THE DEPARTMENT OF HEALTH AND SOCIAL SECURITY OF THE ISLE OF MAN

THE CHILDREN AND YOUNG PERSONS ACT 2001

GUIDANCE

VOLUME A

COURT ORDERS AND RELATED MATTERS

PREFACE

The Children and Young Persons Act 2001 introduces reforms of law relating to the care and welfare of persons under the age of 18 years. It is based, in large part, on the Children Act 1989 of Parliament. It re-enacts Parts I and II of the Family Law Act 1991.

Part 8 of the Act deals with Proceedings involving Children and Young Persons. Part 9 deals with fertilisation, embryology and surrogacy. The Guidance provided in this series covers the remaining eight parts of the Act. These two important aspects are covered elsewhere.

This Guidance is issued by the Department of Health and Social Security as one of a series designed to explain the principles of the Children and Young Persons Act and to consider their implications for policy, procedure and practice. It is written for managers, practitioners and anyone who is interested in children and families who may be affected by the Act. Though drafted before the Act comes into force it is written in the present tense.

For ease of reference and to avoid constant repetition the relevant part of the Act or other statute or publication is shown in the left hand column, next to the passage to which it relates.

CHAPTER 1 INTRODUCTION	1
HOW THE INFORMATION IS ARRANGED	1
CHILDREN AND THEIR FAMILIES	2
Child-centred welfare principles	2
Jurisdiction	3
Appeals	3
Court rules	4
CHAPTER 2	
PRIVATE LAW	5
INTRODUCTION	5
PARENTAL RESPONSIBILITY	5
The meaning of parental responsibility	5
Married and unmarried parents	6
Delegation of parental responsibility	7
GUARDIANSHIP	7
Appointing a guardian	8
Termination of guardianship	9
COURT ORDERS IN PRIVATE LAW	9
Residence orders	10
Contact orders	12
"Prohibited steps" and "specific issue" orders	12
APPLICATIONS FOR ORDERS WITH RESPECT TO CHILDREN	13
How orders may be made	13
Who can apply for an order	13
The position of the Department	15
Age restrictions and time limits	15
THE COURT'S DUTY UNDER THE ACT	15
THE RELATIONSHIP BETWEEN PRIVATE LAW ORDERS AND	47
PUBLIC LAW PROCEEDINGS	17
PRIVATE LAW ORDERS IN ADOPTION PROCEEDINGS	18
FINANCIAL PROVISION FOR CHILDREN	18
CHAPTER 3 CARE AND SUPERVISION	19
INTRODUCTION	19
Key principles of compulsory intervention	19
Establishing the need for compulsory intervention	19
Safeguarding the welfare of the child	19
APPLICATIONS FOR CARE AND SUPERVISION ORDERS	20
Order-making powers	20

Matters to be considered by the Department	
when deciding whether to apply for an order	21
Conditions for a care or supervision order	23
Initial hearings: court requirements and party status	24
INTERIM ORDERS	25
Duration of interim orders	28
Directions attached to an interim order	28
Consent	28
Responsibilities during interim orders	29
REVOCATION AND VARIATION OF ORDERS	30
Care orders	30
Supervision orders	30
Time limits	31
APPEALS AGAINST CARE AND SUPERVISION ORDERS	31
EFFECT OF CARE ORDERS	32
CONTACT WITH CHILDREN ON CARE ORDERS	33
Refusal of contact	35
EFFECT OF SUPERVISION ORDERS	35
Supervisors' duties	35
Additional requirements	36
Medical and psychiatric examination and treatment	36
Breaches of order	37
Time limits	37
Supervision orders in criminal proceedings	38
WARDSHIP AND THE INHERENT JURISDICTION OF THE HIGH COURT	38
CHAPTER 4 REPRESENTATION OF THE CHILD IN COURT	39
INTRODUCTION	39
Guardians Ad Litem	39
Court Welfare Officer	40
Advocate for the Child	40
Professional adviser appointed by an Advocate	
(de facto Guardian ad Litem)	41
CHAPTER 5	
PROTECTION OF CHILDREN	43
INTRODUCTION	43
CHILD ASSESSMENT ORDERS	44
Applications	44
Significant harm	45
Establishing evidence	45

No immediate danger	45
Prior investigations	46
Commencement and duration	46
Effect of an order	46
Directions	47
Child away from home	47
An Emergency Protection Order instead of an Assessment Order	47
Notifications, variations and revocations	48
Failure to produce the child	48
Child assessment orders and family proceedings	48
Results of the assessment	48
Practice issues	49
Multi-disciplinary assessment	50
Planning	51
More detailed assessment	51
EMERGENCY PROTECTION ORDERS	52
Introduction	52
Removing an alleged abuser	52
Grounds for an order	53
Application procedure	55
Effects of an order	56
Directions about disclosure of a child's whereabouts	56
Powers of entry	56
Removal of the child	57
Returning the child	57
Contact	57
Examination and assessment	58
Duration	58
Appeals and revocations	59
POLICE POWERS	59
Grounds and first steps	59
The designated officer	60
Contact with the child	61
Inter-agency liaison	61
THE DEPARTMENT'S DUTY TO INVESTIGATE	61
Purpose of enquiries	61
Review and action	62
ABDUCTION FROM CARE AND RECOVERY	62

CHAPTER 6 SECURE ACCOMMODATION	64
INTRODUCTION	64
CRITERIA	65
APPLICATIONS TO COURT	66
The role of the court	67
Legal representation	67
Court powers	67
Appeals	67
Limitations	68
THE "CRIMINAL" ROUTE	68
Remands to the Department's accommodation	
with a security requirement	68
Remands in custody	69
Sentences to custody	69
CHAPTER 7 EDUCATION SUPERVISION ORDERS	70
INTRODUCTION	70
SCOPE OF LEGISLATION	70
EFFECTIVENESS OF EDUCATION SUPERVISION ORDERS	71
DUTY TO CONSULT	72
Supervising officer	72
Reports to the court	73
Before an application is made	74
The duties of the supervisor	74
Change of school	75
The use of directions	76
Compliance with directions	76
Revocation and cessation	77
Extension	77
Child subject to a supervision order or a criminal supervision order	77
CHAPTER 8 TRANSFER OF CARE ORDERS AND RECOVERY ORDERS WITHIN THE BRITISH ISLES	78