**Social worker’s guide to the Children and Families Act 2014**

The matters referred to below come into operation on 22nd April 2014.

Part One of the Act relates to Adoption and Children

**s.1** Children of adopted people are going to be allowed access information on the adopted persons birth family in certain situations.

**s.2** Invites the Local Authority to place children for adoption with potential permanent carers more swiftly, by requiring the Local Authority to consider “fostering for adoption” if available. At present in Devon Brokerage do not access the people approved for adoption therefore if you want a foster carer who would adopt you need to contact the adoption team as well as brokerage.

**s.3** it is intended that there is a reduction in delay in adoption by ensuring that a local authority is not seeking a perfect or partial ethnic match. There is a repeal of the requirement to give due consideration to ethnicity.

**s4-7** seeks to improve the current provision of adoption support by giving new duties to the Local Authority.

**s8-9** new statuary basis on how a child can have contact with their birth family post adoption due to there no longer being contact orders.

The Local Authority now has a duty to provide reasonable contact when a child is in care not just to the parent or guardian but also to anyone who has a Child Arrangements Order 2014 (CAO).

Part Two of the Act relates to improvements in the Family Justice System

**s.10** in private law proceedings there is a requirement to attend a family mediation session prior to the issuing of any application.

**s.11** in private law proceedings there is a presumption that both separated parents should continue to be involved in their children’s lives as long as it is safe to do so. That does not mean equal division in time.

**s.12** This introduces a new type of order, called a “**CHILD ARRANGEMENTS** **ORDER**” this will replace both Residence and Contact orders. The new order will concentrate on the needs of children and less on parental rights over the child. The purpose of the order was to get rid of labels where often a parent would argue over who had the residence order even if the amount of time spent with the child was the same. Existing contact and residence orders will remain enforceable.

The order regulates:

(a) **With whom** the a child is to live, spend time or otherwise have contact and

 (b) **When** a child is to live, spend time or otherwise have contact with any person.

Therefore it is the content of the order rather than the name of it that is important. It does allow for indirect and telephone contact. There are still available applications for a specific issue or Prohibited Steps Orders.

How will this order work?

For example if the CAO sets out that the child shall live with a particular child then the person can rely upon the fact that the CAO is confirmation that the child should be living with that person. Therefore, it will be the same as we currently have with a residence order.

There will still be a penal notice attached to the order as contact orders had previously which can be enforced if breached. Usually it would be the absent father enforcing an order against the mother who is refusing to allow him to see the children contrary to the order.

Changes to Parental Responsibility

At present the following persons have PR:

1. Child’s mother, unless adopted by somebody other than her.

2. Child’s father if:

 (a) Married to the mother at time of birth or marry after the birth.

 (b) Making a parental responsibility agreement with the mother

 (c) Parental Responsibility order pursuant to s.4 Children Act 1989

 (d) Acquiring a Residence Order

 (e) Since 1st December 2003 if named as father on the child’s birth certificate.

3. Step parent if:

 (a) Entered into a step parent responsibility agreement with the parents with PR

 (b) Order made

 (c) Female civil partners.

4. A person with a Residence Order/ Care Order

The changes to PR will be:

Paragraph 21 will bring an amendment to s12 (1) CA 1989. Where the court makes a Child Arrangement Order with respect to a child, and the father of a child or woman who is parent of the child by virtue of s 43 Human Fertilisation and Embryology Act 2008 (HFEA) is named in the order as a person with whom the child is to live and the father or woman would not otherwise have PR for the child the court MUST ALSO MAKE AN ORDER UNDER S.4, giving the father or the woman that responsibility.

Therefore for the avoidance of doubt, when the court decides to make a Child Arrangements Order to say the father who wouldn’t otherwise have PR determining the fact that the child is to live with him then the father will also be getting his separate s4 CA 1989 PR order.

s.12 (1A) CA1989 provides that when a court makes a CAO, and the father of the child or a woman who is a parent under s.43 HFEA is named in the order as a person with whom the child is to spend time with or otherwise have contact with and the father or woman would not normally have PR THE COURT MUST THEN DECIDE WHETHER IT WOULD BE APPROPRIATE TO HAVE PR.

This is going further to what we currently have as the court must decide whether it would be appropriate to also grant them PR.

s.12(2) which brings in s12 (2A) CA 1989 provides that when the court makes a CAO to anyone who is not a parent. For example grandparents who have obtained leave to issue an application for the grandchild to spend weekends with them. The court may also order PR.

This potentially could have huge ramification for DCC when checking through family members who have PR as they would be expected to be invited to meetings and would be automatically be parties to proceedings and be entitled to legal aid like parents would automatically. Previously grandparents could only acquire PR by being granted a Residence Order.

It appears though that once the CAO is discharged they would then lose their PR. It is not a separate order like a father would have.

**s.14 (2)** C & F Act 2014 amends the children Act 1989 so that in s.32(1) (a) 1989 the timetable of the case is within 26 weeks.

If an application is being made to extend the time table then the court must have regard to (a) impact timetable would have on the welfare of the child and (b) impact which the timetable would have on the conduct of proceedings.

Extensions are not to be granted routinely.

 **s.14(4)** of the 2014 Act relates to the DURATION of interim care and supervision orders.

Currently the first order can last no more than 8 weeks and the subsequent orders may not last longer than 4 weeks.

The limit on interim orders is now removed and so there is no need for interim renewals and your initial order is for the duration of the proceedings.

**s.15** CARE PLANS-the court when considering the care plan is to consider the permanence plan and is not required to consider the rest of the plan such as contact although can do so if it wishes.