

Social Work Scotland and SCRA joint protocol on the management of contact arrangements



Introduction

The management of parental contact arrangements for children subject to compulsory measures of supervision can be a challenging issue for Local Authorities and the Children's Hearings system. There are occasions where the best interests of children and the rights of parents and those who have been granted contact can appear to come into conflict.

In these circumstances any amendment to legally determined contact arrangements should be subject to proper legal review by a Children's Hearing or a Court before any change is implemented.

In rare and exceptional circumstances professionals may believe they are duty bound to intervene in contact arrangements prior to those arrangements being the subject of legal review. These circumstances are rare and are likely to involve significant concerns for the welfare of a child as any departure from these legal obligations should be made as a last resort.

This joint protocol, agreed between the Scottish Children's Reporter's Administration and Social Work Scotland sets out clear actions which must be taken when professionals find themselves in circumstances where they believe they must act to intervene in contact arrangements without pre-determined legal sanction.

The actions in the protocol are designed to make sure that such decisions are taken at a senior level in local authorities and that they are subject to timely and robust review at a Children's Hearing. The actions will lead automatically to a formal review of a child's supervision order by a Children's Hearing, including where appropriate a new determination regarding contact arrangements.

This protocol is valid from 1 July 2014. It will be disseminated to all relevant parties including the Courts. It is the expectation of Social Work Scotland and SCRA that it will be implemented by all local authorities and Reporters. SCRA will collate data on implementation and the effectiveness of the protocol will be kept under review and reported to both parties to the protocol and Scottish Ministers.

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1. Purpose

- 1.1 This protocol seeks to reconcile challenges around the management of contact for children, their parents and those who have been granted contact that has been legally determined.
- 1.2 This document recognises the management of contact can be a complex and challenging issue for Local Authorities and the Children's Hearings System.
- 1.3 In this instance, the term 'legally determined' refers to specific decisions of a Children's Hearing and related Court proceedings regarding contact arrangements.

2. The Protocol

- 2.1 Decisions of Children's Hearings and related Court proceedings provide a clear legal duty on the Local Authority which they must comply with.
- 2.2 If, for whatever reason, the Local Authority is unable to comply with their legal obligations there has to be recourse to a Children's Hearing as soon as practicably possible. This is to ensure any restriction of rights are minimised and to protect and safeguard the obligations on those individuals who have been granted contact.
- 2.3 Any departure from such legal obligations should only be made as a last resort resulting from urgent, immediate and significant concerns regarding the welfare of the child.
- 2.4 Such a decision should be proportionate with due regard to the rights of parents, the child and those who have been granted contact, and their right to family life.
- 2.5 This is a significant decision and should therefore be authorised at an appropriate level within the Local Authority, specifically Chief Social Work Officer or designate.
- 2.6 Once this decision has been authorised the Local Authority shall notify SCRA as soon as reasonably practicable, no later than one working day after authorisation.
- 2.7 The Local Authority shall provide SCRA with information supporting the decision to vary the contact arrangements. This information should be sufficient to allow a Children's Hearing to have full consideration of the child's case.
- 2.8 For example, an updated social work report that reflects the reasons why changes to contact were deemed necessary. The intention is to provide sufficient information to the Hearing to allow them to make a substantive decision where possible.
- 2.9 Accompanying this information there should be a request from the Local Authority requesting a review of the child's Compulsory Supervision Order.
- 2.10 SCRA would then arrange a Hearing for the purposes of reviewing the existing Compulsory Supervision Order. This Hearing shall take place no later than two weeks on receipt of the authorisation, but no less than 10 days. This reflects the minimum period allowed within statute to arrange a Hearing.
- 2.11 The Local Authority would give effect to this decision of the Hearing as in all Hearing decisions.