**Brent Children and Young People**

**Supervision Orders (s35 Children Act 1989) practice guidance**

**The legal context**

1. **The law**

[Children Act 1989 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/1989/41/part/IV/crossheading/supervision-orders)

S35 Supervision orders.

(1) While a supervision order is in force it shall be the duty of the supervisor—

(a) to advise, assist and befriend the supervised child;

(b) to take such steps as are reasonably necessary to give effect to the order; and

(c) where—

(i)the order is not wholly complied with; or

(ii)the supervisor considers that the order may no longer be necessary, to consider whether or not to apply to the court for its variation or discharge.

(2) Parts I and II of Schedule 3 [Children Act 1989 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/1989/41/schedule/3) make further provision with respect to supervision orders:

Schedule 3 Part 1 – Supervision Orders sets out in greater detail:

* Meaning of ‘responsible person’
* The power of the supervisor to give directions to the child
* Impositions of obligations on the responsible person
* Psychiatric and medical examinations and treatment

Schedule 3 Part 2 sets out:

* The life of the supervision order
* The limited life of directions
* Information to be given to the supervisor
* The selection of the supervisor
* The effect of a supervision order of earlier orders
* Local authority functions and expenditure
1. **Putting the law into practice**

2.1 The Court can make a supervision order to a local authority if it considers that the threshold criteria under section 31(2) of the Children Act 1989 have been met, that it is in the child’s best interests to do so and that it considers that it is necessary and proportionate to make such an Order.

2.2 Like care orders, supervision orders can be granted by courts if the ‘threshold’ that a child is or is likely to suffer significant harm is met. A supervision order places the child under the supervision of a designated local authority.

2.3 No supervision Order can be made for a child over the age of 17 years, or 16 years if they are married.

2.4 Supervision orders are normally made for twelve months initially, although an order can be made for a shorter period. An order can be extended for any period not exceeding 3 years in total from the date of the first order. They can be a good way of dealing with concerns, which are worrying but not so serious that a care order is required. It is a way of keeping an eye on a situation and monitoring how well things are going.

2.5 The court can make a supervision order even if the local authority is asking for a care order, if the court thinks a supervision order is the most appropriate order to make.

2.6 Directions can be made by the court such as requiring a child to live in a specific place, for example, in the case of a child who persists in returning to the home of a person who is a risk), or requiring a child to attend medical appointments (e.g. a child with anorexia or self-harming or other diagnosed mental health problems). There may be other circumstances in which directions are appropriate.

2.7 Under the supervision order, those with parental responsibility for the child become ‘responsible persons’ and the local authority can ask the court to attach requirements to the supervision order to ensure the following:

* For the supervised child to comply with directions of the supervisor on certain matters such as living in a specified place, joining in on specific activities, and allowing the supervisor to visit them.
* A requirement for the person with whom the child lives with to comply with the directions of the supervisor. (This requires the parent’s consent, but if agreed upon the granting of the order can be part of the child in need plan).
* For the supervised child to have a medical or psychiatric examination.
* For the supervised child to have specified treatment for their mental health.

2.8 The supervisor may decide whether, and the extent, to which they exercise their power to give directions and to decide the form of any directions which he gives. Unless it has been explicitly included as a requirement, the order does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment. If the child is of sufficient age or understanding, he or she can refuse to undergo the examination. (See Schedule 3 for further details particularly in relation to medical/psychiatric examination and treatment) [Children Act 1989 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/1989/41/schedule/3)

2.9 Within the supervision order, there is the opportunity to impose obligations on a responsible person. This makes the requirements the responsibility of the parent/carer as well as the child, but it needs their consent at the final hearing to include it in the order.

2.10 The responsible person is required to give details of the child's address and allow the supervisor reasonable contact with the child. The responsible person, in relation to a supervised child means:

* Any person who has parental responsibility for the child; and
* Any other person with whom the child is living.

2.11 As stated above, a supervision order can also have requirements attached to it. Without requirements, the supervision order only requires the local authority to advise, befriend and assist the child.

2.12 If the responsible person breaches the supervision order this does not automatically mean that the supervision order will become a care order. The law does not provide any specific remedy for breaches and the local authority will have to think carefully about how that breach might be dealt with. Options, which may be considered, are to return the matter to court to vary the terms of the supervision order or consider whether the child can only be protected by a care order.

2.13 If the responsible person refuses to allow the local authority access to the child, then the local authority can apply to the court for a warrant to do so, under s102 of the Children Act 1989. ([Children Act 1989 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/1989/41/section/102)) In these circumstances, the local authority may wish to consider whether a care order might be needed.

**3. The process**

3.1 When applying for a care order or a supervision order, the local authority social worker must set out a clear care plan that includes any specific requirements that require explicit approval, for example medical/psychiatric examination and/or treatment.

3.2 When a Supervision Order is either requested or imposed, as in the case of where the local authority had been seeking a Care Order, but the court determined that a supervision order was the most appropriate order, the social worker should complete a Supervision Order support plan that accurately reflects the care plan that was presented to the court, along with other practical measures that relate to a supervision order. Where required, other agencies that will contribute to the order must be included in the child in need plan.

3.3 Social work intervention during the course of a Supervision Order will be managed via the Child In Need workflow on Mosaic

3.4 The first Supervision Order support planning meeting will be held within 10 working days of the order being made.

3.5 The first child in need meeting will be chaired by the team manager responsible for the final care plan and overall Supervision Order support plan.

3.6 The Supervision Order support plan will include:

* The identified needs of the child and any services required.
* Specific and achievable outcome-focused actions for each participant (including the local authority) of the plan, including the child/young person as appropriate, that are designed to safeguard and promote the welfare of the child.
* A robust contingency plan that is transparent about what actions might be taken if there are challenges to implement the plan successfully.
* How the plan will be reviewed, and progress monitored.

3.7 The social worker will visit the child/ren within the first five working days of the order being made. The purpose of this visit will be to help the child/young person understand what the order means and how it will be administered. The best way to do this, dependent upon age and ability, would be in a well-planned direct work session.

3.8 The visiting frequency, after the first visit, will be between 4-6 weeks but no longer than 6 weeks.

3.9 As the Supervision Order is likely to have been made for a period of twelve months, it is necessary that there is a good grip on progress. Therefore, the support plan is to be reviewed at ideally eight weeks with a minimum of every twelve weeks and should include all participants of the plan so that progress can be robustly monitored and challenged as may be necessary to enhance the effectiveness of the order and to reduce any drift and delay.

3.10 At each review, the chair of the meeting will determine whether, on the evidence presented, it is appropriate to continue with the order. If the concerns are such to necessitate escalation of the case to child protection, an initial child protection conference will be convened within 15 working days of the decision to escalate. If the concerns indicate that there may be grounds to make an application to court for a care order, a legal planning meeting will be held within five working days.

3.11 A review will be held three months before the expected end of the order and chaired by the Team Manager or Service Manager. The review will consider whether sufficient progress has been made to allow the order to lapse. In order that the review can be fully appraised of the current situation, the allocated worker will have completed a child and family assessment that the review will consider. The assessment will have been shared with the family no later than one week before the review. The local authority’s legal advisor should be invited if required.

3.13 If a decision is made to allow the order to lapse, the allocated worker will confirm this in writing to the family within seven days.

3.14 If a decision is made to apply to the court for an extension of the order, or to apply for a care order, the allocated worker will advise the family formally of this decision within 24 hours of the decision being made along with advising the family to consult a solicitor. The legal department will make an application to the court within 21 working days of the decision to seek an extension.

3.15 Where an application is made to extend the order or to apply for a care order, the allocated worker will write a statement to support the application within 14 working days. This will allow time for the statement to be made ‘court ready’ and to be attached to the application.

**Sign off: July 2022**