe and well cared for iii) Informing and shaping the final plan to support the child and family. <p>In Wales, the procedure for assessing a child's care and support needs³¹ may play a part in achieving aims (i)-(iii).</p> <p>There should include active and careful thought about social, cultural and health inequalities or differences. Care should be taken to ensure parents and other family members can fully take part in meetings. This includes where remote meetings take place online or by video call. It will be important to make sure families have the right equipment and are confident using it. Further adjustments may be needed if a parent has a particular health need or disability.</p>

³¹ Under the SSW-b(W)A 2014.

Core principle	Guidance
<p>2. Multi-disciplinary and multi-agency working</p>	<p>The skills, knowledge and resources of a range of agencies and organisations will be central to:</p> <ul style="list-style-type: none"> • Developing an effective plan • Putting that plan into action • Informing robust review of progress. <p>Key agencies, organisations and services will often include: housing, health (e.g. GP, health visiting services, Child Adolescent Mental Health Service, substance misuse organisations), education (e.g. nursery, school) and where necessary, the police. Clear information should be available to the court and parties about:</p> <ul style="list-style-type: none"> • The structures and processes to be used to achieve this multi-disciplinary and multi-agency working (and this should be included in the plan itself) • How the family's insights and own plans for meeting the child's needs have informed and shaped multi-agency working and the plan to support the child to remain at/return home.
<p>3. A clear, tailored plan</p>	<p>A plan to support children to remain at home with their parents, or return home to them, should keep the child in focus. They should be tailored not formulaic. They should be written in plain language.</p> <p>The ongoing risks the plan aims to address and the needs that will be met should be clearly set out. These should speak to the findings and conclusions of the court in the care proceedings. What needs to happen to address those risks and needs should be clear and specific.</p> <p>Intended outcomes should be set out in plain terms. <i>What will be better?</i> Outcomes should be timed and it should be clear how progress is to be monitored and measured. <i>What is the deadline?</i></p> <p>The expectations and responsibilities of the local authority and the family should be specific. They should be updated as plans progress. <i>What actions have been agreed to help achieve the outcomes? Who is responsible for progressing particular elements of the plan?</i></p>

	<p>Overall, content should reflect:</p> <ul style="list-style-type: none"> • That appropriate support from within the family and friends' network has been considered, identified and drawn on • A multi-agency approach to providing specific help and services to the child and their parent(s) • Detailed information about forum, process and timescales for review which satisfy core principle 5 • The core principle of accountability (core principle 6) has been addressed. • The plan will be a 'live' document. It should therefore include space to record progress over time. <i>'How things are going'</i> and confirm the current social worker and the date of the plan.
4. Resource clarity	<p>It is vital that there are resources in place to support the child and family under the plan drawn up. Before care proceedings conclude, the resource arrangements for each element of the plan should be confirmed and recorded. This includes all human, material and financial resources, including the funding of specific services and supports.</p>
5. Formal, robust review	<p>The framework used to review progress should be clearly detailed before proceedings are concluded. The plan itself should include the following detail:</p> <ul style="list-style-type: none"> • The forum, processes and initial timescales for review and when the first review will take place • Who will chair the review process* • What parents should be able to expect from the review process • How parents will be actively involved and what support will be available to ensure they can participate effectively. • How children's views will inform, and be reflected in, the review process in a manner which is consistent with their age and understanding • In line with core principle 1, it should be clear how the arrangements address relevant social, cultural and health inequalities or differences as well as the details of any adjustments needed to address particular health needs or disabilities. <p>*Save for some cases in Wales in which the supervision order plan is also a Care and Support Plan (see section 4 below), the review process should be chaired by someone who is independent of the day-to-day conduct of the case or management oversight of it. It is expected that person will:</p> <ul style="list-style-type: none"> • Be a social worker or social work manager with substantial experience of reviewing plans for children and supporting development of revisions to plans • Have a good understanding of the legal and practice framework relevant to supervision orders and reunification (returning home from care to parents)

	<ul style="list-style-type: none"> • Be skilled in promoting participation of, and co-production with, children and families. <p>Examples may include an Independent Reviewing Officer, a social work manager from another team.</p>
6. Accountability	<p>The court and parties should have clear information about:</p> <ul style="list-style-type: none"> • How the details of plans and the outcomes of reviews will be shared and explained in an accessible way: i) to the parents and other significant adults; and ii) to the child in a manner which is consistent with their age and understanding. • How, and with whom, families can raise concerns about progress under the plan. This includes where there has been delay in providing services and support • What families should be able to expect by way of an initial timely response (once their concern has been raised) • The approach to be taken if children's services have concerns about progress under the plan. This includes details of any specific processes that will be followed. <p>This information should all be clearly within the plan developed to support the child to remain at/return home. The arrangements for robust review (core principle 5) will be relevant. Details of where families can find information about the formal complaints process should be provided, though that should not be the principal way by which families are expected to raise concerns.</p>

4. Using supervision orders to support children to remain with, or return home to, their parent(s)

Introductory points

A supervision order may only be made where the court finds the threshold for making a public law order has been passed. When deciding whether the order should be made the court will want to consider:

- Whether support is needed. Is it necessary for the local authority to 'advise, assist and befriend' the child? ³²
- Whether the making order 'would be better for the child than making no order at all'

³² See section 35(1)(a), CA 1989.

- What benefit to the child and their family will result from supervising the child's needs in the community?

There is a clear expectation that the duration of the supervision order is proportionate. It should be for the period of time necessary to meet the identified aims. The duration of the order should be carefully considered in each case.

In some cases, transfer of a child's case to another local authority may be anticipated. There should be early discussion and cooperation between children's services departments about this. This should be with the court's approval.³³

Best practice where a supervision order plan is drawn up

The local authority should file and service a supervision order plan with its final evidence. Just as it would file a care plan if a care order were being sought (under section 31A(1) Children Act 1989).

Where a supervision order is to be made in Wales, the child will usually meet the criteria for a care and support plan under the Social Services Well-being (Wales) Act 2014. If the child is not looked after, an assessment under the 2014 must be done. A care and support plan is likely to coincide with a supervision order plan. In that situation it is anticipated that a single plan will be filed and will take the form of a care and support plan. The format of the plan, the information available within it and the review process are all mandated by the 2014 Act and that process will be adopted.

There will be cases in which the proposed final plan will not have been for a supervision order but the court has indicated that it may wish to make a supervision order. This may arise either at the Issues Resolution Hearing (IRH) or following a final hearing. **In such cases, the process set out in the flow chart below should be followed.**

³³ Where a care and support plan is in place provisions for portability of that plan to an alternative Welsh authority are set out in the SSW-b(W)A 2014.

Cases in which the making of a supervision order arises

Where the local authority's plan is to seek a supervision order at the conclusion of proceedings

The local authority should file and serve a supervision order plan with its final evidence, in the way it would otherwise file a care plan if a care order were being sought (under section 31A(1) Children Act 1989).

The final social work statement should explain the need for each element of the plan

Where the plan will involve the designation of another local authority, the court should be asked for permission for papers to be shared with social work and legal team in the new authority without delay.

Where a supervision order is to be made in Wales, the child will usually meet the criteria for a care and support plan under the Social Services Well-being (Wales) Act 2014. If the child is not looked after, an assessment under the 2014 Act must be done. A care and support plan is likely to coincide with a supervision order plan. In that situation it is anticipated that a single plan will be filed and will take the form of a care and support plan.

Where the local authority's proposed final plan was not for a supervision order but the court has, following either an Issues Resolution Hearing (IRH) or in the course of the final hearing (FH) indicated that may wish to make a supervision order

The hearing should be adjourned to allow a draft supervision order plan to be developed in line with the core best practice principles in this guidance together with any updating social work evidence. The applicable timeframes for adjournment are:

- 28 days unless designation of another local authority is likely to be required
- In any case where the supervision order plan is to be a care and support plan in Wales, the timeframe for the adjournment should be set to account for the timeframe for assessment for a care and support plan (as underpinned by the Part 3 Codes of Practice at page 45)
- Six weeks in any case where designation of another local authority is required.

Not less than 48 hours in advance of the adjourned hearing the court should be provided with:

- Copies of the final draft plan
- Position statements from any party that takes issue with any aspect of them (the guardian setting out the views of relevant non-party family members who attended the FGC (or similar).

The supervision order plan should reflect the six core best practice principles set out in section 2 of this guidance. **The court should alert all parties to the need to read and apply those principles.**

The court will want to be satisfied that case management directions made help to ensure that the core best practice principles will be applied. When considering a proposed supervision order plan the court will want to be satisfied that:

- The proposed plan has been co-produced in line with core principle 1 'Partnership and co-production with children and families. *To be so satisfied the court will require information regarding: i) how co-production is being approached; ii) plans for a family group conference or similar, and iii) how the family insights, resources and any family plan have shaped the supervision order plan presented to the court*
- The risks and needs referred to in the plan accurately reflect any findings made by the court (see core principle 3)
- What needs to happen to address those risks and needs is specific, clearly set out in the plan and is understood by the parents and others involved in the plan. *E.g. attendance at substance misuse programme, narcotics/alcoholics anonymous, attendance at a domestic abuse programme, engagement with specific therapy or counselling, development of a family rota to support school attendance, development of/sustaining of household routine, support with behaviour management.*
- There is sufficient evidence regarding the resourcing for each element of the plan. As a result, there are grounds for confidence that the plan can be put into action promptly (see core principle 4)
- The proposed review process is appropriate, formal and robust. That practitioners and parents are clear about how the review mechanisms are to work and what support will be available to ensure all those involved can participate fully (see core principle 5)
- There are detailed and clear arrangements for how core principle 6 – accountability – is to be satisfied
- The plan itself is in a plain language document understood fully by all involved, in line with core principle 1.

Annex A to this guidance provides a template supervision order plan.

The supervision order

Where a court approves a supervision order plan, it will usually be desirable to make a series of recitals on the face of the supervision order, recording the following:

- Why the supervision order is being made for the specific length of time
- The parents agree to the supervision order support plan and to the actions set out in it
- The local authority agrees to provide and coordinate the services and support that detailed within the plan
- That the local authority has confirmed that each element of the supervision order plan is resourced and funded.

The court should consider requiring the parents and relevant social work team manager to sign a copy of the supervision order and plan.

Changes of social work personnel or local authority

Where there is a change of social worker, manager or other relevant social work personnel, the local authority must continue to put the supervision order plan into effect. Proposals to remove elements of services, support or other requirements should be the subject of discussion with the parents and others involved. There should be time for parents to ask questions and if they wish, to seek advice about such changes.

If a decision is reached that an element of the plan should no longer be delivered, the reasons for this should be clearly recorded on any updated plan. The reasons should also be confirmed in writing to the parents.

In Wales, if the supervision order plan is also a care and support plan (CASP), then in line with paragraph 81 of the Part 4 Codes of Practice:

- The CASP co-ordinator will be identified and named on the face of the plan, and
- The plan will need to be amended to reflect the new co-ordinator.

There may be cases in which a family move, and another local authority becomes designated as responsible for the supervision order plan. In this situation, the successor local authority must ensure the plan continues to put into effect. If that authority proposes removal or changes to services, support or other requirements, this should be the subject of discussion with the parents and others involved. There should be time for parents to ask questions and seek advice about such changes. If a

decision is reached that an element of the plan should no longer be delivered, again, the reasons for this should be clearly recorded on any updated plan and confirmed in writing to the parent.

In Wales, the process of portability³⁴ should be applied where:

- A family in Wales moves within Wales, **and**
- The supervision order support plan is also the care and support plan.

5. Review of progress under supervision order plans in England

There is no statutory framework for reviewing progress under supervision orders. Approach and practice therefore varies widely. There is significant variation in how children and families are involved. In some local areas, case holders track progress. In others, the child in need framework is used to review progress.

In line with core best practice principle 5: There must be a formal, robust framework for reviewing progress under a supervision order plan. Practitioners and parents should be clear about how the review mechanisms are to work and what support will be available to ensure all those involved can participate fully.

The further guidance below aims to provide parameters for: i) detailed consideration of the appropriate way to achieve formal and robust review in any given case, and ii) support parties and the court in scrutinising proposals for review.

Key features of an appropriate bespoke supervision order review process will include (but not be limited to):

- **Family participation:** Parents and other significant adults should be invited to attend. Working with the family to identify what support they may need to actively participate will be crucial. Ensuring families know in advance who will be present and what their role is.
- **Child participation:** How the child is to be participate should be carefully considered and planned for. Whether children participate directly or in other ways, the arrangements for their views to inform and shape the review should be clear and agreed with the family and with the child (in accordance with their age and understanding).
- **Agencies/organisations:** Other agencies and organisations involved should attend unless there are reports provided in advance and other agreed means

³⁴ In line with section 56 of the Social Services and Wellbeing (Wales) Act 2014.

for queries to be raised. How the child is to participate in the review should be considered and

- **Chair:** Someone who is independent of the day-to-day handling or management oversight of the case and has specified skills and experience detailed at the end of core principle 5.
- **Frequency:** The timeframe for a first review should be set out within the supervision order plan approved by the court. Thereafter, reviews should take place at such intervals as is agreed to be appropriate in all the circumstances of the case. A review meeting should always be scheduled to take place not less than one month prior to the anticipated conclusion of the supervision order.
- **Focus:** The first review of progress should provide early oversight of whether planned services, support and resources are in place. It should examine whether the plan is being put into action as agreed and expected
- **Documentation:** An accessible note of each meeting should be written up and shared with all participants. This should include details of any actions, who is to carry them out and by when. The family should always be provided with a copy of the note. There should be opportunity for them to raise any queries or concerns as to its content and accuracy. The outcome of a review and details of the plan should be explained to the child in a manner which is in accordance with their age and understanding.

6. Review of progress under supervision orders in Wales

Where a supervision order is to be made in Wales, the child will usually meet the criteria for a care and support plan under the Social Services Well-being (Wales) Act 2014. If the child is not looked after, an assessment under this Act must be done.

A care and support plan is likely to coincide with a supervision order plan. In that situation it is anticipated that a single plan will be filed and will take the form of a care and support plan. The format of the plan, the information available within it and the review process are all mandated by the Act and that process will be adopted.

The plan must meet the requirements of the Part 4 Codes of Practice. It must name an individual responsible for coordinating the preparation, completion, review, delivery and revision of the plan.³⁵ The plan must provide the following information:

- Identified outcomes

³⁵ See paragraph 67, Part 4 Codes of Practice.

- Actions to be taken by the local authority and by other persons to help achieve the outcomes
- The needs that will be met by delivery of the care and support
- How progress will be monitored and measured
- The date of the next review of the plan.³⁶

The plan must be reviewed within such period agreed between the local authority and the person who is the subject of the plan. But a review must take place at least every six months.³⁷ An earlier review may be requested if the plan is not meeting the needs of the child. An earlier review can be requested by any of the following:

- The local authority
- Any person with parental responsibility for the child
- Any person authorised to act on their behalf of the child
- In that situation there is a legal requirement for an immediate review to take place.³⁸

A review will:³⁹

- Monitor progress and change
- Consider the extent to which the delivery of the plan is meeting the assessed need and how it has helped achieve outcomes
- Determine what support is needed in the future and confirm, amend or end the services involved
- Provide a written recording of the review reflecting these matters.

Review arrangements must ensure that the child and any person with parental responsibility is an active participant in the review.

There may be rare cases in which a supervision order plan is in place without a care and support plan. There may also be rare cases in which the care and support plan has come to an end before the supervision order ends. In each of these situations, the review procedure should adopt the structure of a care and support plan review as rehearsed above.

It is good practice to review the plan three months before the supervision order is due to come to an end. This will enable discussion and decision about whether an application to extend the period of a supervision order is necessary. Or for a care order to be sought.

³⁶ See paragraph 84, Part 4 Codes of Practice.

³⁷ See paragraph 121, Part 4 Codes of Practice.

³⁸ See paragraph 122, Part 4 Codes of Practice.

³⁹ See paragraph 114, Part 4 Codes of Practice.

7. Best practice in cases where the making of 'no order' is proposed in England

Where it is proposed that a child remain with, or return home to, their parent(s) with no order in place, the core best practice principles in this guidance should still be applied.

Whether sufficiently detailed and resourced plans have been formulated to support and chart progress will be relevant to determining whether matters can proceed without an order in place. The level of detail required by the court is unlikely to differ from that needed where a supervision order plan is prepared.

In some local areas in England, child in need plans have regularly been used to support return home/children remaining at home. Practitioners, families and the Family Court will want to explicitly reflect on the following matters if this is, or may be, proposed:

- **Whether seeking to provide help, services and support under the child in need framework is likely to be the proportionate response** to the findings made by the court as to both threshold and welfare (outcome)
- **The voluntary nature of the child in need framework:** It will be important to reflect on the fact that need processes cannot commence or continue in the absence of the agreement of the child's parents. Specifically, parents do not have to agree to a child in need assessment being carried out or updated. They do not have to agree to a child in need plan being drawn up. They may choose not to accept services and support proposed or offered under any child in need plan drawn up
- **The quality of evidence regarding effective partnership working:** Whether there is clear evidence of established and meaningful partnership working and cooperation between children's services, the child(ren) and family to support the use of a voluntary framework
- **There are no statutory timeframes for the review of child in need plans or for the convening of meetings in which plans will be reviewed:** The timeframes that apply in a given local area will be set out in the local threshold document. It will be important to be clear whether those timescales are appropriate/suitable in the circumstances of the case. Or whether differing timescales will be applied.
- **How multi-agency working is to be ensured.**

In some cases in which the threshold criteria is satisfied **and** ongoing risks and concerns have been identified, local authorities may indicate an intention to convene a **child protection conference**. The local authority may recommend proceedings

conclude with 'no order' and services, support and review provided through child protection conference and core group process. Where this is proposed, it will be best practice for:

- It to be agreed that the child protection conference be convened prior to the conclusion of the care proceedings
- Any resulting child protection plan to be filed and served in the proceedings
- The local authority to provide details of any locally agreed child protection dispute mechanisms that will be used if agencies fail to deliver, collaborate or cooperate with the child protection plan.

8. Best practice in cases in which the making of 'no order' is proposed in Wales

Where it is proposed that a child remain with, or return home to, their parent(s) with no order in place, the core best practice principles in this guidance should still be applied.

Consideration should be given to the local authority's duties to children who need care and support. They include a duty to assess and provide care and support. And a legal duty to prepare, monitor and review a care and support plan for such children.

The limitations of a care and support plan where not supported by a supervision order should be considered:

- The lack of court oversight of the plan
- The inability to enforce the plan through the court process
- There is no minimum period of involvement by the local authority. The plan may end if the local authority consider the identified needs have been met. This may happen even if others involved disagree.
- There are no powers to impose conditions or requirements. This is in contrast to the powers available under a supervision order.

9. Further applications where a supervision order has been made in England or in Wales

In some cases a further application for an order will be made. This may be an extension to the existing supervision order. It may be application for a care order. In these situations, the following will be best practice:

- The social worker with case conduct should consult with their legal department no later than 28 days before the expiry of the current order. This will both help to avoid delay and avoid the need for short notice hearings

- Amongst the evidence filed in support of the application should be a note of the review meeting at which the issue of seeking a further order was discussed and/or recommended
- The specific reasons why a decision to seek a further order has been reached should be clearly set out.

10. Supporting implementation of this best practice guidance and working with the core principles.

See [annex A](#) for a template supervision order plan.

See [annex B](#) to this guidance for a series of 'self-audit' questions that are intended to support reflection on whether the best practice core principles and guidance are being applied. These questions may be helpful to review at regular junctures during work with children and families and when auditing the quality of work following the conclusion of involvement. Additional questions are included to support local authorities to reflect on the information and data they collect and analyse regarding supervision orders and children returning home/remaining at home at the conclusion of care proceedings.

See [annex C](#) for a sample 'Thinking tool' used in one local authority area to support their social work practitioners in decision-making and planning in cases in which supervision orders are, or may be made.

Appendix C: Annex A

Please see the accompanying PDF, *Interim Report: Appendix: Annex A PDF*.

Appendix C: Annex B: Sample Self-Audit Questions for Local Authorities, Judiciary and Practitioners

Below are a series of questions intended to support reflection on whether the best practice core principles and guidance are being applied. These questions may be helpful to review at regular junctures during work with children and families and when auditing the quality of work following the conclusion of involvement. Some additional questions are included to support local authorities to reflect on the information and data they collect and analyse regarding supervision orders and children returning home/remaining at home at the conclusion of care proceedings.

Partnership and co-production with children and families

- Have the powers, duties and effect of the supervision order been clearly explained to the family?
- Who has explained the supervision order to the family?
- Is the court satisfied they have a clear understanding of this?
- Has the way in which the proposed supervision order plan relates to other existing plans been explained to the family?
- In what ways has the plan to support the child/ren to remain at home or return home been drawn up in partnership? Has it been co-produced between children's services, the child and the family?
- Does the family feel the plan has been drawn up in partnership and co-produced?
- How was the child to be involved, and their views reflected, in the process of co-production? How was this agreed?
- Have significant adults from the family and friends' network been involved?
- How have the family's insights and own plans for meeting the child's needs informed and shaped the plan?
- Has a family group conference or similar been used to:
 - Identify the support available within the child's family and friends' network
 - Understand the help and services the child and family need to keep the child safe and well cared for
 - Inform and shape the final plan to support the child and family?

Multi-agency, multi-disciplinary working

- Have the skills, knowledge and resources of relevant agencies and organisations been drawn on to develop an effective plan?
- Is it clear what the relevant partner agencies, organisation and services will each contribute? Are the family clear about this?
- Is clear information available to the court and parties about the structures and processes to be used to achieve multi-disciplinary/multi-agency working? Is this clearly recorded in the plan itself?
- How have the family's insights and own plans to meet the child's needs informed and shaped multi-agency working?

Clear, tailored plans

- Does the plan clearly set out the ongoing risks and the needs it aims to address? Are these clear to the family?
- Is the assessment of risks and needs in the support plan regularly updated to reflect changes over time? Do these accurately reflect the findings of the court (and any subsequent updated assessments)?
- Is the plan formulaic or generic in any way? Do the family feel that the plan is tailored to the child and family? Does it need adjusting to be more tailored?
- Has a copy of the plan been shared with relevant family members?
- How will updated versions of the plan be shared – in hard copy or electronically or both?
- What is the family feedback on the format of the plan and the language used in it – is it clear and accessible?

Resource clarity

- Has the court examined and recorded what has been confirmed about i) the funding of each element of the plan; and ii) the services available to the parents and child?
- Are there any gaps in the information about resourcing? How and when are these to be filled?

Formal, robust review

- Does everyone involved understand the review process and what will be involved?
- Is the court satisfied that the family know what they can expect from the review process? Has understanding been revisited after the conclusion of proceedings?
- Are the family, practitioners and court clear about how the parents and child will be actively involved in review?
- How and who will support the child and parents so that they can effectively participate in reviews? Have the family had ongoing opportunity to share what they think will aid their participation in reviews? What are the key supports that be available to ensure they can participate effectively?
- Is it recorded when the first review will take place and have all participants been notified?
- Is it clear who will chair the reviews and what their role is and what decisions they can make? Do the family know how to contact the chair?
- Is it clear what documents the review process will generate and how and when these will be shared with the family?
- It is clear how the skills, knowledge and resources of other agencies and organisations will inform robust review of progress?
- Does the local authority routinely give the family a document about the reviewing process and their rights and obligations? Has it been co-written and produced with parents and child?

Accountability

- What approach is taken to ensure details of plans and the outcomes of reviews are shared in an accessible way with the child and family?
- What is the family feedback on the first review documents – were reports, notes and minutes clear and accessible? Was there opportunity to ask questions and correct any errors?
- What changes may be needed in light of any feedback?
- Is there a clear description of the approach to be taken if children's services have concerns about progress under the plan (including details of any specific processes that will be followed). Is this up to date? When were the family last reminded about this? Is this routinely covered in each review by the chair?
- Do the family and child know how they can raise concerns about progress under the plan? Have they confirmed their understanding of the process and who the key people to contact are?
- Do they know what they should be able to expect by way of an initial timely response (once their concern has been raised)? What makes this initial timescale reasonable?
- Do the family have information about the formal complaints process? Have they been reminded about this at appropriate intervals?

Strategic/systemic questions for local authorities, local family courts and partners

- What data do you collect to monitor outcomes of supervision orders supporting family reunification? What criteria are used and is this reviewed regularly? How is this data used and by whom?
- Are family experiences of care proceedings and supervision orders gathered and analysed in the locale? How is such feedback used and does it shape learning within the local authority, local court and within the local family justice area?
- Is data collected regarding practitioner and family satisfaction about local services provided to children and families in supervision order cases (or any care order at home cases)? How is this used and how does it inform decision making regarding commissioning?
- Does the local authority and local family justice board routinely include supervision orders [and care orders at home] on their agendas to identify sharing of best practice, opportunities, obstacles and priorities for reform?
- What has helped and hindered discussions with partners about provision of resources under supervision support plans? What information is most useful in supporting those discussions and reaching a timely, positive decision or agreement? Is this feedback shared with the local court/family justice board.

Appendix C: Annex C: Children and Families Thinking Tool: Supervision Order Practice Principals

Children and Families Thinking Tool: Supervision order Practice Principals

Using this Thinking Tool will help you to:

- Understand the application of the legal threshold for supervision and what that means in terms of practice expectations, including recognition of remaining risk and support
- Consider how parents can be supported throughout the supervision order
- Consider intervention that makes a difference for parents/carers under supervision orders arrangements, what should be considered
- Understand what effective assessment and planning looks like where a supervision order is likely to be/is granted
- Understand good endings for supervision orders



Legal Thresholds & Expectations

Is it understood that a supervision order is a legal order granted by the courts when there is evidence that significant harm has been caused to a child/young person and/or there is reason to believe that there is serious risk that child/young person will suffer significant harm in the future? This is the same threshold for removal of children from their parents. A supervision order imposes a duty on the local authority to 'advise, assist and befriend the supervised child' (support and protect) the child and by extension, the people whom the child lives with. Typically, it lasts up to a year but there is the opportunity for this to be extended annually by up to three further years, when support to family's needs to be extended and when risks to children remain a concern

Supporting Parents through Court & Impactful Relationships

The court process can be a very daunting and emotive experience for parents who more often have lost care of their children. It will affect parents in a variety of ways which will mostly be a result of the upset and fear associated with the court environment, the power dynamics, as well as the ultimate loss of their child/ren. Cultural and racial differences can also play a part in feeling further alienated or misunderstood.

Parents being supported to navigate the complex and intimidating world of court is essential in enabling them to fully participate in the process. An Independent Advocate play an essential part in enabling this to happen – Are we always recognising

increase safety for the child and resilience for parents/carers. It should include the likely duration of the work and who will be responsible for delivering each element of the support plan. The plan and arrangements for the supervision order should be presented and agreed by court during proceedings.

Has the role of the family network and family group conference (FGC) informed the Assessment, plan of support and any contingency/safety planning?

The Role Child Protection Procedures

In recognition of the level of remaining risk, child protection arrangements should be put in place to oversee the delivery of the supervision order plan. This will ensure that the multi-agency network will be effectively informed and engaged to expectations of the supervision order plan and agree their collective duties to deliver that plan of **support to the family** as well as **protection of the child** required due to the legal threshold of significant harm being met and underpins the making of the Supervision order.

Assessment

Supervision orders being granted can often mean that children are reunited to live with their parent(s)/carers after a period of being away. Has an updated assessment been undertaken after children have returned to the care of a parent/carer in order that the impact of children and families being reunited is fully understood?

the need to connect parents with an Advocate who can support them through the process and help to represent their views

The relationship between parents/carers and social workers can often be strained by the court process, however parents tell us through research that these relationships often recover through open and transparent communication, empathy and understanding shown to them about the issues they are facing/ Continuity in professionals supporting them is also an important factor for parents.

Effective Planning for Supervision Order Practice

Where a supervision order is likely to be granted, **a bespoke plan should be co-created with parents/carers and the family network** to identify the areas of support and supervision to be offered/delivered throughout the period of the supervision order including the provision of education and therapeutic input for children, parents/carers – with a clear rationale of how this identified need will

Support & Services for Children and Families

Striking the balance of support to both children and parents/carers will provide the best opportunities for strengthening family resource and resilience into the future. Have there been consideration to what families need to create a basic home environment that functions after a period of separation from their children? How can parents be supported back into employment, education and training recognising that this increases self-esteem and financial stability for the future as well as life chances? What therapeutic/counselling needs do children, and their parents have – How can we ensure these are accessed as part of parent and child recovery? Has the D-BIT Reunification Team been engaged to offer support to families as part of their adjustment/recovery?

Good Supervision Order Endings

Having a structured/more formal approach to ending supervision orders ensures that decisions can be made about the right support and services that families need to maintain or increase progress in the future

Vulnerability

- Fragile Emotional Wellbeing & Mental Health due to past trauma and loss of child/ren through proceedings
- Unstable Housing due to losing care of child/ren
- Pressure to reduce/ cease employment & training to demonstrate being available to provide care for children in the future and attend meetings
- Low income and Poverty due to loss of employment and reliance on benefits
- Fear and intimidation of the court process
- The Local Authority is ultimately there for the Child, how can the parents views/needs be equally advocated

Risks

- Wider family networks are only identified during the proceedings meaning opportunities from within the family network to support are identified late
- Cultural and Racial factors for families are not fully considered/overlooked resulting in individuals feeling there has little consideration to them as individuals
- When supervision orders are granted, plans of support and appropriate services have not been fully developed or agreed as part of the proceedings for families

Opportunity

- The making of a supervision order often means that parents/carers are reunited with their children and they can rebuild/recover their lives with the investment of identified services/support services
- It can provide a sense of protection, safety, and independence for parents, particularly those who have experienced domestic abuse
- Increasing Multi-Agency engagement and accountability , through the use child protection arrangements and a rigorous reviewing process
- To ensure that the support plan is effectively overseen and delivered, whilst maintaining focus on risk

Key reminders

Remember the court's decision to grant a supervision order based upon the view that threshold for significant harm was met, and there remains a need for proactive risk assessment, planning and intervention for the duration of the supervision order that results in risks being managed/ reduced

Ensuring that a clear plan of support is identified for families as part of the proceedings and that can be delivered throughout the duration of the is essential to providing children and families with the best chance of success in remaining together

Engaging extended family networks early, even when parents may feel some discomfort in sharing information about their circumstances, can often result if additional opportunity/support/resilience for families and repair/strengthen family relationships

In some instances, families may not be able to develop the skills and resilience required to meet their children needs in the medium/longer term to keep them safe. The supervision provides a legal framework for the risk that was recognised through the court proceedings of significant harm threshold being met, to be reconsidered via the Child Protection and Legal Planning pathways.

Thinking Tool: Supervision order Practice Prompts/Considerations

The Thinking Tool sets out series of prompts to consider, when practicing under the legal parameters of a supervision order and incorporates key messages from National Research and local learning about the risks and strengths of Supervision order Practice.

<p>Legal Thresholds & Expectations</p> <ul style="list-style-type: none"> ▪ When a supervision order is made parents retain Parental Responsibility in contrast to when a care order is made, whereby the local authority shares parental responsibility ▪ Parents often feel a renewed sense of motivation when a supervision order has been granted with the opportunity to reconcile with children and show that they are able to make the changes required ▪ A supervision order should not be used as a vehicle to solely 'monitor families' progress. The support and intervention for the duration of the order should feel beneficial/helpful to families and seek to equip parents with tools, skills and resilience for the future beyond social care involvement ▪ A supervision order can last from 6 months to 3 years, although typically they are granted for a 12-month period. Rarely are they extended. Research tells us that in 20% of supervision order cases further proceedings are initiated within 5 years highlighting the importance of formally reviewing the impact of the 	<ul style="list-style-type: none"> ▪ Are there any safety factors that need to be considered during proceedings such as contact between victims and perpetrators of domestic abuse in the court arena? How will the logistics of this be managed? ▪ Is the any complicated legal language/jargon that is confusing that you could help explain? ▪ Do parents have any learning / communication / language / cultural needs or disabilities that should be taken into account? How can we acknowledge these and respond in our approach/practices? ▪ Explaining the process for each intervention and what it will look like, what is likely to happen next how it will happen, reduces anxieties for parents ▪ Has the emotional, social and financial impact on children being removed for parents been fully considered and empathised with? How will parents manage this? What support/adjustments do they need during proceedings to maintain themselves and prepare for their children to be returned to them,
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<p>supervision order prior to its expiration. Has the support plan been effective in reducing risk of significant harm and increasing family resilience? Have we asked ourselves the question? If not, has there been consideration to an extended period of support/intervention?</p> <p>Supporting Parents through Court & Impactful Relationships</p> <ul style="list-style-type: none"> ▪ Have we made the offer or re-offered an Advocate to the parent during pre-proceedings, and helped them to access this service? ▪ How is each parent feeling about going to court? What assistance if any will each parent need? ▪ Have we explained to each parent what to expect at court? Do they have any support when attending court? What can be offered? 	<ul style="list-style-type: none"> ▪ Continuity of professional relationships supporting the family should be central to thinking to avoid families having to retell their stories and build trust in new relationships ▪ Parents tell us that relationships built upon compassion, empathy and understanding create the right conditions for growth and trusting relationships with professionals even when difficult messages need to be delivered with openness and honesty. <p>Effective Planning for Supervision Order Practice</p> <ul style="list-style-type: none"> ▪ The most effective and impactful plans for families are those that co-created with them and which they can influence. Has time been allocated to spend time with each parent to co-write court/support plans and agree related expectations?
<ul style="list-style-type: none"> ▪ Does the support plan offer equal opportunities to both parents and individual children to support adjustments that are needed in the family system? ▪ What might a support plan need to include, given that family housing, employment, income, social integration, emotional wellbeing, and mental health fragility may have changed significantly for them when children were removed from their care – Have these things been considered as part of the support plan and the families ability to recover/rebuild? 	<ul style="list-style-type: none"> ▪ Have the dates of the supervision order been entered into the Legal Status on the child's MOSAIC record? ▪ Have we made the offer or re-offered an Advocate to the parent to support them through the duration of the Supervision order/Child Protection Plan, and helped them to access this service? ▪ Where risk is increases or cannot be mitigated/managed during the order, consideration to a Legal Planning Meeting should be made and overseen

<ul style="list-style-type: none"> ▪ The support plan should consider the benefits of a family group conference and/or review to identify what resources the extended family have to offer ▪ Is the support plan SMART, written in an accessible language for families and consider services to be delivered throughout the duration of the order? Does it offer a contingency plan if services cannot be delivered or are less effective, and or families hit a bump in their recovery? ▪ Service Managers should routinely provide oversight to the progress of families being supported by a Supervision order by way of a review of progress no later than $\frac{3}{4}$ of the way through the order – typically this would be at the 9 month point of a 12-month Order. Service Managers should consider the degree of progress ▪ Made and whether legal advice is required / or whether there should be consideration to extending the Supervision order. This Service Manager oversight should be recorded on the Children's MOSAIC record and drive any practice direction. 	<p>through the child protection arrangements in place</p> <p>Assessment</p> <ul style="list-style-type: none"> ▪ Given that families are reconnecting/reuniting an updated Children and Family Assessment should be completed between 4-8 months of the children returning to the care of their parents/carers – this will allow time for families to begin to adjust to the new circumstances and time for support to be mobilised ▪ Has the family culture and implicational of race and experiences of discrimination been explored with the family and informed how support is tailored to families ▪ The Children and Family Assessment with offer a vital lens to understanding how families are adjusting and how risks identified through the proceedings are being managed/mitigated <p>Support & Services for Children and Families</p>
<p>The Role Child Protection Procedures</p> <ul style="list-style-type: none"> ▪ Has each parent been informed that there will be an Independent Chairperson to oversee the delivery of the support and child protection plan, 	<ul style="list-style-type: none"> ▪ Has due consideration given to the trauma experienced by each parent and child in their histories, including the emotional impact of children being removed from their care and court proceedings? Has therapy/counselling

<p>ensuring this is well managed and impactful for the Supervision order duration?</p> <ul style="list-style-type: none"> ▪ Has the Child Protection Service been alerted to the possibility of a Supervision order being granted following the final legal planning meeting? This will allow for Initial Child Protection Conferences to be scheduled within 15 working days of the Supervision order being made. 	<p>been identified for each as part of their support plan?</p> <ul style="list-style-type: none"> ▪ Have parents been assisted to connect with support groups for parents who have been through similar situations which may aid parents in their emotional wellbeing and mental health recovery ▪ Has advice from a housing, benefits & employment advisor been offered as part of the support plan?
<ul style="list-style-type: none"> ▪ How can parent(s) be supported to increase their independence and resilience through education and employment opportunities? ▪ Has financial support been considered to assist the family to access appropriate accommodation, furniture, food etc to begin their next chapter? Housing, employment and income are likely to have been impacted through the loss of entitlements when children were removed from their care ▪ Has the support plan agreed at court been made available to the family, social worker and Independent Chairperson so it informs directly the child protection plan? Is the Supervision order and support plan uploaded to the child's MOSAIC record to make it accessible? ▪ Where children have additional learning, social and behavioural needs, what parenting support will be offered during the order so parents 	<p>Good Supervision order Endings</p> <ul style="list-style-type: none"> ▪ When a Supervision order is due to expire, there should always be consideration of whether further period of involvement from children's social care is needed - This could be an extension of the supervision order or to be supported or under child protection or child in need ▪ The ending of a supervision order should prompt us to think about what vulnerabilities it creates for the child and each parent. For example, does this increase the risk of violence from a domestic abuse perpetrator? Which professionals will step back and what impact will this have for the child and parent(s)? How do the child and family feel about the supervision order ending? ▪ Consideration of ongoing support by Tier 3 Services (Family Solutions) and/or Team Around the Family should always be given when stepping down from a Supervision order and Children's Social Care involvement to

<p>gain new skills and increased confidence in managing?</p> <ul style="list-style-type: none"> ▪ Support identified to aid families should be realistic in its offer and expectations and always be followed through – this is often the last opportunity for families to make the changes they need and from people who can make it happen! 	<p>ensure families remain supported through this transition</p>
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Public Law Working Group

Recommendations to achieve best practice in the child protection and family justice systems: Supervision orders

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