

# Multi-agency Interventions with Poor School Attenders: Education Supervision Orders



Developing effective practice



Jacqui Newvell

NCB promotes the voices, interests and well-being of all children and young people across every aspect of their lives.

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## Introduction

The Education Supervision Order (ESO) first became available following the implementation of the Children Act 1989. Clearly it is not a new provision, but its use across the country is inconsistent.

Data from court services shows a usage pattern that peaked around 1992, followed by a steady decline (Home Office Statistics). Even during this peak, many local authorities did not make use of the provision and consequently the opportunity to build knowledge and expertise was lost. There are many misconceptions concerning ESOs and a significant number of local authorities do not have effective up-to-date policy and guidance documents to support education welfare officers (EWO) in using the provision.

Irregular attendance continues to be an important and worrying issue and there has been a great deal of investment in its reduction. Strategies include using data to more effectively target resources to reduce irregular attendance; preventive measures by schools; and using criminal justice provisions to enforce parental responsibility. ESOs are not a replacement for this activity. They can, however, be another effective tool to complement practice initiatives developed as a result of Every Child Matters (ECM), including the Common Assessment Framework (CAF), lead professional role and Targeted Youth Support (TYS)

The purpose of ESOs is very clearly that of improving school attendance through supporting parents to exercise their parental authority. It differs from criminal justice approaches in recognising that, for some families, a prolonged period of support and guidance is needed if problems are to be resolved. Unlike criminal justice approaches, ESOs are not focused on the adult: as with all Children Act 1989 provisions, the needs of the child or young person are considered paramount.

ESOs can be seen as a softer option – they are after all civil proceedings and do not carry with them the stigma of a criminal record. An ESO places a child or young person under the supervision of the local authority for a prolonged period and empowers the supervising officer to direct parents and children in matters relating to school attendance. ESOs also remove certain rights from parents; they are a powerful intervention and should be used with care.

When the ESO was introduced the principles surrounding it and its place as a multi-agency intervention were clear. However, it may have been ahead of its time. In many local authorities, multi-agency involvement did not materialise and irregular school attendance remained very much an education issue. The implementation of ECM and the emphasis on integrated services provide us with an infrastructure to better support multi-agency work.

This guidance document has been compiled following a year-long action-learning project managed and delivered by the National Children's Bureau (NCB) and funded by the Paul Hamlyn Foundation. Its purpose is to provide information to enable local authorities to either begin or develop the use of ESOs. Wherever possible it incorporates real case studies and considers practice in the context of

the range of integrated working strategies, such as the CAF and lead professional arrangements. The guidance is a mixture of legal, procedural and practice information.

When the Children Act 1989 was implemented it was accompanied by detailed guidance covering all aspects of the legislation. The guidance that specifically addresses ESOs is to be found in Volume 7. Even though this guidance is now out of date, it remains remarkably contemporary. The timescale for completing the updated guidance is unclear and, rather than delay this practice guidance, it was decided to proceed with it. Changes will be made to the electronic version of this document as and when they are confirmed. These changes should not make any significant difference to practice in relation to ESOs. Where appropriate, references to the guidance have been noted and replaced with equivalent arrangements to reflect new local structures. Similarly it is recognised that EWOs may now have alternative titles.

To date there is no research evidence that evaluates the effectiveness of ESOs as a measure to tackle truancy. For a variety of methodological reasons this would be a complex – though not impossible – task. It is hoped that increasing their use would provide an incentive to undertake an evaluation project. (See *Chapter 10, Monitoring, evaluation and quality assurance.*)

The ESO is not an end product and, on its own, imposing it on a child or their parents will not provide a solution to the problem of irregular attendance. The process of making the application, the plans that are put in place and the relationships that practitioners build with children, young people and their families and other service providers are what really matter.

## Acknowledgments

This project would not have been possible without the support of 13 local authorities whose practitioners and managers gave their time and shared their experiences.

The project advisory group brought together expertise from across the statutory and voluntary sector.

Thanks to Joe Wilson (formerly Kirklees MBC), Julie Weddell (Essex County Council), Jane Birkinshaw (Solicitors in Local Government), and Emma Sawyer and Di Hart at NCB for their contribution to the action learning days, and to Stephen Mason (National Association of Social Workers in Education) for chairing the project seminar. A list of all the local authorities and organisations involved in the project can be found in *Appendix 4*.

Thanks too to the Paul Hamlyn Foundation for their generous support for the project.

## Chapter 1: The legislation

Prior to the Children Act 1989 the law recognised that some children and young people were beyond their parents' control. Provisions under the Children and Young Persons Act 1969 gave the education authority powers to apply for a care or supervision order. There were two grounds to be met: first that the child or young person's school attendance was not satisfactory and, second, that the child or young person was beyond parental control.

If an order was made, the responsibility for that order was transferred to social care, thus removing responsibility from the very agency that initiated the action and, in all likelihood, had a great deal more knowledge and experience of dealing with irregular attendance. This provision was controversial in that it is questionable whether irregular attendance should be a matter for the care system. In many cases children and young people subject to care orders because of irregular attendance were, where there were no other significant risk factors, simply sent home.

Section 36 of the Children Act 1989 repealed this section of the 1969 Act and replaced it with the ESO, placing the responsibility for the order with the education department of the local authority. It also incorporated a duty for local authority departments to work together (Part 3 27–(1) (2) (3) Children Act 1989). Provisions made in the Children Act 2004 have significantly strengthened this by legislating for the formation of integrated children's services.

The Children Act 1989 also repealed the provision for magistrates in the adult court to direct the local authority to the juvenile court upon the conviction of parents for failing to ensure attendance. It replaced this provision – then under the 1944 Education Act – and it was subsequently updated by the 1996 Education Act Section 447, which states that:

Before instituting proceedings for an offence, of failing to comply with a School Attendance Order (SAO) or failing to ensure that their child attends school regularly under section 443 or 444 respectively, a local education authority shall consider whether it would be appropriate (instead of or as well as instituting proceedings) to apply for an education supervision order with respect to the child.

Where a person has been convicted of an offence under section 443 or 444 the court:

may direct the local education authority instituting the proceedings to apply for an education supervision order with respect to the child unless the authority, having consulted the appropriate local authority, decide that the child's welfare will be satisfactorily safeguarded even though no education supervision order is made.

If the magistrates direct the local authority to consider an ESO, this does not mean that you *must* make an application. However, if you decide not to make an application, the court must be informed within eight weeks, in writing, of the reasons for not making an application.

## The grounds for an ESO

The grounds for making an ESO are: that the child or young person is not being properly educated either through regular attendance at school or subject to a school attendance order (SAO) which has not been complied with. A child is being properly educated only if he is receiving efficient full-time education suitable to his age, ability and aptitude and any special educational needs he may have. In relation to SAO proceedings, a parent may be prosecuted for non-compliance with an SAO. However, if the parent continues to resist taking steps to enrol the child or young person at school or to provide evidence that the child or young person is being properly educated (perhaps by refusing access to local inspection and advisory services), the SAO process has to begin again before another prosecution can take place. This can be frustrating and time consuming and, in some cases where there are concerns about the child or young person's welfare, an ESO may be a useful option. Even if a child or young person is made the subject of an ESO, it does not mean that parents cannot exercise their right to home educate, but that right is no longer paramount. Once an ESO is made, the SAO no longer applies and parents and the child or young person will be required to follow the supervising officer's directions (Part 3 13–(a) (i) & (ii)). (See also *Chapter 8, Using directions.*)

## Who is a parent?

Although the Children Act 1989 clearly defines who is considered to have parental responsibility, for the purposes of an ESO and other provisions regarding the enforcement of school attendance, this is broadened to include – in addition to those defined by the Children Act 1989 – any person who, although not a natural parent, has care of a child or young person (Children Act 1989 Paragraph 21 Schedule 3).

Whilst a local authority may, as a matter of policy, bring a prosecution against an absent parent, there is no legal duty to do so. With any application to the family court *all those with parental responsibility* must be consulted and are respondents in the case. An ESO may not be sought for a child or young person who is in the care of the local authority.

## Removal of parental rights

Once a child or young person becomes subject to an ESO and while the order is in force, parents will lose certain rights. These are the right of parents to have their children educated in accordance with their wishes and the right of appeal against admissions decisions (Part 3 Paragraph 13 (20) (b) (ii) & (iii)).

In practice this means that whilst parents, children and young people have the right to be consulted and their wishes and feelings taken into account on matters such as elective home education or changing schools, the supervising officer makes the final decision.

## Who can make an application for an ESO?

An ESO may not be sought where a child or young person is already under a care order to the local authority. It is, however, possible for an ESO to run alongside a supervision order to social care or a criminal supervision order, although it will be necessary to be very clear about the different roles and responsibilities.

An application can be made either by the local authority in which the child or young person lives or, where different, the local authority in which the child or young person is enrolled at school – as long as both local authorities agree.

Whilst there may sometimes be good reasons for the ESO to be initiated and supervised by the local authority where the child or young person's school is situated, consideration should be given as to how practical this course of action is. For example, the requirement to consult with the local social care department may not be as simple when working with another authority. Similarly, other services may not be coterminous with the child or young person's school, making the management of the ESO and the implementation of a plan more difficult, although not impossible.

With good inter-authority communication, there is no reason why an ESO cannot be delivered in partnership with officers based in the child or young person's school. This may be particularly appropriate where there are a number of school-based issues or where the child or young person has a good relationship with staff at school. Local authorities that have considerable inter-authority pupil traffic will already have forums and cross-borough mechanisms in place through which these considerations could be discussed and agreements reached.

## Who can be the supervising officer?

Existing guidance leaves it to the discretion of the Director of Education, now Director of Children's Services (DCS), to direct who can be a supervising officer. Although traditionally it has been the EWO who applied for and supervised ESOs, this need not be the case. Indeed, with moves towards integrated working, it may be useful to have a discussion on how this work is delivered to reach a new local agreement. For example, there is no reason why a Connexions personal advisor (PA) or a learning mentor should not undertake this role, but attention would need to be given to training needs and the supervision of casework. (See *Chapter 3, Getting the EWS house in order.*)

Generally the EWO applying for the ESO will take responsibility. However, it may be that another EWO is better suited to working with the child, young person and/or family, or that considerations of race, language, religion, etc. make it more appropriate for another officer to supervise. Whatever arrangements are made, it is important for the supervising officer to remain consistent and for all those involved to be mindful that making changes should be in the interest of the child or young person. When an ESO is made, the local authority is required to provide the court with a named supervising officer. If the named supervising officer changes, there is a duty to inform the court of this change in writing.

Just as it is important that practitioners have the appropriate knowledge and skills to implement ESOs, it is equally important for managers and casework supervisors to have the necessary knowledge and skills to offer appropriate levels of challenge towards the practitioner's assessment, proposed intervention etc. In many respects – leaving the technical aspects to one side – the casework involved in delivering an ESO should be based on the same skills that would be required for any intervention.

### **What if the supervised child moves to another local authority?**

If a family moves to another area during the currency of an ESO, the local education authority designated by the order should notify the receiving authority. Together with that authority they should consider whether to apply to the court for the original order to be discharged and for a new order to be made in favour of the receiving authority. This will usually be appropriate, unless the child remains at the same school in the original authority.

## Chapter 2: Supporting structures

Whilst the problem of irregular attendance has historically been the province of the education system, its complex causality means that a multi-agency response is often required, especially where persistent poor attendance is a symptom of other problems for the child or young person, within the family, the community or at school.

To keep things in perspective, we should remind ourselves that most children and young people attend school most of the time and that it is a small minority of children and young people who are cause for concern. It is important to try and gain some perspective on the issue locally. Realistically, how many cases are likely to require an ESO and, of those, how many may require intervention by social care because of breached ESOs? In one large county authority who are regular users of ESOs, of 621 warning letters sent out in one year, 214 resulted in legal meetings, out of which 122 parents were prosecuted (involving 100 children or young people) and 23 ESOs were made. There is no data currently available on the proportion of ESOs that have been or are likely to be breached by the child or young person and that will require intervention by social care. It is very unlikely that this involves large numbers of children or young people or that this will place a significant additional demand on resources.

Research tells us that most young people admit to having played truant at some point during their school life. For many this is opportunist and is easily resolved by preventive measures or by early intervention. For some young people, though, absence from school is enduring and persistent and runs alongside other risk factors, and the combined impact on their future opportunities is considerable. The vast amount of literature on social exclusion reiterates the vital importance of educational attainment on future life chances.

Pupils with persistent absence are often those unlikely to attain well at school and to stay on in education after 16. They are also significantly more likely to engage in anti-social behaviour and youth crime and are more at risk of suffering other negative outcomes (including teenage pregnancy and drug and alcohol abuse). It follows that, by focusing on this high-risk group, local authorities put themselves in a strong position to make progress against the range of outcomes for children and young people for which they are accountable. This is an area where the school standards agenda and the Every Child Matters agenda reinforce each other very strongly.

(Extract from letter from Kevin Brennan, Parliamentary Under-Secretary for Children, Young People and Families, to all directors of children's services, August 2007)

Clearly the issue of irregular attendance has moved beyond being an issue that just concerns the education service and has become one that concerns everyone within a local authority.

## **Irregular attendance: making it everyone's responsibility**

Whilst the success of an ESO will depend on a range of things, notably the skills of the supervising officer, to maximise the chances of success there should be robust local protocols in place that are understood and agreed at a strategic level. During the ESO project it became clear that some practitioners were encountering difficulties with colleagues over thresholds and responsibilities; this could be avoided if there is authority-wide ownership of the issues and the solutions. The implementation of ECM and the move towards integrated working now makes this not just easier – but necessary – to achieve. Integrated working arrangements present huge opportunities to integrate what have been traditionally education responses into the provisions made available as a result of ECM.

ESOs should not be used as a tool to arm-twist other services into providing resources. With good local protocols in place and a mutual understanding of thresholds this should not be necessary, as these may reduce the need for ESOs to be made. The CAF may be the starting point for the initial engagement of other agencies.

## **Consultation with other agencies**

### ***Social care***

There is a legal requirement to consult with the social care committee of the local authority on the intention to apply for an ESO. This consultation is usually delegated to officers in the social care department. Under new arrangements this would involve consulting with children's social care, and possibly adult, services. Because the legislation and guidance are dated, this is unclear – but in the light of government initiatives to link up children's and adult services, it would seem appropriate to consult with both, particularly where unmet parental needs are impacting on a child or young person's school attendance (perhaps as a result of them becoming a young carer) (*Think Family: Improving the life chances of families at risk*, Cabinet Office Social Exclusion Task Force, January 2008). Whilst the existing legal requirement is quite specific, in the current context it may be more useful to consult within a wider children's services department and, where appropriate, with external agencies. Many local authorities have education planning meetings that take the form of a case conference to which parents and children or young people may be invited. Whatever arrangements are made locally, you will need to produce documentary evidence to show that social care have been consulted.

An issue that arose repeatedly during the project was that of disagreements over children in need and child protection thresholds. There should be clarity at local level on this and a system in place for a professional discussion at a senior level. Practitioners found this particularly frustrating and undermining, and felt that quite often the child or young person's needs tended to be forgotten. It is important to bear in mind that even though a child or young person has needs that may not fall under the remit of the education service, their education needs are likely to remain and it is therefore important that the specific issues around attendance continue to be addressed. In many cases this will mean joint working rather than transferring all responsibility to another service. (For example, see the case study

in *Appendix 1* on 'Curtis', a young person who was on the child protection register when an ESO was made.) As with any application to the family court, the bench might decide to make another order. Upon application for an ESO it is rare – but not unheard of – for the court to decide that there is a sufficient level of concern to warrant a care order. It is also quite possible that the court may direct other agencies, such as social care or schools, to provide reports. With good local protocols in place, this should be anticipated.

The issue of children in need and child protection thresholds is a complex one. In the context of the ECM five outcomes, persistent poor school attendance may well impact adversely on a child or young person's outcomes. This does not, however, automatically indicate that there is a child protection concern or that action by social care is likely to be appropriate. However, it may indicate a level of risk or a safeguarding issue that requires additional support.

It is important that social care practitioners and managers are aware of their duties and responsibilities in relation to ESOs.

### ***The role of the school***

Guidance relating to the Children Act 1989 places a very clear expectation that schools will be central to the intervention plan. Whilst the relationship between schools and the local authority may have changed since the guidance was written, this expectation should be fully transferable to current school duties in relation to improving school attendance, and safeguarding and promoting the welfare of children and young people.

Where there are specific issues at school, it is good practice for the school to submit a report along with the ESO application. A headteacher may, in any case, be directed by the court to provide a report on the child. The duties in respect of ESOs should not present any greater challenge than that of parenting contracts or pastoral support plans. It may also be useful for local authorities to prepare some information for schools, setting out their responsibilities and demonstrating how ESOs could be a valuable tool in supporting their efforts to improve the attendance of persistent truants.

The way in which schools can contribute to an intervention plan will vary, but this could include such things as:

- meeting with parents to discuss concerns and review progress (the supervising officer could support this by using directions if this has been problematic)
- providing a period of in-school support for the child or young person to address identified difficulties (this could be provided by a learning mentor or it may be appropriate to begin action under SEN, anger management or in-school counselling)
- implementing a reintegration plan or reduced timetable with the supervising officer
- providing extended schools services.

### ***Working with youth offending services (YOS)***

There will be occasions when young people are known to the YOS and may be subject to a criminal supervision order (CSO). Although there is provision to include education in a CSO, many YOS workers are reluctant to do this for very good reasons. First, the direction is a very easy one to breach and, secondly, breaches under criminal supervision orders will very quickly move a young person up the tariff of sanctions and potentially into custody.

School attendance may be a concern to a YOS; however, it is quite possible to have both a criminal and an ESO running concurrently. With good communication and joint working this could be mutually beneficial. If an ESO is made it will invalidate any education requirements made under the CSO. The only provision is that, if any conflicting direction is given, the CSO would take precedence. For example, if the young person had a requirement to attend a meeting with their YOS after school, there could not be a direction requiring the young person to attend an after-school homework session. (See the case study in *Appendix 1* on 'Curtis'. It describes how the young person was already subject to a CSO when the ESO was made and both supervising officers worked together thus enabling each to focus on different issues.)

Some practitioners have also reported successful collaboration with young people subject to Anti-social Behaviour Orders (ASBOs) and Acceptable Behaviour Contracts (ABCs). Because ESOs predate ASBOs and ABCs by many years, their relationship is not defined in guidance, but this should not get in the way of effective collaboration and some imaginative practice.

### ***Connexions and youth services***

Connexions and/or advice and guidance services may be an important resource if you are working with young people who are approaching the end of both statutory schooling and their ESOs. Although Connexions make efforts to offer services to every young person, it is not compulsory for young people to take up these offers. If there is a good reason to believe that the young person would benefit from input by Connexions services, it may be appropriate to involve Connexions in the intervention plan and, if necessary and appropriate, to direct a young person to meet with an advisor. Similarly youth workers cannot direct a young person to use their services, but they may be able to support the work being done by providing opportunities for the young person to engage in constructive leisure activities. They may also be better placed to take on some direct work, as they are likely to have specific skills in communicating and engaging with young people.

### ***Working with health services***

The Children Act 1989 guidance includes provision for a child or young person to be directed to attend medical appointments or examinations. This could also cover directing parents to present a child or young person for such an examination. Practitioners are perhaps more likely to be working in partnership with or liaising with mental health services, such as child and adolescent mental health services (CAMHS); the Child and Family Consultation Service (CFCS); or possibly adult services where there is an issue of parental mental ill-health.

There is nothing that precludes directing a child or young person to attend such appointments. However, in order to encourage them to accept support from mental health services, care should be taken to discuss this fully with the health practitioner and to take into consideration the age and understanding of the child or young person. Consent for medical treatment may be given or denied by a child or young person deemed to be competent to make that decision, so chronological age is not the defining factor. It is also important to be aware that coercion may not always be the most productive way of going about improving attendance and may not be an acceptable basis on which a health practitioner will undertake work with a patient. (See *Appendix 1* for case studies on 'Peter', 'Faye' and 'Stephen', where all the young people's intervention plans included psychiatric services and so it was necessary for the supervising officer to work closely with those professionals. Fortunately it was not necessary to use directions, although the presence of the ESO was undoubtedly a factor in Peter's engagement.)

### ***The voluntary and community sector***

The implementation of ECM has emphasised the need to work with voluntary and community service providers. Many local authorities will have, or are compiling, directories of local services so it is important to consider what may be available and could support work with a young person or family. (See the 'Curtis' case study in *Appendix 1*, where an important focus of the work with the family was to improve Curtis's relationship with his mother. This work was undertaken by a voluntary sector provider as part of the intervention plan.)

## **Local agreements and protocols**

A local protocol should involve a range of local authority services, including children and adult social care, Connexions, youth offending services and, if possible, those directly concerned with providing services to children and young people, including health and schools.

The protocol should address the following:

- a mechanism for consultation via a named officer in each service
- agreement on how children's services will respond and what is the most appropriate method for consultation (e.g. written notification, a case conference/planning meeting, a formal referral for additional services)
- agreement on how children's services will respond to a persistent failure to comply with directions by a parent, child or young person, or an application to discharge
- agreement on resolving children in need or child protection threshold issues (e.g. management discussion, case conference, or multi-agency panel).

These agreements may not necessarily be simple and straightforward. For example, where a child or young person is not known to social care and there are no identified unmet needs, it may be sufficient to undertake a basic level of consultation. A need for a planning meeting may be indicated, however, if the child or young person or members of the family are known to other services, in the past or currently, or where there are identified unmet needs (possibly following

a CAF). Therefore when resources are stretched, it is important for there to be agreed criteria rather than a time-consuming and possibly inappropriate meeting to be held in every case.

The following publication, although concerned with alcohol and mental health services, is a useful guidance document for developing any inter-agency protocol: *Families that have Alcohol and Mental Health Problems: A template for partnership working* (SCIEm 2003). Available in print and online at [www.scie.org.uk](http://www.scie.org.uk)

## Chapter 3: Getting the Education Welfare Service (EWS) house in order

At the start of the ESO project a survey of local authorities revealed that many had no policy or guidance on ESOs in place. Others had guidance that they knew to be significantly out-of-date. Practitioners from authorities with no supporting structures in place, who were involved in the project, face a huge task in trying to do the work. As with the implementation of any provision, it is important to support practitioners by having a clear local policy on thresholds, indicators for the use of legal measures and local guidance to support them. The following is a checklist of what needs to be in place to support practitioners.

- A clear children's services protocol for consultation and accessing resources. (See *Local agreements and protocols*, page 13.)
- A clearly defined agreement with legal services and access to advisors who have the necessary skills and knowledge to undertake work in the family proceedings court. (This should include details on who will be named as the applicant, who takes responsibility for completing documents, etc.) (See section below on *Legal advisors*.)
- A budget to fund applications. Lack of access to funding should not be a barrier to making use of ESOs.
- Access to documentation and standard letters relating to the application process. (See *Appendix 2* for a checklist of standard letters.)
- A local policy and guidance document that sets out local arrangements for assessment and decision-making and guides the practitioner through the process of making an application.
- Arrangements to provide an appropriate level of training to practitioners and casework managers. (See section below on *Training and skills*.)

### Training and skills

When the Children Act 1989 was implemented, the accompanying guidance recognised that the supervising officers would require particular skills and qualities. It placed a duty on local authorities to ensure that relevant staff were appropriately trained and supervised to undertake this work. However, apart from some technical knowledge relating to the legislation and documentation, in many cases the use of ESOs does not demand skills that are not already present (or should be) among practitioners. The way that individual local authorities meet this duty will vary. Whilst the guidance mentions a professional social work qualification as a possible benchmark, it does not stipulate this. It is important to establish at local level what is considered to be an appropriate level of training and experience.

The national vocational qualification (NVQ) Learning Development and Support Services (LDSS) level 4 specifically covers managing orders. This is incorporated into Unit 8 of the qualification, which deals with initiating all legal procedures and is mandatory for EWOs in order to gain the full qualification. This may be one way of establishing occupational competence. Other units within the qualification

adequately cover the skills and knowledge required for working with families and other agencies.

The full catalogue of units is available to view from the DCSF website at [www.dcsf.gov.uk/childrenandfamilies](http://www.dcsf.gov.uk/childrenandfamilies). A CD-ROM is also available. For DCSF publications, telephone 0845 60 222 60 or email [dcsf@prolog.uk.com](mailto:dcsf@prolog.uk.com) quoting reference number NOS/CD/Jan04.

## Resources

Resources are often highlighted as a barrier to using ESOs, both in terms of the cost of making an application and the officer time needed to supervise the order. No court activity, indeed no casework activity, is without cost at some stage and budget provision should be made for a level of activity in the family court. As it is, after all, a duty to consider in every case whether or not an ESO is more appropriate, it is unlikely that within a local area an ESO will never be appropriate, and a lack of funding is not an acceptable reason for not pursuing an application. Time is another issue, but the ESO is a bespoke casework package. *The level of contact with a family is not determined by the court*, but by the content of the intervention plan which will reflect the needs of the child or young person and their family. Neither the Children Act 1989 nor the guidance specify the level of contact that is required. It is also likely that this will vary according to the stage the order has reached and whether or not plans are progressing well. It may be necessary to meet with a family more regularly at the start of an ESO, for example, whilst there is a process of reintegration to school or the coordination of additional support. There is no reason why this level of contact should be maintained throughout the life of an order. It is likely that the level of contact over a period of time will not exceed that of any other complex case. Because contact is determined by a well-defined and purposeful plan, it may actually result in less contact that is of a higher quality and therefore a more effective and a more efficient use of resources.

## Legal advisors

It is very useful to have the legal advisor involved at the earliest stage and arrangements for working with them should be agreed at local level. The more closely you work with legal advisors, the better everyone becomes at using ESOs.

During the ESO project it became clear that many practitioners were not being given the advice and guidance they needed. One factor that may be contributing to this is that EWOs generally deal with litigation teams when they are prosecuting parents. Even though legal advisors may have expertise in this area of the law, legal advisors with specific knowledge of children and family law will often be in another team. Because of the obvious connection between prosecutions and ESO applications (criminal and child care law), it is important that legal advisors have an appropriate knowledge of both. This may be achieved through ensuring that legal advisors dealing with education cases have expertise in both areas, and that there are systems in place for collaboration. It also became apparent that just as many EWOs have little or no experience of ESOs, and unless there is regular local activity many legal advisors will be inexperienced too.

The Children Act 1989 *Guidance and Regulations*, Volume 1 (2008) has been updated and is available to order or download from [www.justice.gov.uk/guidance/careproceedings.htm](http://www.justice.gov.uk/guidance/careproceedings.htm)

This guidance is concerned with care and supervision orders and does not specifically cover ESOs (which are found in Volume 7). However, it does have a useful section concerning the way in which public law cases are managed ('The Public Law Outline – Guide to case management' in *Public Law Annex 2*).

## The family proceedings court

The DCSF guidance on the legal measures that are available to ensure regular attendance at a school, entitled *Ensuring Children's Right to Education*, promotes the practice of making local links with magistrates through court users' meetings. Similarly, particularly if the authority is just introducing this work, making contact with clerks in the family court will be useful and promote a clearer understanding of how the court works and what is required. This document can be downloaded from [www.dfes.gov.uk/schoolattendance/press/newsdetails.cfm?id=75](http://www.dfes.gov.uk/schoolattendance/press/newsdetails.cfm?id=75) or ordered on 0845 6022260, ref: 00529-2000BKT-EN.

The ESO project revealed that magistrates had different ideas about the format and length of reports, for example, some prefer a chronology, others ask for very brief reports, especially where the ESO is unlikely to be contested. This may not be familiar if the authority or authorities that use a particular family court have not made many or any applications. All magistrates sitting in the family court will have received training about the Children Act. If your neighbouring authorities are using ESOs and are familiar with your local area family proceedings court, it may be worth making contact with them to find out what is expected.

The family court sits in private so access is only allowed if you are directly connected to the case. However, with the permission of the court, it may be possible to observe. This may be something that can be raised with the local court.

## Chapter 4: Assessment and decision-making

In cases where school attendance is a presenting problem, the EWO is faced with a range of interventions that may culminate in action against parents in the criminal court and/or civil proceedings in the family court or an application for an ESO. It is also procedurally possible to take action in both courts simultaneously, or for action in the magistrates court to result in a direction for the local authority to consider an application for an ESO.

Unfortunately, there are no hard-and-fast legal thresholds for deciding which route may be more appropriate and neither the legislation nor government guidance is helpful on this. It is important, therefore, that the local authority has a policy and guidance document in place that reflects their position on this and contributes to a consistent approach.

It is a legal requirement for an ESO to be considered prior to a prosecution in the magistrates court, as stated in S447 Education Act 1996. (See also DCSF guidance *Ensuring Children's Right to Education*.) It is important that this duty is properly complied with. The practice of simply adding a standard phrase to every witness statement is not satisfactory and may be open to challenge. One local authority recently lost a prosecution case because the parent's solicitor had asked for evidence of that consideration. Whilst the local authority may well have considered an ESO, they were unable to provide any evidence to support that.

In any local authority that is regularly involved in using enforcement measures, it is questionable that no cases would ever warrant an application for an ESO and this may be a trigger to reassess local policies and review decision-making processes.

Those local authorities who use the full range of statutory interventions tend to have in place effective policy and guidance documents that integrate decision-making and provide a proper record of how decisions were made. For example, in Cumbria and Essex, practitioners are required to submit cases for legal action using a form that requires them to detail why they believe the course of action they are proposing is the most appropriate and what they intend the outcome to be. This serves a number of purposes: it sharpens reflection and decision-making at both casework and casework supervision level; it provides documentary evidence of the decision-making process; and it provides data for quality assurance purposes. (See Essex decision-making/supervision checklist in *Appendix 3*.) In Wakefield, complex cases that require consideration for an ESO can be scheduled at regular multi-agency meetings that include a legal advisor. These meetings provide a record of the decision-making process and, by involving legal services at an early stage, support the practitioner in preparing the case as well as providing an appropriate forum for raising concerns about thresholds, which can then be addressed prior to or instead of involvement by the court. In the majority of cases these meetings result in an action plan that is successful in returning the child or young person to regular school attendance. When this is not the case, due consideration is given to an ESO or, in some cases, parental prosecution.

## What factors might suggest an ESO is a more appropriate option?

The Welfare Checklist (below) is a good starting point, in particular (b) (e) and (f), which relate to a child's (educational) development being impaired, any harm he or she has suffered or is at risk of suffering, and the ability of parents or carers to support the child. When magistrates are considering an ESO (or any other order), they are required to consider the Checklist and refer to it when making a decision. When an ESO is made, the magistrates will consider the case and write down the reasons for their decisions. In doing so, they will address the Welfare Checklist. When the decision to grant or refuse the application is announced, the reasons are then read to all parties. It makes sense, therefore, to consider your decision in this context. The Welfare Checklist is designed to cover the breadth of child care law and some aspects of it will appear less relevant in some cases.

### The Welfare Checklist: Section 1 (3) Children Act 1989

When a court determines any question with respect to the upbringing of a child, the child's welfare shall be the court's paramount consideration.

In any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child.

In the circumstances mentioned in subsection (4), a court shall have regard in particular to:

- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
- (b) his physical, emotional and educational needs;
- (c) the likely effect on him of any change in his circumstances;
- (d) his age, sex, background and any characteristics of his which the court considers relevant;
- (e) any harm which he has suffered or is at risk of suffering;
- (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
- (g) the range of powers available to the court under this Act in the proceedings in question.

'The No Order Principle'

Where a court is considering whether or not to make one or more orders under this Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all.

### The 'No Order Principle'

Unlike action in the criminal court, where the objective is to make a judgement of guilt or otherwise, the Children Act 1989 requires magistrates to consider whether making an order will be better for the child than not making one. This means that the application will need to show clearly that the grounds for an ESO are met and the plans must demonstrate a purposeful intervention. If it is unlikely to be

effective, the application may not meet the 'No Order Principle', nor will it if there is good reason to suggest that the intervention could be delivered without an ESO. This does not mean that the applicant has to demonstrate beyond doubt that the ESO will be effective – this is not possible. It also doesn't mean that you must have tried absolutely everything before making the application. It is often thought that where you have parental cooperation for the application, the ESO is not necessary and does not meet the 'No Order Principle'. It is important to think about how this cooperation manifests itself and whether or not it is sustainable. (See in *Appendix 1* the 'Curtis' case study where, despite parental agreement with the application, it was still necessary to issue directions during the life of the ESO. See also the 'Peter' case study where it is not disputed that 'Peter's' parents have a legal responsibility to ensure that he attends school. However, both parents have considerable difficulties of their own and it is Peter, approaching the final year of his education, who has refused to engage with the support he has been offered. The EWO believed that he was very vulnerable because of his own mental health and substance misuse issues and that, without a period of supervision, he would not complete his education. Peter was not getting along well with his parents and it was felt that they would not be capable of providing the support he needed.)

For some parents, the reality is that – without additional support and guidance – they will be unable to meet their responsibilities. It is also the case that some parents may have parental authority in many other matters related to their child's upbringing, but are nonetheless unable to persuade their child to attend school, particularly their older children. Although, legally, parental responsibility is absolute in terms of school attendance, young people do have agency and may often make decisions for themselves that might not comply with parental wishes. They also have a right to receive advice and support for themselves. It is no coincidence that the vast majority of prosecutions against parents take place in Years 9, 10 and 11 (Kinder and others, 2004, *Prosecuting Parents for Non-attendance at School: Effects and effectiveness*. NFER). It may also be the case that school attendance is just one of a number of issues for the child or young person and family and a range of services may need to be in place.

The Children Act guidance on ESOs suggests:

An education supervision order could help where parents find it difficult to exercise a proper influence over their child, and where the child has developed a pattern of poor attendance. It would give the backing of the court to the supervising officer and could compliment the efforts of the supervising officer to resolve the child's problems by working with the parents to bring them to accept their statutory education responsibilities.

(The Children Act 1989 *Guidance and Regulations*, Volume 7.)

This may be where:

- the parents are unable to exercise an appropriate level of authority despite their best efforts and need ongoing support because of their own needs (parental physical and/or mental ill health, drug and alcohol misuse)
- the child is not beyond parental control on a range of other issues, but refuses to attend school despite the parents' best efforts

- parents can exercise authority if they choose, but need constant direction if they are to sustain this (indicated by serial file closures and re-openings, short-lived responses to other action such as threats or actual prosecution and/or the issue of a penalty notice)
- parents are not able to sustain appropriate parental boundaries and the young person is engaging in risk-taking behaviour, thus child protection thresholds are not met and, as a result, the child or young person would benefit from consistent adult supervision.

While the indicators above may suggest an ESO, they do not preclude prosecution. Local authorities should establish their own criteria, which should be clearly stated in their policy on enforcement.

If the aim is to return the child or young person to satisfactory school attendance, it is worth asking what would be achieved by the action that will be taken. If it is believed that in the long term a parental prosecution is unlikely to be effective, what else might be needed to secure that child or young person's education? It may be appropriate to use both provisions: prosecuting parents in the magistrates court *and* applying for an ESO to reinforce parental responsibility and provide a sustained level of support so that the child or young person's needs can be met. Irregular attendance is not always a simple issue to assess and rarely has a single cause. The causes are usually multiple and often dynamically interactive, being both a cause and a symptom of other problems and risk factors. If causes are varied, then it makes sense that any responses will need to tackle more than one area of need if they are to be effective. It is also necessary to be pragmatic about the things that you can and cannot influence and – importantly – to maintain a focus on school attendance.

## Needs led assessment

The introduction of the CAF as part of the ECM rollout is predicated on a needs and outcomes framework and will provide a valuable first step in the assessment. Because the CAF is designed as a front-end assessment, it may not be detailed enough to fully reflect school attendance and other education-related issues, but it is nonetheless a very useful starting point. A good assessment, supported by an inter-agency response, may remove the need for an ESO. This is a positive outcome and one which both the CAF and the ESO process are designed to achieve.

The CAF is intended to be used consensually with families, whereas if a child is not attending school regularly the issue of consent is less relevant as the local authority has powers and a duty to act (just as they do with child protection issues). Parents' refusal to consent to local authority involvement will not mean that concerns will not be investigated. Parents can refuse to work with the EWS or fail to cooperate, but this will not protect them from enforcement action. Regarding the CAF, the issue of consent is related to information sharing. So whilst there may not be permission to share data under local CAF protocols, this does not mean that an assessment and action cannot be taken in relation to the child's poor attendance. The CAF is not an intervention (neither is an ESO) in itself, but simply a framework around which to conduct an assessment. For more

information go to: [www.everychildmatters.gov.uk/resources-and-practice/IG00063/](http://www.everychildmatters.gov.uk/resources-and-practice/IG00063/)

As part of the application process it will be necessary to demonstrate that the causes of poor attendance have been assessed and that, should the ESO be made, there is an intervention plan. If there is a good assessment of need, the intervention plan should flow naturally from this and the chances of a successful outcome will be improved. Assessments are most likely to be helpful if they are needs and outcomes focused.

A good assessment of need will also help to decide what other, if any, support services are needed. A good referral is usually one that sets out clearly the need for resources, and what the agency the case has been referred to is required to do in order to meet those needs.

For more information on developing assessment skills, the following sources may be useful.

*For less experienced practitioners:*

Assessment and tools to use: FPI briefing

The art of making good referrals: FPI briefing

See [www.familyandparenting.org/practitioner](http://www.familyandparenting.org/practitioner)

*For more experienced practitioners:*

Assessing the needs of children and their families: Research in Practice briefing

See <http://rip.org.uk/publication/documents/QPB/QPB15.PDF>

Dalzell, R and Sawyer, E (2007) *Putting Analysis into Assessment: Undertaking assessments of need*. London: NCB. For details on how to order visit [www.ncb.org.uk/books](http://www.ncb.org.uk/books)

## Chapter 5: Making the ESO application

### Pre-application

#### ***Consultation, consent and cooperation***

There are different elements to the issue of consultation. It is a legal requirement that you consult the local social care department if you are making an application for an ESO. The depth and quality of this consultation may vary, with the minimum being a written document notifying social care of an intention to make an application. Although this will meet the legal requirement, effective consultation requires more effort and should be supported by inter-agency protocols. Remember that you are not seeking permission – there is no right of veto by another part of the local authority – but good local protocols should make this unnecessary. (See *Chapter 1*.)

Some local authorities use a formal multi-agency meeting as part of the consultation and assessment process. Whatever systems are used, it will be necessary to provide evidence that the requirement to consult has been met. This usually takes the form of a standard letter.

Prior to making the application you must inform the family of your intention to make an application. (See *Appendix 2*.) Consulting with parents and children or young people is an important part of the application process and at all stages information should be sought from and shared with both parents and, depending on their level of understanding, the child or young person. It may be necessary to consider carefully how best to do this and to take a creative approach.

The ascertainable wishes and feelings of the child or young person are an important element in the report and you should take care to properly seek and record those wishes and feelings and ensure that they are reflected and given appropriate weight in the report. This may mean preparing for and arranging an interview with the child or young person specifically to discuss this. You must consider how best to communicate with the child or young person by taking into account not just their chronological age, but also their stage of development.

Cafcass (Child and Family Court Advisory Service) have produced a practice model; however, the context for their work is generally in care or private law proceedings (divorce and residence disputes). Nevertheless, the overarching principles are transferable and could be usefully adapted for use with ESO applications. The *My Needs, Wishes and Feelings Pack* contains guidance for practitioners and a series of forms which help to structure the information. This can be viewed or downloaded from:

[www.cafcass.gov.uk/publications/my\\_needs\\_wishes\\_and\\_feelings.aspx](http://www.cafcass.gov.uk/publications/my_needs_wishes_and_feelings.aspx)

An application for an ESO is not meant to be adversarial. The object is not to threaten parents and children or young people with a punitive action, it is to inform them of your intention, telling them why it is thought necessary and informing them of their rights in relation to this. The issue of parental consent is sometimes

misunderstood. The guidance tells us that the ESO is more likely to be successful if everyone is in agreement – well, of course it is! Neither the Children Act 1989 nor the guidance tells us that parental agreement is a requirement. If everyone is likely to agree, why have an order that empowers the local authority to make directions enforceable by criminal proceedings and include the right of appeal against the making of an order? Remember that an ESO represents a prolonged period of state intervention in family life: it is a serious and powerful action to take.

No enforcement action, whether it is in the criminal or family court, should be taken without attempting to resolve the issue in partnership with the family and the school. This does not mean that *absolutely everything* should have been tried. The key here is reasonableness and effective case management. It will be necessary to demonstrate to the court that steps have been taken to work with the family prior to the application. This could be appropriately demonstrated by the use of a parenting contract or a pastoral support plan; or by reference to a time-limited casework intervention, such as Fast Track to Attendance, a case management system detailed in the DCFS guidance *Ensuring Children's Right to Education*. This should not represent additional work, as it is simply presenting evidence of other work that has been done to resolve a situation without bringing the matter before the court.

## The application

The ESO application is not lengthy or complex and should not require a great deal more than would be required for a well-prepared prosecution. The difference is that the purpose of the information is to help magistrates determine whether the grounds for an order are met and to make an informed decision that it is in the child or young person's best interests. The report is a combination of factual information, the views of the child or young person and parents and your professional assessment of the situation. An application for an ESO requires a fee of £150 to be paid to the court.

All applications to the family court start with the completion of form C1. This is, in effect, a covering document that sets out basic information about the child or young person and his or her family circumstances. Some of the information may not be what would ordinarily be gathered, for example, parents' dates of birth and details of other adults living in the same household.

For an ESO application, the C1 should be accompanied by the form C17, which specifically concerns ESOs.

These, and all forms relating to the Children Act 1989, can be downloaded from: <http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do>

Forms can be completed on screen, but it is not possible to save them electronically. There are clear instructions on the forms on how to use them. (See forms C1 and C17, mentioned above, in *Appendix 5*.)

A guidance document *Filling in the forms*, which is aimed at parents and those who are not legally trained, is available at:

[www.hmcourts-service.gov.uk/courtfinder/forms/cb2\\_1205.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/cb2_1205.pdf)

There will need to be local agreement on who will be the named applicant and therefore responsible for completing the forms. In some local authorities this is undertaken by the legal advisors; in others, the EWO is the applicant.

## The statement to the court

The application is accompanied by a statement to the court. When you begin writing your statement, bear in mind that it will be read by magistrates and other professionals as well as the parents and the child or young person and you should adjust your writing style accordingly. Use of jargon is rarely useful and anyway may not be understood by those who do not have the knowledge and expertise of the sector.

The structure and content of the statement is clearly set out in the guidance and is *specific to ESOs*. It should address the Welfare Checklist either in the body of the statement or in a separate section. The statement takes the form of a report, headings for which are set out in the guidance. These are shown in bold, with additional explanatory notes.

The statement should comment on the following:

- (a) **The child or young person's record of attendance**, distinguishing between authorised and unauthorised absence. Accurate details of the child or young person's attendance for the 12 weeks prior to court action are required, but it may also be helpful to provide details of attendance over a longer period where it is felt that this better supports the case. There is no reason why computerised attendance data should not be attached with a commentary that summarises the data and highlights any patterns of absence or key events that may have precipitated periods of absence.
- (b) **Relevant details of the child or young person's circumstances, including age, sex, background and any particular physical, emotional or educational needs (including special educational needs)**. The guidance suggests it would be helpful for the school to provide a report assessing the child or young person's educational progress. Where SEN are a significant factor and identified as an unmet need, it may be useful to ask the school SENCO or an educational psychologist to provide a report to the court. In the case of a SAO that has not been complied with, it may be appropriate to include reports from the inspection and advisory service which detail why the local authority believes the child or young person is not receiving a satisfactory education. The court may, if it believes it to be relevant, ask for additional reports. Most of the general information will already be available if a CAF has been completed.
- (c) **The causes of the poor attendance of the child or young person (including a medical assessment, if relevant) and should include an indication of the attitudes of the child or young person, the**

**parents, schools and other agencies towards the poor attendance.**

This section will be based on factual information and on analysis and professional opinion. It is important to find out what the child or young person and family believe are the causes of poor attendance and to include this in the report. You do not necessarily have to agree on this. (See the section on page 23 on ascertaining the wishes and feelings of children and young people.)

- (d) **A short description of the work that has already been undertaken and its results, giving the reasons why an ESO is being requested, including an assessment of any likely educational disadvantage to the child or young person should an order not be made.** You are not expected to detail every contact with the family over an extended period of time. A short summary of involvement by the service and what, if any, progress was made, will be sufficient. In some areas practitioners provide a chronology alongside the report to make it easy for the magistrates to see at a glance the key events and their timescale. An assessment of any likely educational disadvantage will be based on your and the school's professional opinion on likely educational outcomes should the ESO not be made.
- (e) **The intended intervention, including targets for timing and monitoring. This outline should include a programme of the intended work, indicating the role of the child or young person, parents and the school within this work. It should also indicate why it is believed that such a programme of work will help to resolve the problem and ensure that the child or young person attends school regularly.** This is a very significant part of the application and should justify why you believe an ESO is appropriate. If you have produced a good needs-led assessment your plan should evolve from that and should reflect it, as should any directions made at the application stage or during the life of the ESO. (See *Chapter 8, Using directions.*) In reality, even the best plans may have to change and it may be that some elements of the plan cannot be determined at the application stage. For example, it may be necessary to undertake a period of exploration with the child or young person before you can be clear about what may be appropriate. Whilst there is no stipulated frequency for reviews, it would seem sensible to schedule a formal review early on to ensure that the ESO is on track as well as one towards the end of the ESO to review progress and make a decision about extending the order, if this is appropriate. The intervention plan is, in effect, a contract involving the parents, child or young person, family and school and, where appropriate, other agencies.
- (f) **Particular factors (if these are present) relating to the child or young person's religious persuasion, racial origin or cultural and linguistic background that may have a bearing on the application for the order, or on the manner in which the order is to be conducted. These should be drawn to the attention of the court in the report.** All children, young people and families are unique and sometimes it may be necessary to think differently about how you work

with them. The fact that some family values may not be the same as yours does not mean they are without strengths. It may also be useful, where religious and cultural beliefs are very important within a family, to look beyond the usual service providers and work with religious, cultural and community organisations who may be able to provide support to children, young people and families that would complement the work you are planning should an ESO be made.

As mentioned above, some practitioners provide a chronology with their application. This is common practice when applying for care orders and can provide useful, succinct information for magistrates. If you are planning on using a chronology, set it out in tabular form with separate lines for detailing dates and key events. It should be short, concise and factual.

In prosecution cases, practitioners will be familiar with the use of exhibits to provide evidence to support their case. It is not necessary to do this for an ESO application as the evidence or justification for the order is based on the information given and on consideration of the Welfare Checklist rather than evidence of fault or blame. However, if it is useful and relevant to the application, exhibits can be used. You must attach documentary evidence that you have consulted with social care.

## Serving papers

The family court has a particular process that is required when serving papers in respect of Children Act provisions. Detailed guidance on *Serving the forms – Children Act 1989* can be found on the HMCS website at:

[www.hmcourts-service.gov.uk/courtfinder/forms/cb3\\_1205.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/cb3_1205.pdf)

All of those mentioned in Part 5 of form C1 are known as 'respondents'. You have a duty to ensure that the parents and child or young person understand the purpose of the ESO and what this will mean for them. Whilst it is usual to write a formal letter to accompany the documents, it is good practice to carefully read the documents and be prepared to answer any questions the family may have. You will have already consulted them so none of this should be a surprise to them.

Others who have parental responsibility for the child or young person (including estranged parents) must be included as respondents. You should be sensitive to potential situations where this may cause alarm or upset. All respondents will be aware of who else papers have been served on and who are party to the proceedings. This may be particularly sensitive where there has been a history of domestic violence. You should seek legal advice if there are any complications, for example, an injunction against a parent.

Where the family has sought legal representation, the papers will be served via their legal advisor. In some cases the parent or child or young person, usually with the assistance of their legal advisor, may want to submit a statement that addresses areas of contention in your statement or provide additional information. As with all papers relating to the application, you will have a copy of this in advance of the hearing.

In any legal action it is good practice to ensure that parents and children or young people who do not speak English as a first language are appropriately supported. If you know or suspect that a parent has literacy difficulties, you should take the time to go through the documentation with them. Parents with disabilities, including sensory impairment, may also need additional support. You will be asked to state on the ESO application whether or not there are additional needs. It may be necessary during the preparation to work with the family through an interpreter, and to ensure that any reports to the court are translated. However, having a time-consuming and expensive translation made of a complex document may not be appropriate where parents speak a dialect that has no written form or who may not be literate in their home language. You may also need to have an interpreter in court for the hearing and the application form will specifically ask about this. The emphasis in the Children Act 1989 is on partnership, which is unlikely to be achieved if the family is unable, for whatever reason, to understand the proceedings or access information. Family proceedings are not criminal proceedings and are not bound by the Police and Criminal Evidence Act (PACE), but this does not mean that principles of fairness and good practice can be abandoned. Some local authorities have produced leaflets for parents and children or young people that outline in simple language what an ESO will mean to them.

## **Legal representation and legal aid**

Entitlement to legal aid for parents is means tested. A child or young person would be entitled to representation in their own right, which would be funded through legal aid. Parents should be advised to seek legal advice as soon as possible.

## Chapter 6: The family proceedings court

The family court differs from the criminal court in that it is concerned with civil matters. Those who are familiar with the magistrates court will notice that the family court is less formal. This does not mean, however, that it is in any way 'informal' and the same standards of conduct and respect should be given to these proceedings. Respondents in the case will usually be seated, often at a table, during the hearing and parents and children or young people will be addressed directly by the magistrates. All of the information will already be available to the court, but you may be asked to clarify something in your statement or give an additional oral report, particularly if there has been a very recent change in circumstances. You may be asked to do this under oath. Similarly, it may be necessary for other professionals involved in the case to be present at the hearing where their input is crucial to the case, for example, an educational psychologist.

### The directions hearing

Once an ESO application is lodged with the court, a date will be set for a directions hearing. This is a preliminary hearing designed to ensure that all documentation is in place and that all parties have been informed. Following the directions hearing, a date will be agreed with all parties for a full hearing and the court may request specific additional statements, including those from social care or the child or young person's school. If all parties are in agreement with the application and all documentation is in place, the case may, though it is unusual, be heard at the directions stage, so be prepared for this eventuality.

### Joining proceedings

Sometimes there may be more than one issue regarding the welfare of the child or young person that needs to be resolved by the family court. In complicated cases it is not unusual for the ESO proceedings to precipitate other actions by a parent. If this is the case, an application can be made to join the proceedings and they will be heard together.

#### Case example 1

An ESO was sought in respect of a 14-year-old boy with complex special educational needs, including hearing impairment, language delay and possible learning difficulties. His mother was in full agreement with the application as she had been unable to prevent him from becoming involved in criminal and risk-taking behaviour in the community. It is unlikely that the child fully understood the proceedings because of his learning difficulties. His estranged father, who was served with papers regarding the ESO, sought legal advice and made an application for a residence order. Both matters were joined and heard together. This made sense as the child's needs are paramount and, as such, cannot really

be considered separately, particularly as in this case the ESO included plans for the boy to go to a residential special school named in his statement.

### **Case example 2**

An ESO was being sought following a failure by a parent (who sought to provide elective home education) to comply with a school attendance order. The parent's refusal to cooperate with the local inspection and advisory services meant that it was not possible to ascertain whether or not the children, two in this case, were receiving a satisfactory education. The estranged parent had raised concerns with the local authority about the children's lack of education and about their care, and was in the process of seeking a contact order to allow regular contact with the children. The proceedings were joined and heard in the High Court. The parent with whom the children lived was not in agreement with the ESO. In this case the court decided not to make an ESO, but during the proceedings the judge directed the parent to cooperate with the local inspection and advisory services and subsequently to implement recommendations made by them to bring the children's home education up to standard. The inspectors were required to provide reports and attend the hearing. In this case the local authority was not trying to stop the parent from home educating, but needed the parent's cooperation to meet their duty to ensure that the children were being educated.

### **The hearing**

All documents relating to the ESO are sent to and read by the magistrates prior to the hearing so they will be well briefed on the case before the hearing begins. Magistrates sitting in the family court are also required to ensure that they remain involved throughout the case and see it through to its conclusion. If the parents and child or young person are not contesting the application, the hearing may well be brief and simple. The magistrates are likely to address the child or young person directly and ask them questions: although this can be daunting, you should not underestimate just how powerful this can be in galvanising the child or young person into making changes.

If you are asked to give any supplementary oral evidence in court in a contested case, you will have to do this under oath or affirmation.

Once the magistrates have heard any additional information and asked any questions they may have of you, the parents and the child or young person, they will retire to make their decision.

The magistrates are required to give their reasons in writing for making or not making the ESO and, in doing this, address the Welfare Checklist.

Anyone with parental responsibility for the child or young person – or the child or young person in their own right – can appeal against the making of an ESO. Appeals are heard in the High Court.

## Chapter 7: Supervising the ESO

The aim of the ESO and the responsibilities of the supervising officer are clearly set out in legislation and guidance, but there is plenty of scope for that officer to undertake a coordinating role and for much of the direct work to be provided by other professionals, either because they are able to provide specific services or because they have a good relationship with the child or young person. For example, an application may be for an ESO in which the EWO is named as the supervising officer. During the preparation for the ESO, however, it is established that the young person would benefit from one-to-one work on building self-esteem and establishing friendships. If that young person gets on well with their learning mentor it may be beneficial for them to deliver a programme of support as part of the ESO, contributing to formal reviews and providing feedback to the supervising officer. This is a similar role to that of lead professional and there is no reason why these arrangements cannot be put in place. For more information on the lead professional role see:

[www.everychildmatters.gov.uk/deliveringservices/leadprofessional/](http://www.everychildmatters.gov.uk/deliveringservices/leadprofessional/)

It should be quite possible, and entirely appropriate, to manage issues relating to the implementation of your plan and the duties relating to the ESO as part of the usual arrangements for casework supervision. However, the ESO is a formal process and care should be taken to ensure that it is regularly reviewed. You will need to build into your intervention plan a programme of formal reviews. Depending on who is involved in working directly with the supervised child or young person, it is useful to have everyone present at the review to comment on progress and identify what, if any, further work needs to be done. It will almost certainly be necessary to adjust and adapt your work during the course of the ESO. An ESO is made initially for 12 months; it is unrealistic to expect everything to change in the first few weeks. You are embarking on a programme of work with a clear aim to improve attendance, not an instant fix. It may take time to work at establishing trust and a good relationship with the family. Where you have an order made largely without cooperation, the initial part of your work will be focused on engagement. Similarly, circumstances may change.

There is no standard number of reviews or set times when they should take place. This is a matter for the supervising officer and his or her manager. However, one thing to bear in mind is that if you are planning to extend an ESO, the earliest that this can be done is three months before it expires. You will have effectively a 12-week slot to review and plan for the future. (See *Chapter 9, Extending and discharging an ESO.*)

During the ESO project, one issue that concerned practitioners was that of undertaking direct work with families. Whilst sometimes it is wholly appropriate to refer to other service providers, in reality the biggest and arguably most effective resource is you! Once an ESO is made, your work with the family moves beyond a legal and administrative process and into a casework relationship. There are no set rules, no processes to follow and no right or wrong things to do (notwithstanding ethical considerations, that is!). The duty of the supervising

officer to advise, assist and befriend the supervised child or young person is key to the success of the order. However, an ESO is not a voluntary arrangement and you may need to exercise authority and even impose sanctions during your work with the family. A fine balance between support, challenge and enforcement has to be maintained. This can be a daunting prospect, particularly if you are not used to working in this way, but it can also lead to some creativity and innovation. The important thing is not to lose sight of why you are involved.

An example of this creativity can be found in Cumbria Children's Services. In one area of the county they have piloted a group work approach and devised a six-week programme working directly with young people either subject to ESOs or where an application is likely. The group work focuses on commonly identified needs, such as building confidence and self-esteem, coping with academic pressures and other school-based issues. As well as giving young people the opportunity for some peer-support, it also provides a cost-effective resource that can draw on a range of skilled practitioners. Those on ESOs are directed to attend. Young people who are 'at risk' of an ESO being sought may be asked to attend voluntarily and whether they attend or not could provide supporting information in the report on work undertaken.

## **Direct work with children, young people and families**

It is not the purpose of this guidance to go into detail on what kinds of casework approaches will be most useful. The skills are not unique to ESOs – they should be in place for any intervention with families, whether it leads to statutory enforcement or not. There is a great deal of information that is available for practitioners with varying levels of prior knowledge and experience. The Family and Parenting Institute (FPI) have produced a number of simple guides that may be useful as a starting point if you are inexperienced or need to refresh your knowledge. They include advice on engaging with families, using contracts, and reward schemes with parents with younger children. Contracts are a particularly useful approach for this kind of work, as are solution-focused approaches that emphasise jointly agreed targets.

The FPI guides are downloadable and available free of charge at:  
[www.familyandparenting.org.uk](http://www.familyandparenting.org.uk)

*For less experienced practitioners, guides include:*

Rhodes, H *How to Help Families in Trouble: A short guide.*

*Using Contracts in Family Work:* FPI briefing

*Helping Parents Help their Children: Star charts rewards and discipline:* FPI briefing

*For more experienced practitioners:*

For information on training courses and information on using solution-focused techniques, see [www.brieftherapy.org.uk](http://www.brieftherapy.org.uk)

Dyer, W (2005) *Mercury's Child*. This is a very readable, useful book that could be read by parents or used by practitioners to help parents make sense of their child's challenging behaviour and to establish boundaries. This is available as an e-book from [www.booklocker.com/books/1982.html](http://www.booklocker.com/books/1982.html)

## **Working with very vulnerable families where parental alcohol and substance misuse and poor mental health is an issue**

One issue that was raised throughout the ESO project, and is a feature in many of the case studies, is the impact of alcohol and drug misuse and mental health difficulties on parenting and consequently school attendance. Parental mental ill-health may exist on its own or, often, alongside alcohol or substance misuse. It is hardly surprising that this should be the case when we consider the prevalence of the problem. What is surprising is that so few EWOs have access to information and training on this subject. EWOs cannot be expected to deliver what are essentially specialist services, but they should have sufficient knowledge to facilitate recognition, understand the impact on children and young people, and know how and where to access specialist services. Some local authorities will have, or are developing, joint protocols for responding to parents with drug and alcohol issues. The recent government document *Thinking Families* advocates stronger links between children's and adult's services. This should be taken into account when developing local protocols. Children whose parents suffer with these kinds of difficulties often take on the parenting role themselves and as such become young carers. For more information on the impact of parental alcohol and drug misuse, the following documents may be useful:

***Hidden Harm: Responding to the needs of children of problem drug users.*** (June 2003) Home Office. Executive summary of the report of an inquiry by the Advisory Council on the Misuse of Drugs. This report can also be obtained from the national drug strategy website: [www.drugs.gov.uk](http://www.drugs.gov.uk)

Hart, Di and Powell, Jane (2006) ***Adult Drug Problems: Children's Needs – Assessing the impact of parental drug misuse. A toolkit for practitioners.*** London: NCB. For details on how to order visit [www.ncb.org.uk/books](http://www.ncb.org.uk/books)

## Chapter 8: Using directions

Directions are the 'instructions' that you as supervising officer are empowered to give while an ESO is in force, and there are consequences or sanctions for failure to comply with them.

Whenever an order is made under the Children Act 1989 there are certain directions that are automatically specified under Schedule 3 16(1). These are:

That an ESO may require the child:

- to keep the supervisor informed of change in his address
- to allow the supervisor to visit him at the place where he is living.

A person who is the parent of a child with respect to whom an ESO has been made shall:

- if asked by the supervisor inform him of the child's address (if it is known to him)
- if he is living with the child, allow the supervisor reasonable contact with the child.

When making your application it may be appropriate to include specific directions at this early stage. However, directions should be used sparingly and taken seriously. It is not necessary to try and think of every possible direction and include it in your application. Where there is a particular ongoing issue, such as parents failing to keep appointments in school, it may be appropriate to make this explicit on the application. However, the use of an extensive list of instructions (directions) is inappropriate and may not only set the child or young person and parent up to fail, but leave you as supervising officer with a series of early breaches which, if you wish to be taken seriously, need to be dealt with. It is also contrary to the spirit of the Children Act 1989, which is to work in partnership with families.

It seems to be common at the start of an order for applicants to include a direction for the child to attend school every day – but if this were both likely and possible, why would an order be required? If this is unlikely or not possible straightaway, for reasons that you will have stated in your application, then the child or young person will be in breach almost immediately. Directions may be made at any point during the life of the order, as many times as is appropriate for you to deliver your plan and improve school attendance.

There are no prescribed rules on what comprises an appropriate direction, but bearing in mind that the ESO has a very specific purpose, directions should have some relationship with what you are aiming to achieve. This leaves the supervising officer with enormous scope. For example, a direction could be for parents to attend parenting support classes, or for a young person to take part in a reintegration programme, or it may be needed to enforce basic cooperation with the supervising officer. Whatever the direction, it is necessary to ascertain the wishes and feelings of the child and/or parent, although this does not mean you have to gain agreement (Children Act 1989 Schedule 3 12–(2)).

A direction should be explicit, it should be achievable, measurable and the parent or child should be advised *verbally and in writing* of the consequences of non-compliance. Where a direction is issued which concerns another service, it is important to keep them informed of any directions, for example, where a parent is required to deliver their child to a member of school staff each day for a specified period, or where a child or young person is directed to meet with another professional.

'Persistence' is not easy to define and local policy and procedures should give some indication of what it encompasses. Clearly a single failure to comply could not be described as persistent. A judgement would need to be made on the seriousness of the breach, the circumstances surrounding it and the impact this has on the aims of the order.

An ESO is not automatically discharged following breach proceedings, so it is useful to bear in mind that you will still have a responsibility for continuing to supervise the ESO.

## **Breach by parents**

If a parent of a child who has an ESO in force persistently fails to comply with directions given under the order, that parent is guilty of an offence for which they may be liable to prosecution. This is a criminal offence and will be brought before the adult court. If found guilty, the parent may be liable on summary conviction of a fine not exceeding level 3 on the scale, which is the same as the offence of failing to ensure a child or young person's regular attendance at school (Children Act 1989 Schedule 3 Paragraph 18 (1–3)).

The prosecution would be processed in a similar manner to a prosecution for irregular attendance, except that the evidence concerns persistent failure to comply with directions rather than school attendance itself. You will need to present documentary evidence that the direction was issued in writing and that any warnings regarding failure to comply were sent to the parent. You will also need to prepare a witness statement with regard to the offence. This is the only time with ESO proceedings that you may need to be aware of the rules of the Police and Criminal Evidence Act (PACE). (Details of PACE and its application to attendance enforcement proceedings can be found in *Ensuring Children's Right to Education*, DCSF, 2008). Social care should be informed of any persistent breach by a parent.

There are some defences and the parent would have to prove that they took all reasonable steps to comply or that the direction was unreasonable or that it would not have been practicable or possible to comply. Reasonableness or otherwise is not a term that is defined by the Act, but care should be taken to ensure that what you are asking is a reasonable expectation. There is currently no case law on this, and ultimately it will be a matter for the magistrates court. You will need to take legal advice.

Unlike a parenting order, the supervising officer has responsibility for initiating breach proceedings on directions that are given as part of an ESO.

### ***Can you prosecute a parent for failing to ensure regular attendance under education legislation whilst an ESO is in force?***

Once the ESO is in force, parental duty to comply with directions supersedes responsibilities under the Education Acts (Paragraph 3 of Part 111 of Schedule 3 Children Act 1989).

### **Breach by child or young person**

Breach proceedings against children and young people are not dealt with in the criminal court. Persistent breach of any directions given under an ESO must be referred to social care who are duty bound to investigate the child or young person's circumstances. This is a statutory duty. The Act is clear that when investigating the child's circumstances, social care must ascertain what, if any, services should be provided or whether or not they should make use of provisions under the Act. In a very serious situation, where the child or young person is at risk, social care may apply to the family court for a care or supervision order (Schedule 3 Paragraph 19 (1–3)).

Any directions given to a child or young person should be explained verbally and backed up in writing, with a copy sent to parents. It may also be useful to provide a copy to others who may be providing services or where the directions specifically relate to the service they provide.

It is arguable that as local authorities move towards integrated service delivery, guidance regarding breach proceedings should be updated and that a multi-agency response may be more appropriate.

It is important that when this occurs there are agreed protocols for how this will be managed. It would be good practice to call a case conference-style meeting to consider the breach and any other information relating to the child or young person's circumstances. Although the supervising officer must inform social care of persistent breaches by parents, there is not the same duty to investigate. However, in circumstances where parental behaviour or parental needs are crucial to safeguarding the child or young person's education, it would be good practice to consider a case conference-style meeting. This issue could be covered by a local protocol.

### **Confirming directions in writing**

Standard letters are undeniably useful and save time, but when working with families, and particularly with young people, it may be more appropriate to confirm directions with a personalised letter. You can still include the legal information about non-compliance, but remember your role is to advise, assist and befriend so it may be better to try and write in a style that appears friendly to a child or young person.

Beginning a letter with 'Ref:' followed by the child or young person's name and date of birth is unnecessary and overly formal – they will already know their name and birthday! Remember that you are not 'threatening' a child or young person

and their parents with an investigation by social care, but rather informing them of the consequences of their failure to comply.

## Chapter 9: Extending and discharging an ESO

### Extending an ESO

Initially an ESO is made for one year. If it becomes clear that in order to maintain the progress you have made with the child or young person and their parents the order needs to be extended, this can be done by applying to the family court. The ESO can only be extended in the final three months of the order, so you will need to carefully time your decision and the preparation of the application. The application form for an extension is C17a (see *Appendix 5*) and you will be required to report on progress to date and to give the reasons why you believe the order should be extended and your plans for the future. An extension can be made for a further three years. In many cases concerning older young people, the ESO will cease once the young person reaches statutory school-leaving age. The administrative process for an extension and service of documents is the same as it is for your original application.

### Discharging an ESO

Any party can apply to the family court to have an ESO discharged. This could be the supervising officer, the parent or the child or young person.

There may be a number of circumstances where it is appropriate to discharge an ESO, including:

- Your work with the family has been so successful in the short term that the ESO is no longer necessary – this is a good outcome!
- There has been a significant change of circumstances that means the ESO is either no longer needed or is not viable.
- The ESO has proved ineffective or the child or young person's needs have changed or increased and are beyond the scope of the education services.

An application to discharge is made to the court using form C2. When applying to discharge an ESO, you will need to be clear about why you are seeking this course of action and what, if any, measures have been taken to secure the child or young person's welfare.

Where there is sufficient evidence of risk, upon discharge the court may direct social care to investigate the child or young person's circumstances. Local protocols should ensure that the process is not used as a way of securing services that should be in place anyway. Should the court decide to direct social care to investigate, they will have an eight-week period in which to report to the court with their findings and details of any services they have put into place (Children Act 1989 Schedule 3 17(2)).

## Chapter 10: Monitoring, evaluation and quality assurance

Do ESOs work? For local authorities the wider questions on the effectiveness of ESOs are complex. To date there is no research that looks at their effectiveness. Work on the ESO project has revealed anecdotal evidence that suggests that where their use is well-established and a level of expertise and experience are in place, they can be an effective tool. As with any legal action it is important that local authorities undertake some analysis of their interventions, not least to see if resources are being targeted appropriately, but also to ensure that there is consistency in decision-making.

Any casework or social work intervention of this nature is hugely difficult to evaluate. It is not uncommon for practitioners to claim that ESOs don't work, but what exactly do they mean by that? The factors that may contribute to an ESO being effective are much more complex than the order itself. For example:

- The quality of the assessment and decision-making: was this the right intervention for this family at this time?
- Does the supervising officer have the level of skills needed to undertake the work?
- Does the supervising officer have a good enough relationship with the child or young person and/or their family? Could there have been a different outcome with another supervising officer?
- Are there supporting structures in place to enable the practitioner to supervise the ESO, e.g. management support, good supervision, legal advice, protocols established with other services, local practice guidance, processes for discharge, breach and extension?
- Was the school fully on board with the plan?

Where there is enough local level activity, it may be useful to look at successful and unsuccessful outcomes and find out what features were evident. For example, is the intervention any more or less successful with particular age groups or problem types? Does one practitioner have a particularly good track record and, if so, what are their strengths?

### Has *my* ESO worked?

At a single case level it is also important to evaluate how effective your intervention has been, both as an end point to the ESO but also during its life.

An improvement in school attendance is a relatively simple measure, but whether or not you can attribute this to your intervention is more complex. Other factors are not as easy to determine, but there are nonetheless some useful techniques and standard measures that can assess progress on issues such as self-esteem, confidence, improved family relationships and improvements in behaviour.

Using simple self-assessment tools, including ranking, can be very helpful in assessing progress, not just for you but also for the parents and the child or young person. It can become part of the therapeutic process by providing less articulate children with a new way to communicate. These can range from something as simple as smiley charts that can be used with younger children to determine how well they think they are doing, to scaling or ranking. Using solution-focused techniques can also be a valuable way of ensuring that parents, children and young people are not just consulted but fully involved in deciding which specific improvements they want to make. This involves working with the parents, child or young person to determine where they want to be at the end of the ESO and what they believe needs to happen in order for them to achieve this.

The important part is to be very clear about what needs to change (the objectives) in order to achieve the targets (measurable results to aim for) that you have agreed. You can, of course, determine targets without involving parents and children or young people in the process and go on to evaluate success or otherwise without their involvement, but ultimately this will be less useful and probably less accurate.

Using the final review to get some feedback from the family on the ESO is also a useful and a good way to end your involvement with a family.

### **The wider picture: the five ECM outcomes**

The children and young people most likely to be the subject of an ESO will have a range of difficulties and, whilst the overall aim of the ESO is to improve attendance, it may sometimes seem as if this improvement has not been quite what you wanted. However, it is important to view this in the context of the whole child or young person and the five ECM outcomes. Children and young people who become subject to an ESO are more likely to have complex difficulties and an enduring problem with irregular school attendance and so these will be more difficult to resolve. The case studies on 'Peter' and 'Stephen' in *Appendix 1* clearly demonstrate this. In neither case was an acceptable level of school attendance achieved and, arguably, the levels they did achieve would undoubtedly have impacted on their attainment. However, without the ESO their outcomes, in education and in other areas, would have been less positive. Similarly, 'Faye's' school attendance was maintained at a very low level but, in view of her extremely traumatic experiences, perhaps this was all that was possible at this stage in her life. In the case of 'Jack', the intervention impacted not just on his school attendance but also on that of his siblings, strengthened parenting skills and helped improve his behaviour in school.

It is important that ESOs and the interventions that take place during preparation are not viewed as somehow 'additional' or something that sits outside of mainstream work with children, young people and families where irregular attendance is an issue. Much of the practice associated with delivering ESOs can be fully integrated into the range of initiatives introduced by ECM. Indeed, as local protocols and practice for integrated working are developed and embedded, it is possible that there will be a reduction in the number of cases that proceed to court.

## Appendix 1: Case studies

### **‘Peter’: aged 15 when an ESO was made**

#### ***Family background***

Peter’s parents divorced years ago, but both parents live in the area. The family has been known intermittently to social care for about six years. Peter was on the child protection register for around 10 months when he was aged 10. Peter has a younger brother aged six who also lives with his mother. Peter’s mother is a former heroin addict and currently on a methadone programme. She also suffers with depression. She lives with a boyfriend whom she met on the methadone programme.

Peter’s father suffers from depression but with medication he is able to work. Peter has two older half-sisters who live with his father.

#### ***Other agencies***

Two years prior to the ESO being made, a children-in-need referral was made following a home visit when Peter’s mother admitted smoking heroin the previous day. In addition, the house was frequented by known heroin users. Peter was exposed to drug-taking by his mother and her associates and often took responsibility for the care of his younger brother. There is currently support from the local children’s centre regarding his brother.

#### ***School history and circumstances leading to the ESO***

Peter did well at primary school and despite some difficult family circumstances achieved level 5 on his SATs. The family have been known to the EWS for about three years. His secondary school describes him as a bright and pleasant pupil whom they would be sorry to lose. Apart from a single shoplifting offence, Peter is not thought to be engaging in criminal behaviour. Because of concerns about Peter’s poor attendance, his mother attended a voluntary parenting programme run by the education service. She attended all sessions and despite her difficulties tries hard to be a good parent.

A year before the ESO was made, a referral was made to a psychiatrist because of Peter’s deteriorating mental health and cannabis use. Peter was not willing to engage.

An ESO was made, with the intention of securing Peter’s education on an individual timetable agreed with the school until he reached school-leaving age, and to ensure that he took up support offered through CAMHS. Peter’s parents

were unlikely to be able to provide the consistent level of support he needed due to their own difficulties.

Around the time the order was made, Peter's mental health deteriorated and, with the support of the EWO and Peter's mother, they were able to get him to his GP and an urgent psychiatric referral was made. (He was suffering from depression and paranoia, which may in part be linked to his cannabis use.)

After the ESO was made, Peter's psychiatrist felt that his mental health was too fragile for him to cope with full-time education and recommended twice-weekly tuition. Peter has a difficult relationship with his mother, largely due to the presence of drug users in the house and his anger at having his belongings stolen. Not long after the ESO was made, Peter and his mother's difficulties came to a head and she was reluctant for him to continue living at home. He left and went to live with his father.

This was also short-lived and Peter's father was unable to get him to attend his tuition sessions, despite giving up his job to be a full-time parent. Following an argument over his father's promiscuity, Peter assaulted him and once again left home. His mother was reluctant to take him back and Peter found himself homeless. He contacted his supervising officer who referred to him to social care.

Social care did not feel that they had a role, but once they were informed that Peter was on an ESO they agreed to support an application for a hostel place. This took some days to organise and in the meantime the supervising officer managed to negotiate a temporary stay with his mother and mediate with his father who decided not to press charges. The supervising officer is hopeful that she can help the family maintain some kind of relationship in the future.

### **Outcomes**

Peter is still subject to an ESO and will continue to be until he reaches statutory school-leaving age. Both Peter and his supervising officer believe that without it he would not be in any education and would probably be on the streets and using drugs. The supervising officer is coordinating support from the young people's hostel, CAMHS and the home tuition service as well as meeting regularly with Peter and maintaining contact with both his parents. Peter is now a regular psychiatric outpatient and is on anti-depressants. He has not used cannabis for several months and he attends tuition twice a week.

## **‘Stephen’: aged 15 when an ESO was made**

### ***Family background***

Stephen lives with his parents and his sister Helen who is 17. He is the youngest of three, but his 25-year-old brother lives away from home. Stephen displayed difficult and challenging behaviour at home and was thought to be beyond parental control. There were also concerns about parental alcohol misuse and poor conditions at home.

### ***Other agencies***

The family are known to social care, but the children have never been on the child protection register. The last involvement by social care was around six months prior to the ESO being made and followed a referral by Helen, who was concerned about her parents’ heavy drinking. She reported that their mother had lashed out, but not actually hit her. An initial assessment was completed by social care and Stephen was referred to the adolescent services team.

Stephen has also been involved in offending behaviour and had a final warning, when he was 14 years old, for arson. He was reported as missing from home a few months prior to the ESO, but was quickly traced and returned, shortly after he was prosecuted for supplying cannabis.

### ***School history and circumstances leading to the ESO***

In the academic year prior to the ESO, Stephen’s attendance was recorded at 21 per cent. Stephen was first referred to EWS around a year prior to the application and a referral was made to Connexions. Stephen is an intelligent pupil, but is disruptive and argumentative when in school.

Approximately six months prior to the application, a referral was made to CAMHS due to concerns over Stephen’s mental health, possibly depression. There followed a series of failed appointments.

An alternative curriculum and reintegration package was set up, which was initially successful but then failed due to lack of attendance. Stephen also lost a work experience placement, as the employer needed a reliable pupil.

Stephen’s parents have been cooperative and are accepting the support on offer. Both are working, his father full time and his mother part time. Stephen’s reasons for not attending were that he did not like school or his teachers. His parents were supportive of the EWOs efforts to get Stephen to engage. Stephen failed to accept support from Connexions or any of the support offered to him.

With the support of his parents, an ESO was made in Stephen’s final year of statutory education. It included Stephen cooperating with an alternative curriculum and reintegration package and accepting the support that was available to him.

Formal directions made as part of the ESO included attending appointments with support services, including Connexions, and alternative educational provision.

### ***Outcomes***

At a formal review 10 months into the ESO, the family reported that it had been helpful, in particular by using directions to enforce Stephen's attendance at an alternative provision. Everyone concerned felt that having regular review meetings involving Stephen and his parents were supportive.

The ESO ended when Stephen ceased to be of statutory school age, at which stage his attendance was at 65 per cent.

## **‘Ryan’: aged 14 when an ESO was made**

### ***Family background***

Ryan lives with his mother. His father is a wheelchair user and lives some distance away in the same county. He also has an older sister, aged 21, who does not live at home. His mother and father have never been married. His father was contacted prior to the application being made and was fully supportive of the order.

Ryan’s mother had been experiencing difficulties in communicating with her son and their relationship was deteriorating quickly. His behaviour at home was becoming increasingly hostile and truculent and his mother was becoming more distressed, angry and frustrated.

Ryan’s reaction to pressure to attend school alternated from being anxious and withdrawn to being hostile and protesting. Ryan felt that his mother was constantly getting at him. Ryan is asthmatic, a condition not helped by his smoking.

### ***Other agencies***

Ryan and his mother have been supported consistently by the EWO. This has included one-to-one support, offers of escorts and a negotiated modified timetable at school. His mother also voluntarily attended a seven-week parenting course run by the education department and the Youth Offending Service (YOS). The educational psychologist has seen Ryan in relation to his specific learning difficulties and there has been involvement from a clinical psychologist due to his social anxiety. In view of this, it was agreed that Ryan should attend school on a reduced timetable until his anxiety had decreased.

### ***School history and circumstances leading to the ESO***

In the year prior to the ESO being made, Ryan’s attendance was around 22 per cent. Ryan is of average ability, although he does have a specific learning difficulty. Because of his poor attendance, he is behind his peers in terms of attainment. Ryan was not known to the EWS prior to the initial referral from his secondary school halfway through Year 7. Up until the ESO was made, various interventions resulted in short-lived improvements in Ryan’s attendance, followed by a marked deterioration in Year 9.

The EWS and other services had made prolonged attempts to support Ryan to improve his attendance. His mother was cooperative, but still unable to impact on his behaviour. His father was not in a position to influence Ryan’s behaviour and it was felt that, without a period of close supervision, Ryan was at risk of a total withdrawal from education. Both Ryan and his mother were in agreement with the application.

The plan involved Ryan's attendance at school on a reduced timetable, with an agreement that the clinical psychology service would intervene if there were psychological issues relating to his absence. His mother was directed to inform the school of any absence, provide medical certificates and also to report immediately if Ryan was refusing to go to school. Both Ryan and his mother were directed to meet weekly with the supervising officer and reviews were planned half-termly.

### **Outcomes**

During the first year, Ryan's attendance was just over 55 per cent on a reduced timetable. However, there were some extenuating circumstances relating to the sudden death of a school friend. Prior to this, he had made excellent progress. There had also been some genuine illness with asthma and bronchitis. Ryan was discharged by the clinical psychologist during the ESO as he was no longer experiencing symptoms of social anxiety.

Following the first year, the ESO was extended and will stay in force until Ryan reaches statutory school-leaving age. A revised plan was agreed between the supervising officer, the school and Ryan and his mother, which involved maintaining the reduced timetable, but also accessing college and extended work experience placements. Ryan's and his mother's contact with the supervising officer was reduced to an 'as and when needed' arrangement, though the half-termly reviews were maintained.

## **‘Curtis’: aged 14 when an ESO was made**

### ***Family background***

Curtis lives with his mother. He has had no contact with his father, since his mother and father split up after a violent relationship. Curtis was sexually and physically abused by his mother’s partner and a referral was made to the child protection team. Curtis’s name was put on the Child Protection Register for sexual and physical abuse and neglect. His mother’s partner was given a custodial sentence. Curtis also has a sister who is a heroin addict and is currently in custody for drug-related crimes.

### ***Other services***

Curtis was referred to social care two years prior to the ESO application, after a serious assault by his mother’s partner.

Curtis’s name was placed on the Child Protection Register about seven months prior to the ESO application because of sexual and physical abuse and neglect. A child protection conference was called due to Curtis’s mother allowing her partner back into the home after he was released from prison, which was a concern for social care and the police as one of his bail conditions was that he made no contact with either Curtis or his mother.

At the time of the application, Curtis was also subject to a criminal supervision order (CSO) following a conviction for burglary. He attends the YOS twice weekly under his supervision order.

### ***School history and circumstances leading to the ESO***

Before the assault, Curtis attended his local secondary school on a regular basis. After the assault, Curtis failed to attend school regularly and his behaviour at school and home rapidly deteriorated, resulting in him being permanently excluded for assaulting a teacher. Curtis has always maintained that he did not intend to assault the teacher, but something happened during a struggle for his school planner.

Curtis was then transferred to another secondary school within two miles of his home. He was referred to the Education Welfare Service (EWS) 11 months prior to the ESO because of his refusal to attend his new school. He disclosed that one of the reasons for not attending was due to the ethnicity of the school. Meetings took place between the EWS, Curtis and his mother. A partial timetable was put in place to try and reintegrate Curtis back into education. This was unsuccessful.

Curtis was referred to Positive Activities for Young People (PAYP) where he attended a programme that consisted of motor mechanics, horse riding, self-esteem and weapon awareness courses. At first Curtis attended on a regular basis, but this deteriorated within six to eight weeks of the 12-week course and he therefore lost his place.

At this time Curtis started to use cannabis on a more regular basis, which affected his moods. He refused to admit that he had a problem, and although a referral was made with the drug worker from YOS, he refused to engage.

At this time it was felt that Curtis was not engaging with any service, apart from the YOS. It was believed that the reason that Curtis did comply with this was due to him being told to do so by a court of law. Therefore, due to the complexity of the case and with his mother's full cooperation, it was felt that an ESO might be of benefit, especially if he was told by a magistrate that he *had* to attend school.

An ESO was made and the plan consisted of Curtis attending an alternative provision on a part-time timetable. Curtis and his mother were also asked to attend a Strengthening Families parenting course to improve their relationship. In addition, a referral was made for Curtis to attend the Positive Futures course run by Barnardo's.

Curtis and his mother attended the Strengthening Families course on a fairly regular basis. This resulted in a great improvement in the relationship between Curtis and his mother, which had been very fragile.

The ESO has currently been running for nine months and Curtis's attendance has been sporadic. When attendance dips, extra support from the supervising officer is put in place. During the life of the ESO, there have been occasions where breaching has been considered due to Curtis and his mother not complying with directions. Visits took place and were followed up by letters stating the direction, and warning of the consequences of failing to comply with it. This saw an improvement, each time, in Curtis's attendance.

### **Outcomes**

Curtis is still subject to an ESO and the local authority is currently applying to the court for an extension of it. This was agreed at the last ESO review meeting, as Curtis is no longer subject to a supervision order to the YOS and has not re-offended since being placed on the order. Social care is considering removing Curtis's name from the Child Protection Register. Having the ESO in place enabled the local authority to work closely with Curtis and his family and to share any concerns with relevant agencies. Curtis is still a very vulnerable young man who needs to be closely monitored.

Curtis is currently attending his off-site provision three days a week on a regular basis, and his supervising officer has regular contact with the off-site provision to discuss his progress.

## **'Faye': aged 14 when an ESO was made**

### ***Family background***

Faye lives with her mother and early in the intervention was believed to be an only child. Faye's mother had not only experienced domestic violence, she also suffered from cervical cancer. Faye was abused by her biological father when she was six years old and, as a result, experienced separation anxiety and panic attacks when separated from her mother. There was a history of domestic violence perpetrated by the stepfather for which Faye and her mother fled to a refuge. At that time Faye was also experiencing bullying at school. Due to the nature of the domestic violence and the bullying, Faye and her mother were rehoused and Faye was transferred to a school nearby.

### ***Other services***

Child and Family Consultation Services (CFCS) were heavily involved with Faye and her mother at the time of the legal meeting and confirmed that Faye was 'school phobic' due to bereavement and traumatic childhood experiences. Faye was also a passenger in her mother's car when they were involved in a serious road traffic accident, and Faye was seeing a therapist in relation to flashbacks that she was experiencing.

### ***School history and circumstances leading to the application for an ESO***

Faye was attending a mainstream secondary school and at the time of the application had 64 per cent attendance. Faye continued to state that she wanted to continue with mainstream education rather than alternative provision. Faye is a capable pupil, who had been on school action as well as attempts to support her with issues regarding her school phobia. Faye changed secondary schools on two occasions prior to the legal meeting and thereafter wanted to try and maintain a regular level of attendance at a school she was familiar with.

Faye's maternal grandmother was extremely close to her and she died shortly after the legal meeting (to decide on an ESO), leaving Faye very distressed.

It was felt that an ESO would support and empower Faye's mother in parenting Faye and help her to stabilise her attendance at school. An ESO would also provide a supportive network of professionals to encourage and guide Faye and her mother. Although Faye was engaging with support services, it was felt that, as her attendance was declining, the local authority were duty bound to take further action to support the family and maintain and improve Faye's attendance. The structure and formality of an ESO was felt to be the most appropriate course of action to support Faye and her mother.

## **Outcomes**

No formal directions were made to either Faye or her mother for the duration of the ESO. Despite her attendance declining to around 30 per cent due to further traumatic circumstances, it was felt that breach proceedings would not be appropriate for Faye or her mother.

Initially it was agreed that the ESO would be extended. Although her attendance had declined, both Faye and her mother valued the support of the supervising officer and felt that having the structure of an ESO and regular visits by the supervising officer was maintaining what little attendance Faye was achieving. Faye was at this time on track to gain GCSEs in English and Maths and had managed to attend for mock exams.

During the process of applying for an extension, Faye was diagnosed with clinical depression and placed on anti-depressants. At this stage it was felt that she could no longer benefit from mainstream school and alternative provision was offered. Given the change in circumstances, it was not thought to be appropriate to extend the ESO.

Although Faye's attendance declined through the duration of the ESO, she was regularly accessing support and was making some progress in core subjects at school. Both Faye and her mother spoke highly of the support that the ESO brought them. It was subsequently revealed to the supervising officer that Faye's older sibling had died in the car accident that she was involved in. This had not been disclosed or spoken about with any of the professionals involved in the family.

Although this ESO could not be described as a success in terms of an improvement in attendance, it was clear that the structure of the ESO was a supportive one for Faye and her mother, and a constant presence for the family helped to maintain what little attendance Faye could manage. Despite the extension not being applied for, the EWO stayed involved with the family and helped them to secure support for Faye once she was beyond statutory school age.

## **‘Jack’: aged 14 when an ESO was made**

### ***Family background***

Jack lives at home with his mother, stepfather, one older sibling and eight younger siblings. Jack also has another older sibling, who lives with her grandmother. The circumstances of the older sibling leaving home caused a family rift due to allegations being made against Jack’s stepfather. Jack’s mother suffers from obsessive-compulsive disorder and depression. Jack has no contact with his biological father and regards his stepfather as his father. Jack’s stepfather works long hours to maintain the family. Jack was often angry and frustrated and felt he was being treated unfairly by his parents, who he felt expected him to undertake too many household duties and take responsibility for his younger siblings

### ***Other services***

Social care made two investigations of allegations (see above) and found no supporting evidence. Social care and the police were involved intermittently when the rift became acrimonious and threats were made against Jack’s parents and siblings.

The supervising officer worked closely with the school, which offered Jack one-to-one sessions with a learning mentor and referred him to the Respect programme. The supervising officer also liaised with various agencies to provide support for Jack’s parents with regard to the family rift.

### ***School history and circumstances leading to the application for an ESO***

The family had been known to the Education welfare Services (EWS) for around three years prior to the application. Historically, all the children’s attendance improved while EWS was involved and would decline again once involvement ceased.

Jack’s secondary school describe him as a bright and pleasant pupil, but were concerned that his poor attendance was affecting his academic progress. They were also concerned about his behaviour, which had almost resulted in exclusion on a number of occasions. Jack had complained of being bullied at school. Further investigation of the bullying revealed that many of the incidents were initiated by Jack himself and resulted in him being unable to deal with the consequences.

A referral was made to the EWS when Jack’s attendance was at around 73 per cent. At this point Jack was regularly refusing to go to school and his parents felt that he was beyond their control. He had only completed eight full weeks in the year or so prior to the application being made.

Jack's mother felt she was unable to provide the level of consistent boundaries without the support of the supervising officer because of her own health issues. Jack's stepfather felt unable to offer consistent support because of his work commitments. Both parents felt that Jack responded well to the supervising officer and believed her continuing support would enable them to apply the consistent boundaries their son needed.

The supervising officer suggested parenting classes to consolidate and enhance Jack's parents' ability to manage his behaviour. Unfortunately the parents felt unable to attend due to the demands of younger siblings in the family, which would prevent them from attending regularly. However, they did work closely with the supervising officer and implemented the strategies that were suggested to bring about change.

The supervising officer met with the family on a fortnightly basis. She worked closely with the family and with Jack on applying consistent boundaries and rules. She also assisted the family with the constructive planning of daily routines to reduce Jack's frustration and anger. In addition, the supervising officer and the family worked closely with the school in order to reduce incidents of challenging behaviour and bullying. No formal directions of breaches were needed during the ESO.

### **Outcomes**

As the ESO approached the final weeks, it was decided that an extension was not needed due to the sustained improvement in Jack's behaviour and attendance. Jack's attendance has consistently been above 90 per cent throughout the life of the ESO. Jack's parents now feel they have the ability to continue with the strategies they have learned.

Jack's mother is no longer on medication and feels much more able to manage day-to-day routines. The school has reported fewer incidents of challenging behaviour and believe that his academic progress has significantly improved.

Jack feels that without an ESO his behaviour would have continued to deteriorate and he would have been excluded and possibly become involved in criminal activity.

The attendance of Jack's siblings also improved and this has been maintained throughout the life of the ESO.

## **‘Chloe’: aged 15 when an ESO was made**

### ***Family background***

Chloe lives with her mother, stepfather and three younger siblings. All the children have different fathers. She has a very difficult relationship with both parents, in particular her stepfather, and has no contact with or knowledge of her biological father, although her siblings all know and have contact with theirs. Chloe was very isolated within her family. Her mother was struggling to maintain the family and there were some serious financial difficulties. In addition, Chloe’s mother’s refusal to give any details of her biological father or allow her to contact him was causing a major rift between Chloe and her mother. Chloe’s mother was herself still a young woman and was struggling with a number of different jobs to make ends meet and needed quite a lot of parenting support.

### ***Other services***

Chloe’s risk-taking behaviour has been a serious cause for concern and there have been an astonishing number of incidents (more than 70) where she has been returned home in the early hours of the morning incapable through the effects of alcohol, or reported missing by her mother. There was also a police investigation regarding an allegation of rape, but charges were not brought against the perpetrators as her incapacity due to alcohol would have seriously damaged her credibility as a witness.

A referral was made to social care who offered her appointments, but Chloe failed to engage. It later transpired that she was not informed of the appointments by her mother. However, the case was closed as social care felt that Chloe was not at risk but was putting herself at risk and so would not intervene on a statutory basis.

The family were encouraged to try Child and Family Consultation Services, but Chloe was reluctant and refused to engage.

### ***School history and circumstances leading to the ESO***

Prior to the ESO, Chloe had not attended school at all for four months, despite a re-integration programme being offered to her.

Chloe had made a series of allegations of bullying and she was seriously physically assaulted by a gang of girls from her school. The attack was so serious that police proceeded with criminal charges against the perpetrators, despite Chloe’s insistence that she did not wish to press charges.

Despite the enormity of Chloe’s difficulties, the EWO believed that an ESO would provide at least some focus and direction in one area of Chloe’s life.

Directions made as part of the ESO involved Chloe's mother ensuring that she was up and ready for school and escorting Chloe to school. The rationale for this was twofold: first, with good reason Chloe was frightened of going to school and, secondly, it provided a short time each day for Chloe and her mother to spend time alone together.

### **Outcomes**

During the life of the ESO it was necessary on two occasions to threaten Chloe's mother with a prosecution for failing to comply with directions. The supervising officer felt that having the ESO in place and the powers she held in relation to breach by a parent were instrumental in making any kind of progress. Whilst working with the family was difficult, the supervising officer believed it would have been more so without the ESO.

For the year the ESO was in force, Chloe attended around 70 per cent of the time on a reduced timetable. Chloe was put in contact with, and began to access, young people's drug and alcohol services and the local police were pleased not to be picking her up regularly.

The ESO expired just before Chloe reached statutory school-leaving age. The supervising officer referred Chloe to the targeted team of the local Connexions service, but she failed to establish a good relationship with the worker. Within a month of the ESO expiring she stopped attending school and went missing from home.

## Appendix 2: Checklist of standard letters

It is important to consult your legal advisor at the start of the process to see what correspondence you can send out and what correspondence needs to be vetted by your legal advisor.

### Information and consultation

***Letter to parents and child informing them of your intention to consider an application for an ESO.*** This should include information on the legislation, powers and duties, and consequences for parents and child or young person, including loss of some parental rights and their right to appeal against the making of an ESO. It should also advise parents of their right to seek legal advice. It should be written in language and style that is accessible to both parents and the child or young person, unless it is accompanied by a leaflet designed for that purpose.

The updated Children Act 1989 guidance Volume 1 contains a sample letter to parents. The style is straightforward and although it is not specifically concerned with ESOs, with some adjustments, it could usefully be transferable.

***Letter to social care informing them of your intention to make an application.*** This should include information on the legislation and your duty to consult, asking them to provide you with any relevant information or to confirm that they have/have not had contact with the child, young person or parents and to set out any reason why they do not think an ESO is appropriate. It should include a deadline for their response.

***Letter to any other agency involved with the family.*** This should include information on the legislation and the purpose of the ESO and set out the powers and duties relating to an ESO. This is not a legal requirement, but fulfils the spirit of multi-agency working.

***Letter to social care confirming that an ESO has been made.*** This should include details of the child or young person, the date of the ESO and its duration, and the name of the supervising officer.

***Letter to the school confirming that the ESO has been made.*** This is not a legal requirement, but is a useful time to include a reminder of the plan that has been agreed.

***Letter to any other agency included in your plan confirming that the ESO has been made.*** As above.

## Directions

**Letter to parent to confirm a direction made under the ESO and the consequences of persistent non-compliance.** This should include information on duties and sanctions.

**Letter to parents warning them of your intention to prosecute in respect of persistent non-compliance.** This should warn of criminal proceedings and the fact that you will be informing social care.

**Please note:** When corresponding with children and young people, try to use a less formal style and write in accessible language. It is better to write a bespoke letter, but you must take care to ensure that you have met your legal obligations. (See *Chapter 8, Using directions.*)

**Letter to child confirming a direction.** You should refer to any discussions you have had regarding the direction and details of their obligations and your duty to refer to social care.

**Letter to parent to accompany letter to child or young person.** As above.

**Letter to child or young person warning them that they must comply or you will be informing social care.** This should refer to your legal duty to do so and explain what an investigation may mean.

**Letter to child or young person confirming that you will be informing social care.** This should refer to your legal duty to do so and explain what an investigation may mean.

**Letter to parents to accompany letter to child or young person.** As above.

**Letter to social care formally asking them to investigate the child or young person's circumstance under relevant section of the Act.** This is a formal letter that is a legal obligation: on you to inform them and on social care to make an investigation. If you have a local protocol in place, this would be a good place to mention it. Make sure you refer to the legislation.

## **Appendix 3: Decision-making/supervision checklist and record**

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**LEGAL INTERVENTION CHECKLIST**

This checklist will be completed during case supervision between the Senior Practitioner and the Education Welfare Officer following initial assessment. The contents will reflect the decision making process regarding routes taken within legal intervention. The Education Welfare Officer’s assessment must be comprehensive and vital information must not be missed.

**A copy of this form must be kept on the case file.**

Child Name: _____	Education Welfare Officer: _____
Date of Birth: _____	Signature _____
School: _____	Senior Practitioner: _____
Year Group: _____	Signature _____
Date of Supervision: _____	TASCC _____

**A copy of this form must be provided for the Panel Meeting when requesting a Penalty Notice together with ALL relevant paperwork at the latest by: (date) .....**

Checklist for paperwork to be submitted to LIO:	<input type="checkbox"/>	Copy of school invite to SAM	<input type="checkbox"/>	Copy of SAM notes
	<input type="checkbox"/>	Copy of S/FSAM Letter (if used)	<input type="checkbox"/>	Up to date School printout of attendance
	<input type="checkbox"/>	Legal Intervention Check List		

**If the decision is to proceed to a legal meeting to consider an ESO, ALL relevant paperwork must be submitted to LIT at the latest by: (date) .....**

Checklist for paperwork to be submitted to LIO:	<input type="checkbox"/>	EW05	<input type="checkbox"/>	EW05a
	<input type="checkbox"/>	Casework Chronology	<input type="checkbox"/>	School printout of attendance
	<input type="checkbox"/>	Legal Intervention Checklist		

**Please ensure that all the above documents are sent together to the Legal Intervention Team by the ECC Pouch system (or first class post) and that all relevant forms are signed. E-mail and Fax are NOT recommended for sending this documentation**

<b>Prosecution (Aggravated)</b>		<b>Comments</b>
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<b>Level of engagement with Education Welfare Service/school</b>	School Attendance Meeting attended – Action Plan signed?  Date Warning Letter(s) Issued Dates of Home Visits Successful? Abortive?	
<b>Level of adherence to advice/following plans</b>	Nature of advice and strategies	
<b>Condoning absences/behaviour/excusing child</b>	Is school unauthorising parentally condoned absences?	
<b>Lack of medical evidence/consent to consult with GP</b>	Has the GP been accessed – prescriptions appointment cards produced?	
<b>Level of unauthorised absences</b>	%	
<b>Young person engaged in offending/anti-social behaviour – involved in drug/alcohol abuse</b>	YOT involvement? Orders in place?	
<b>Young person is employed / Permit available</b>	Permit in place?	
<b>Regular changes of school</b>	Reasons for change of school?	
<b>Aggressive behaviour by parent</b>	Verbal or Physical or both? Case progression impeded?	
<b>Non attendance at alternative provision/support programme</b>	Nature of provision? Work placement in place?	
<b>Other factors:</b>		
<b>Are there previous convictions due to this child?</b>		<b>Summary:</b>
<b>Are there previous convictions due to siblings?</b>		
<b>Is there a current conditional discharge or parenting order?</b>		
<b>Has a penalty notice been issued? (Was it paid?)</b>		
<b>ESO (Mitigation)</b>		<b>Comments</b>

<b>Parent/child has mental health issues proven by NHS trust evidence</b>	Have appropriate referrals been made? – CAF, CFCS, Adolescent support charities?	
<b>Evidence of attempted/actual self harming behaviour by parent/child</b>	Action taken? Referrals Made? CAF?	
<b>Parent has learning difficulties</b>	Supported by Social Care?	
<b>Medical reasons/authorised absences</b>	Supported by Medical Practitioner?	
<b>Bullying issues unresolved Any identified issues not addressed by the school.</b>	School Bullying Policy followed. Have school had the opportunity to address the issue?	
<b>Active CFCS/Social care involvement</b>	Appointments attended?	
<b>Death of significant person to pupil</b>	When and who?	
<b>Special education needs/statement not being met</b>	Is poor attendance impeding assessment?	
<b>Parent has difficulty controlling child</b>	Limited to access to education or other areas of lack of control?	
<b>Parent is prepared to escort child to school</b>	Evidence of willingness and ability to undertake to escort to school?	
<b>Parent supports agency meetings</b>	CAF completed? Consent for wider agency involvement given?	
<b>Other factors:</b>		
<b>Summary:</b>		



<b>REQUEST FOR PENALTY NOTICE</b>		
<p><b>Parent Name:</b></p> <p><b>2<sup>nd</sup> Parent Name:</b></p> <p><b>Full Address:</b></p> <p><b>Dates covering period of irregular attendance:</b> <i>(From Formal referral to supervision)</i></p> <p><b>12 school weeks Attendance % prior to SAM:</b></p> <p><b>Attendance % for the last 6 weeks up to this supervision:</b></p> <p><b>Reason for any authorised absences:</b></p> <p><b>% Unauthorised Absence:</b></p> <p><i>Enclosures:</i> <i>Letter from school inviting parent to SAM</i> <i>Notes of SAM</i> <i>S/FSAM (if used)</i> <i>Pupil's Attendance record</i></p>	<p>Criteria: <b>Headteacher (or representative) writes to parents advising that their child's attendance is under 85% during the preceding 12 school weeks with some unauthorised absence and invites them to attend a SAM.</b></p> <p><b>Parents are warned at SAM that unless attendance improves a penalty notice could be issued.</b></p> <p><b>If following appropriate casework and supervision attendance remains at less than 85% attendance and there are at least 10 unauthorised sessions in the last 6 school weeks, a penalty notice can be requested.</b></p> <p>_____</p> <p>Date of Panel:</p> <p>Agreed to issue PN – Yes/No</p> <p>Reason for refusal:</p>	
<p><b>For admin use only:</b></p> <p>Date PN issued:</p> <p>Date of 42 day deadline:</p> <p><b>Authorised:</b> _____ <b>Senior Legal Intervention Officer</b></p>	<p>Signed: _____ Legal Intervention Officer</p>	

## **Appendix 4: List of local authorities, associations and individuals involved in the project**

### **The Action Learning Group**

Barking & Dagenham

Blackburn with Darwen

Cumbria

Liverpool

London Borough of Havering

London Borough of Southwark

London Borough of Bexley

London Borough of Bromley

Rotherham MBC

Leeds

Northamptonshire

Wakefield

Walsall

### **The Project Advisory Group**

Advisory Centre for Education (ACE)

Department for Children, Schools and Families (DCFS)

Magistrates Association

National Association of Social Workers in Education (NASWE)

Society of Court Clerks

Solicitors in Local Government

Vanessa Wiseman, headteacher at Langdon School and NCB board member

## **Appendix 5: Forms and HMCS information on service**

*Children Act 1989*

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The court

To be completed by the court

Date issued

Case number

The full name(s) of the child(ren)

Child(ren)'s number(s)

---

## **Important Note**

**You should only answer question 7 if you are asking the court to make one of the following orders: a Contact Order, a Residence Order, a Prohibited Steps Order, a Specific Issue Order or a Parental Responsibility Order.**

---

## **1 About you (the person completing this form known as 'the applicant')**

*State:*

- *your title, full name, address, telephone number, date of birth and relationship to each child above*
- *your solicitor's name, address, reference, telephone, FAX and DX numbers.*

## **2 The child(ren) and the order(s) you are applying for**

*For each child state:*

- *the full name, date of birth and sex*
- *the type of order(s) you are applying for (for example, residence order, contact order, supervision order).*

### **3 Other cases which concern the child(ren)**

*If there have ever been, or there are pending, any court cases which concern:*

- *a child whose name you have put in paragraph 2*
- *a full, half or step brother or sister of a child whose name you have put in paragraph 2*
- *a person in this case who is or has been, involved in caring for a child whose name you have put in paragraph 2*

*attach a copy of the relevant order and give:*

- *the name of the court*
- *the name and contact address (if known) of the children's guardian, if appointed*
- *the name and contact address (if known) of the children and family reporter, if appointed*
- *the name and contact address (if known) of the welfare officer, if appointed*
- *the name and contact address (if known) of the solicitor appointed for the child(ren).*

### **4 The respondent(s)**

*Appendix 3 Family Proceedings Rules 1991; Schedule 2 Family Proceedings Courts (Children Act 1989) Rules 1991*

*For each respondent state:*

- *the title, full name and address*
- *the date of birth (if known) or the age*
- *the relationship to each child.*

## 5 Others to whom notice is to be given

*Appendix 3 Family Proceedings Rules 1991; Schedule 2 Family Proceedings Courts (Children Act 1989) Rules 1991*

*For each person state:*

- *the title, full name and address*
- *the date of birth (if known) or the age*
- *the relationship to each child.*

## 6 The care of the child(ren)

*For each child in paragraph 2 state:*

- *the child's current address and how long the child has lived there*
- *whether it is the child's usual address and who cares for the child there*
- *the child's relationship to the other children (if any).*

## 7 Domestic abuse, violence or harm

*Do you believe that the child(ren) named above have suffered or are at risk of suffering any harm from any of the following:*

- *any form of domestic abuse*
- *violence within the household*
- *child abduction*
- *other conduct or behaviour*

*by any person who is or has been involved in caring for the child(ren) or lives with, or has contact with, the child(ren)?*

*Please tick the box which applies*

<b>Yes</b>	<b>No</b>
<input type="checkbox"/>	<input type="checkbox"/>

***If you tick the Yes box, you must also fill in Supplemental Information Form (form C1A). You can obtain a copy of this from a court office if one has not been enclosed with the papers served on you.***

## **8 Social Services**

*For each child in paragraph 2 state:*

- *whether the child is known to the Social Services. If so, give the name of the social worker and the address of the Social Services department.*
- *whether the child is, or has been, on the Child Protection Register. If so, give details of registration.*

## **9 The education and health of the child(ren)**

*For each child state:*

- *the name of the school, college or place of training which the child attends*
- *whether the child is in good health. Give details of any serious disabilities or ill health.*
- *whether the child has any special needs.*

## **10 The parents of the child(ren)**

*For each child state:*

- *the full name of the child's parents*
- *whether the parents are, or have been, married to each other or civil partners of each other*
- *whether the parents live together. If so, where.*
- *whether, to your knowledge, either of the parents have been involved in a court case concerning a child. If so, give the date and the name of the court.*

## 11 The family of the child(ren) (other children)

*For any other child not already mentioned in the family (for example, a brother or half sister) state:*

- *the full name and address*
- *the date of birth (if known) or age*
- *the relationship of the child to you.*

## 12 Other adults

*State:*

- *the full name of any other adults (for example, lodgers) who live at the same address as any child named in paragraph 2*
- *whether they live there all the time*
- *whether, to your knowledge, the adult has been involved in a court case concerning a child. If so, give the date and the name of the court.*

## 13 Your reason(s) for applying and any plans for the child(ren)

*State briefly your reasons for applying and what you want the court to order.*

- **Do not** give a full statement if you are applying for an order under Section 8 of Children Act 1989. You may be asked to provide a full statement later.
- **Do not** complete this section if this form is accompanied by a supplementary form.

## 14 Attending the court

State:

- *whether you will need an interpreter at court. If so, please indicate what language interpreter you will use. If you require an interpreter you must notify the court immediately so that one can be arranged.*
- *whether you have a disability for which you require special assistance or special facilities. If so, please say what your needs are. The court staff will get in touch with you about your requirements.*

## 15 Parenting Information – Arrangements after Separation

	Yes	No
<i>Have you received a Parenting Plan booklet? (If No, you may obtain a copy from a court office, a citizen's advice bureau or other family advice service.)</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Have you agreed to a Parenting Plan? (If Yes, please include a copy of the Plan when you send your application to the court)</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If you did agree a Parenting Plan, has the Plan broken down?</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If Yes, please explain briefly why the Plan broke down –</i>		

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Signed  
(Applicant)

Date

# Supplement for an application for an Education Supervision Order



Form C17

*Section 36 Children Act 1989*

*Paragraph 16 Schedule 3 Children Act 1989*

The court	To be completed by the court
	Date issued
The full name(s) of the child(ren)	Case number
	Child(ren)'s number(s)

## 1 Prior consultation

*Section 36(8) and 36(9) Children Act 1989*

*State the name of the local authority whose Social Services Committee has been consulted:*

The local authority is the authority providing the child[ren] with accommodation or on whose behalf the child[ren] [is] [are] being provided with accommodation.

**or**

The local authority is the authority within whose area the child[ren] live[s], or will live.

## 2 The grounds for the application

The ground is that the child[ren] [is] [are] of compulsory school age and [is] [are] not being properly educated.

*State your reason(s) for believing the ground exists. If you are relying on a report or other documentary evidence, state the date(s) and author(s) and enclose a copy.*

## 3 The order and direction(s) applied for

Signed  
(Applicant)

Date

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# Supplement for an application for an extension of an Education Supervision Order

Form C17A

*Paragraph 15(2) Schedule 3 Children Act 1989*



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The court

To be completed by the court

Date issued

The full name(s) of the child(ren)

Case number

Child(ren)'s number(s)

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## 1 About the Education Supervision Order

*State when the order was made and when it is due to end.*

*Enclose a copy of the order.*

## 2 The extension

*State your reason(s) for asking the court to extend the order. If you are relying on a report or other documentary evidence, state the date(s) and author(s) and enclose a copy.*

---

Signed  
(Applicant)

Date

## Serving the forms - Children Act 1989

### Part 1 - About service

#### About this leaflet

The court office has issued your application, returned your copies, and provided copies of new forms which may include:

- C6 or C6A (Notices of Proceedings)
- C7 (Acknowledgement)
- C9 (Statement of Service).

This leaflet will tell you what to do with these new forms.

#### Why you need the new forms

You must now tell certain people that you have applied for a court order. This is called service and you must, by law, serve all those people unless the court has told you not to serve them.

There are rules about:

- when you serve
- who you must serve
- what you must serve (you will have to serve other papers with form C6)
- how you can serve.

This leaflet explains these rules but if you have any problems with service tell the court office at once.

#### About forms C6 and C6A

These are both called Notices of Proceedings but they have different notes on the back, and under 'What to do next' on the front.

The court office has put on each Notice: the date, the time, and the place for the first hearing of your case (the directions hearing).

The office has provided you with a Notice for everyone you must serve. However, you are responsible for service, so check that you have all the Notices you need. You can find out who you must serve, in Part 2 and Part 3 of this leaflet.

## When to serve

You must serve the forms and other papers by a date which the court office will tell you. When you have served everyone you must fill in form C9. This will tell the court the date and time when you served each person.

## Part 2 - Serving form C6

### Who you must serve

Everyone in:

Part 4 of form C1

or

Part 3 of form C2.

### What to serve

Serve everyone with:

- their copy of the Notice of Proceedings, form C6
- a copy of each form
- a copy of any other papers which the court office has allowed you to file at the court (for instance, a copy of a court order)
- a **blank** Statement of Means if you have filled in form C10A
- an Acknowledgement, form C7, if the court office has provided this form.

### How to serve

You may only serve in the ways given in Part 4 of this leaflet.

## Part 3 - Serving form C6A

### Who you must serve

Everyone in Part 5 of form C1.

### What to serve

Serve everyone with their copy of the Notice of Proceedings, form C6A.

This is the **only** form you serve.

Do not serve copies of any other papers with form C6A.

### How to serve

You can only serve in the ways given in Part 4 of this leaflet.

### If someone has a solicitor

always serve the solicitor:

by sending the forms to the solicitor's office by 1st class post

or

by taking the forms to the solicitor's office.

### If someone does not have a solicitor,

or you are not certain whether they do:

hand the forms to the person you are serving

or

send the forms to them by 1st class post.

### If someone is under 18

you **must** serve the forms on their solicitor. But if they do not have a solicitor you must apply to the court for permission to serve the child. Use form C2 to do that.

### When you have served the papers

Fill in the Statement of Service form C9, and make a copy of it for yourself. Then:

take the Statement, or send it, to the court office before the hearing

or

take it with you to the hearing.

#### **Prescribed forms**

These are the forms you use (for instance: C1, C1A, C2, C10, C10A)