

Key messages from the Public Law Working Group, Supervision Order Legal Roundtable: 5pm Monday 28th June 2021

Topic	Key messages
<p>Topic 1 Are supervision orders valuable to retain as part of the child welfare/family justice toolkit?</p>	<p><u>Quality of work and good practice</u></p> <ul style="list-style-type: none"> • A useful tool but a supervision order (“SO”) is only as good as the quality of social work and practice behind it • Important that, where designation of a local authority is necessary, the second local authority is involved from an early stage. <p><u>Distinct role</u></p> <ul style="list-style-type: none"> • There is a need for something to sit between ‘no order’ and a care order (“CO”) • Concern about the unintended consequences of no SO, likely to mean more COs at home with an onus then on the parents to bring the case back to court • If the prize we’re looking at is maintaining children and families together, as many tools in the box to support that is a good idea • One local authority participant commented ‘If you end care proceedings and keep a child on a child protection plan that feels punitive. If threshold is still met at the conclusion of proceedings, then a supervision order is not the right plan’. <p><u>Strength(ening)</u></p> <ul style="list-style-type: none"> • Important to retain but also to strengthen • Interest in the idea of a court-directed specific form of supervision support plan as part of the goal of strengthening • One participant asked: ‘Do they really add anything over and above no order and child in need plan?’. The big problem perceived – that they do not feel a SO adds anything and has little value • If the SO was strengthened and able to do something more than it is now, then possibly a valuable tool • One participant: ‘The question is: are supervision orders worth the paper they are written on?’. Their view was no, but that schedule 3 directions really help and impact on their use/value/strength • Another: ‘If the SO is there and backed up by further guidance on what should happen reviews etc., can be much more useful.’ <p><u>Reviews and resources</u></p> <ul style="list-style-type: none"> • Important to make sure the local authority is sufficiently resourced to support the child/family under the SO. One participant commenting: ‘I can see the rationale for SOs but the issue is resource(s)’ • Review mechanism to support use of a SO is important and not just for determining whether an extension is needed. <p><u>Wales</u></p> <ul style="list-style-type: none"> • Care and support plans can provide structure and accountability. Important to consider why SOs are needed when care and support plans can work.

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<p>Topic 2</p>	<p>Minimum standards on proposing, and when making, supervision orders</p> <p>Questions explored in this session:</p> <p>1/ Should care plans providing for supervision orders be developed through co-production/collaboration with families? / Are there examples of this being done well? [we note some examples of this within the parent interviews].</p> <p>1a/ Should they 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?</p> <p>2/ Role, content and process for use of each of the following: recitals; written agreements; supervision support plans. Can these tools have a role in tackling variability in supervision order practice and support?</p>	<p><u>Co-production with families</u></p> <ul style="list-style-type: none">• Endorsement of the idea of bringing parents on board in this way and at that stage• But the plans seen by participants in practice are most typically created by the local authority without input from parents• No one had experience of a family group conference being used towards the end of proceedings to inform the preparation/refinement of a supervision order (support) plan or other documents (such as written agreements)• One LA participant described using the Signs of Safety family networking meeting to look at what the whole family can do to help with a supervision order• FDAC: plans are co-produced. They are much more likely to get parental engagement and buy in from schools, health visitors and nurseries – this is absolutely crucial. How can one argue that there shouldn't be the same expectations for a SO plan as there is for a SG support plan? What could the justification for not co-producing SO plans be? If you're not getting cooperation to the degree to make co-production possible then perhaps SO is not the best plan after all• Learning from care and support plans: Welsh Care and Support Plans provide an example of plans which note areas of disagreements, serve as a continuous assessment and are a living document. There is a duty to assess, prepare the plan and meet the needs identified; it is different therefore to the discretionary child in need plan in England• One private practice solicitor commented: 'A holistic approach is essential. You get a plan the LA has written with little interaction with the parents with their expectations on the parents and not what the LA will do. [Ideally] Would need a multi-disciplinary and holistic approach but comes down to resources.' <p><u>Written agreements and supervision order plans</u></p> <ul style="list-style-type: none">• Common to see a written agreement annexed to the SO• A national template for SO plans would be welcome. Something to provide for the month by month. Examples given: document what therapy the family should be accessing; what the LA obligations are e.g., re. funding and timescales, have clear reviews and monitor progress• Sometimes there is no SO plan at all (at the point proceedings are concluded). The LA and SW are left to get on with it. Often the parents are happy because SO is a good result and so the absence of the detail is not pushed, but if the support isn't there, those are the cases that break down• Participants posed the question - Is the court requirement to develop plan very quickly setting people up to fail (in context of LA not securing the CO it wanted or where agreement is reached at IRH)?• Plans are formulaic• Are there clear expectations as to what should be apparent on the face of a SO support plan? Are courts anxiously scrutinising them? – 'I don't think the courts do in my experience', said one participant and there seemed to be broad consensus that this was indeed the case. <p><u>Comparisons between SGO support plan and SO support plan were drawn</u></p> <ul style="list-style-type: none">• One private practice solicitor reflected on how in their experience there is often a dedicated team in the LA to review a SG plan. If SO is well resourced and there is someone/a team dedicated to SO work/review it may work well. No experience of this however in practice• Absent a clear structure/specific LA oversight, there is a difficulty with the implementation and effectiveness – lack of monitoring or review. 'Quite often it is very much like, as long as there are no noises, their minimum of statutory obligations are being fulfilled, but not with reference to SO plan.'
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<p>Topic 2 cont...</p>	<p>3/ How can the experience of court when supervision orders are being considered/put in place be improved? [see messages from the parent interviews in the briefing]</p>	<p><u>A range of observations made about the nature of SO plans the participants see in practice</u></p> <ul style="list-style-type: none"> • One LA lawyer indicated that often social workers don't really know what should go in the document – a training issue in part. The plan should be about resourcing that family and providing what they actually need • Comments about the lack of information and data about successful SO plans and SOs: 'You only see the ones that don't work, so I don't know [about] the ones that do work' – we have very little data on those and how effectively they are managed • Another LA lawyer commented that: 'If ending a case with a SO, the social worker [should have] a relationship with the family. Recognising what the family has done. We know what they need, but they also say what they feel they need.' <p><u>Variations</u></p> <p>As the discussion unfolded participants noted the geographical variations reflected in the views, comments, and experiences:</p> <ul style="list-style-type: none"> • 'What is being borne out is the differences in regions and that there are no national standards of what is expected' • 'Interesting to see that some areas do not use them at all.'
<p>Topic 3</p>	<p>Working with children and families under supervision orders</p> <p>How should the implementation of supervision orders be reviewed?</p> <p>How can progress under a supervision order best be reviewed?</p>	<p><u>Independent reviewers</u></p> <ul style="list-style-type: none"> • Examples in NW of a model in which Independent Reviewing Officers ("IRO") chair the first review of a supervision order plan • One LA in the NE described that they were just starting to get IROs involved in supervision order cases • Drawing on learning from Care and Support Plans in Wales - why could a review not be equally a living document as is the case with a CSP plan? Updated in real time • Independent reviewing role mooted – similar to a CP Chair or IRO, though the limitations of IRO role noted. <p><u>What should a review process look like – what should it involve on the ground exactly?</u></p> <ul style="list-style-type: none"> • One LA lawyer reflected that sadly their experience of reviews isn't very good. Sometimes a review only comes about a plan 10 months on and sometimes at the stage of needing to think whether to go back to court. Often can't identify any work done that has been done 'that whole time'. Those situations should be avoided. A good idea might be a roundtable meeting • Children's solicitor asking whether reviews should be more directive towards parents e.g. where they must engage with a type of therapy, or ongoing drug testing. If a plan of that sort has been formulated, requiring that of a family, it is quite interventionist, it interferes with family life. There needs therefore to be some ongoing review. Perhaps for the court to be informed of how progressing • Another LA lawyer queried whether, when a SO plan is written, we should be including timescales • Key question being asked – what are the consequences exactly if milestones or objectives are not met? More reviewing of the plan? Return to court? 'It's something to think about, what is going to be the actual consequence?' [LA lawyer].

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<p>Topic 3 Cont...</p>		<p><u>Experiences of advocacy support for families at review meetings where a SO has been made</u></p> <ul style="list-style-type: none"> No one had experience of this being in place 'Generally, no – [parents] come along on their own'. <p><u>How can challenge be brought regarding what is being provided/not provided under the SO plan? What recourse do parents have?</u></p> <ul style="list-style-type: none"> LA lawyer views expressed: 'Sometimes we do find solicitors writing to us saying 'what else is going on here?' But legal aid means once the final order is made, that is the end of it. JR highly unlikely. Going to CAB or surgery of their local MP? Those parents will not be getting the support promised.' Very little redress for parents Another LA lawyer: Something akin to what parents have in PLO would be helpful. Parents can be persuaded to engage better with legal advice. Not a false economy as if it stops cases going back into care proceedings, it is a good idea Private practice perspective: Maybe a need to lobby govt/LAA for a different type of funding for parents in that situation. There is some – but so limited but we do it pro bono. That extends to just a few letters and it is very difficult to hold the LA to account. There should be a checklist before final orders made.
<p>Topic 4</p>	<p>Legal reform</p> <p>1/ Are there any of the proposals from the Strand Two international comparison group that appeal? 2/ For how long should it be possible for SOs to be in place? 3/ Invitation to send through specific suggestions for additions or amendments to Sch. 3 CA 1989 – the suite of conditions and restricts available</p> <p>Request for written views to be submitted following the event</p>	<p>Headlines from Judith Harwin from interviews to help stimulate discussion '[from the parent interviews] the mood was quite gloomy, with a feeling that parents not only were not being listened to but also felt very isolated, misunderstood and their confidence eroded. Being treated that way aggravated the reason why the case went to court in first place. Perceived as quite an impersonal and alienating process. Made it difficult for them to consider that the system working with them in any way. Is there a way that communication could be less impersonal?'</p> <ul style="list-style-type: none"> 'It would be helpful if there was consistency in the way in which the courts applied the use of supervision orders (if at all). I have experienced different outcomes in the London courts depending on the judge who was allocated.' 'Could we go back to starred care plans? Star those elements that need to be implemented? For 'teeth' – need something substantial in the order. Could be put in best practice until we get primary legislation' A named person in a SO plan. Private practice solicitor: 'The court team changes to post-court team so the relationship that has developed, if in a good way, never goes beyond the court case. The consistency that people experience in proceedings often goes away.' <p><u>Reflections on learning from other jurisdictions</u></p> <ul style="list-style-type: none"> One participant was really interested in the idea of imposing terms but noting that it would be quite difficult to bring that in. Interested in how that worked in Ontario. In England/Wales PR is not passed to the state when a SO is made. We have cooperation and negotiation as 'the order of the day' and scheduled conditions require consent. Our CA89 is careful to find balance. Would be wary of reform to bring in conditions. Would want to know there are good reasons, such as research from other jurisdictions. <p>Some attraction in the Welsh model – concentrating on the actual supervision plan; a consensual approach, by negotiation, rather than imposition.</p>

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<p>Topic 5</p>	<p>Achieving change and driving best practice</p> <p>Questions explored</p> <p><i>1/ How should any best practice guidance be packaged/embedded?</i></p> <p><i>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?</i></p>	<ul style="list-style-type: none">• PLWG guidance on SGOs has been fundamental. Noting the idea of extending 26 week timetable for SGO cases. ‘Might there be an option to extend proceedings under SO too?’• View expressed by one private practice solicitor that the government isn’t going to make statutory changes and funding changes deemed to be unlikely so ‘..need to be smart about the facilities we’ve got’• Greater clarity needed on what ‘advise, assist and befriend’ means. Training for SWs. <p><u>What is it that is needed – BPG or a toolkit? Case studies, examples of stronger practice – what do participants think is needed and most useful to their professions and their clients?</u></p> <ul style="list-style-type: none">• Templates are always useful and what is expected is clearer. LA lawyer ‘I and SWs would welcome [templates]’• LA participants keen to share their own template, protocols and guidance• Comments earlier in the discussion that a national template for a SO plan would be welcomed• One LA lawyer suggested that a pilot would be welcome.
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