



EAST AYRSHIRE CHILD PROTECTION COMMITTEE: 26 AUGUST 2009

CHILD PROTECTION ORDERS GRANTED IN EAST AYRSHIRE IN 2008

1. CONTEXT

1.1 In May 2008, the Authority Reporter in East Ayrshire highlighted to the Child Protection Committee the rise in child protection orders. It was agreed that there would be merit in conducting a focused analysis of the child protection orders granted. The term 'CPO' will be used throughout this report.

1.2 This Report focuses on the following:

- 1. To identify the rise in the number of CPOs granted in 2008, to consider this in the context of the previous 5 years, from 2003 to 2008, and to identify if any patterns exist;**
- 2. To identify the number of children placed on CPOs who were already subject to supervision requirements;**
- 3. To identify whether evidential difficulties followed after CPOs were granted in respect of any children.**

1.3 The following information reflects the results of this analysis:

- 1. To identify the rise in the number of CPOs granted in 2008 and to identify if any patterns exist**

Using the SCRA reporter administration database (RAD) it is noted that:

- **35** CPOs were granted in 2008
- **13** CPOs were granted in 2007
- **12** CPOs were granted in 2006
- **13** CPOs were granted in 2005
- **4** CPOs were granted in 2004
- **11** CPOs were granted in 2003

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- 1.4 In 2008, **69 separate grounds for referral** were registered under one or more of the conditions described in section 52 (2) of the *Children (Scotland) Act 1995*. It is not uncommon for one child to have more than one category of registration following a referral to the reporter. This reflects the different types and levels of concern which exists.
 - 1.5 A case sample was conducted on 19 cases between 10 January 2007 and 8 June 2008 to identify the types and patterns of concern which existed in the CPOs granted.
 - 1.6 Essentially, the rise appears to reflect the demographics within the geography of East Ayrshire; with nationally recognised high levels of domestic abuse and substance misuse.
- 2. TO IDENTIFY THE NUMBER OF CHILDREN PLACED ON CPOS WHO WERE ALREADY SUBJECT TO SUPERVISION REQUIREMENTS**

Of the 35 children, **11** were already on supervision requirements in 2008 when the CPO was granted.

- 2.1 On an assessment of these 11 cases it was noted that the statutory criteria for a CPO was met on the date(s) of the application.
 - 2.2 However, care should be taken where children are accommodated in terms of section 25 of the *Children (Scotland) Act 1995*, to request an early review of existing supervision requirements. This could prevent a need for emergency intervention.
 - 2.3 In some instances, agencies may have been over optimistic in terms of expected outcomes, which then led to the need for crisis intervention, that may otherwise have been avoided through the use of existing measures, i.e. a review of the supervision requirement.
- 3. TO IDENTIFY WHETHER EVIDENTIAL DIFFICULTIES FOLLOWED AFTER CPOS WERE GRANTED IN RESPECT OF ANY CHILDREN**

Of the 35 children, the reporter encountered evidential difficulties in **7 sibling group** cases (11 children).

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- 3.1 Given the strict statutory timescales involved in the CPO process, the reporter requires to determine from the information available in the solicitor's submissions and the supporting information attached to the CPO, whether the child should be brought to a 'second working day' children's hearing.

The second working day hearing

The children's hearing has to determine on the basis of the information provided, whether the reasons for the granting of the CPO continue to exist and whether to continue the CPO, or not.

The eighth working day hearing

If the hearing elect to continue the CPO, the reporter thereafter has to decide whether to proceed to an eighth working day hearing, which becomes a 'grounds for referral hearing'.

- 3.2 In the 7 (including sibling groups) cases identified below, the reporter had evidential difficulty in either:

- **drafting the grounds for referral** for the eighth working day hearing, because the evidence available to support the grant of the CPO was indistinct or difficult to ascertain; or
- **leading evidence** on drafted grounds for referral in proof proceedings for the following reasons:
 - witnesses were not available to speak to the statements of fact drawn from the CPO;
 - statements of fact drawn from the CPO were considered by witnesses to be incomplete;
 - in some instances there was a failure by information providers to recognise the significance of material facts.

4. **THE FOLLOWING SUMMARY DESCRIBES THE PARTICULAR DIFFICULTIES ENCOUNTERED IN THE 7 (INCLUDING SIBLING GROUPS) CASES. CASE 7 IS A POSITIVE EXAMPLE OF HOW THE PARTICULAR DIFFICULTIES WERE OVERCOME IN A TIMEOUS FASHION, BY THE EFFORTS OF THE LOCAL AUTHORITY.**

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4.1 Case 1

Insufficient information in the solicitor's written submissions upon which reporter could rely for the drafting of grounds. Significant enquiry needed by reporter.

4.2 Case 2 and 3

- **(2 children sibling group/different grounds for each) Both children on supervision requirements/no request for a review prior to CPO.**

Lack of specification and generalised language in the solicitor's written submissions. Significant enquiry needed by reporter and statements of fact drafted in a general style as a result. Significant amendment needed at court in the proof proceedings.

4.3 Case 4

- **(2 children sibling group/same grounds) Both children on supervision requirements/no request for a review prior to CPO.**

Medical diagnosis (failure to thrive) of youngest sibling not specified in minutes of child protection reviews until after CPO granted. Consequently, the child's poor weight gain was not described in the solicitor's submissions in relation to the CPO, as 'failure to thrive'. Diagnosis confirmed at reporter precognition of consultant paediatrician. Significant amendment needed at court in the proof proceedings.

4.4 Case 5

CPO application referred to allegations of sexual abuse committed by mother of child towards another child. No witness would speak to this fact. Mother described in report by the Change Project as being of very low risk of re-offending. Significant amendment needed at court in the proof proceedings. The statements of fact and condition referring to alleged sexual abuse required to be abandoned.

4.5 Case 6

- **(5 children sibling group/same grounds) All children on supervision requirements/no request for a review prior to CPO.**

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Written information in the solicitor's written submissions in relation to the CPO, illegible to reporter and to panel members. Circumstances of concern almost identical to the circumstances referred to in the original grounds for referral established. At eighth working day hearing, social work representative advised that she had no information to explain the reasons for the CPO. CPO continued. Grounds for referral abandoned at court. Supervision requirement amended at review hearing held after proof.

This case concerns issues of chronic neglect. It is recognised that such cases present considerable challenges to all agencies concerned.

4.6 Case 7

CPO application made and granted on basis of evidence to support complex sexual abuse history in relation to mother and partner. No application made by legal services to seek the release of previous court papers from Swansea County Court. Insufficient information available to reporter on receipt of CPO and before second working day hearing. Considerable (cross boundary) efforts made by local authority to obtain information and to present to reporter subsequent to this, which allowed for the provision of detailed evidence based information.

While this case is an example of effective joint operational working, some delays and duplication of effort occurred in an effort to ensure best evidence after the CPO was granted.

5. PATTERNS AND TRENDS

- 5.1 In order to assess from the CPO analysis whether any patterns or trends were emerging, 19 (16 sibling groups) of the CPO's granted between **10 January 2007 and 8 June 2008** were sampled and analysed by Alison Findlay, Service Manager, Community Care, the Authority Reporter and Jaine Best, Solicitor with East Ayrshire Council.
- 5.2 The following categories explain the types of concern identified (a child may have more than one concern) and are divided into two sections, which reflect the method of reporter registration:

Child exposed to:

- **Parental mental health problems (present in 9 of cases sampled)**
- **Domestic abuse (present in 7 of cases sampled)**

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- **Parental substance misuse (present in 6 of cases sampled)**
- **Parental violence and anti social behaviour (present in 2 of cases sampled)**
- **Parental alcohol misuse (present in 1 of cases sampled)**

Child at risk of:

- **Neglect (present in 9 of cases sampled)**
- **Emotional abuse (present in 4 of cases sampled)**
- **Physical abuse (present in 3 of cases sampled)**
- **Trauma (present in 1 of cases sampled)**
- **Failure to thrive(present in 1 of cases sampled)**
- **(own) mental health problems (1)**

6. RECOMMENDATIONS

1. It is recommended that joint operational working be implemented to ensure that referrals/hearings are prioritised and best evidence is available at the earliest possible opportunity.
2. It is recommended that East Ayrshire Council monitor the use made by the local authority of the provisions under section 73 (4) of the *Children (Scotland) Act 1995* to request a review of a child's supervision requirement, where there is a change or deterioration in the child's circumstances.
3. It is recommended that all agencies regularly re-assess the child's needs and situation in order to decide whether the child can continue to be safely cared for in their current environment.
4. It is recommended that all agencies reflect on the degree of knowledge held by practitioners and understanding of the processes involved in the CPO application and proof process. More particularly, to ensure that there is:
 - an understanding by information providers that they may require to give evidence in proof proceedings;
 - an understanding by witnesses of the difference between fact and

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opinion;

- an understanding by agencies of the need to support concerns with factual evidence;
- an understanding for all staff involved of what amounts to a material fact in an assessment of child protection concerns¹.

It is acknowledged that East Ayrshire Child Protection Committee child protection inter agency training day addresses the above issues as part of the course.

It should be noted that, were practical, local authority applications for CPOs will be accompanied by affidavit evidence of two workers. This will address the evidential difficulties highlighted above as the factual information contained in the affidavit will address both parts of the legal test.

5. It is recommended in cases involving child health concerns and neglect, that consideration is made of the provisions available under section 55 of the *Children (Scotland) Act 1995* – child assessment orders.

Susan Taylor
Chair of Child Protection Committee
21 August 2009

Report prepared by May Dunsmuir, Authority Reporter and Jaine Best, Solicitor

¹ See further: *The Protection of Children in England: A Progress Report*, The Lord Laming Report, 12th March 2009, in particular, recommendations 13 and 29.