



Eatons

Taking Children into Care – The Legal Process

We often hear of children being taken into care, but the process by which this occurs is not well known.

The Children Act 1989 lays down the circumstances under which it is appropriate for a child to be taken into care or a supervision order made. The necessary criteria, somewhat rephrased, are:

- That the child concerned is suffering, or is likely to suffer, significant harm; and
- That the harm, or likelihood of harm, is attributable to the care given to the child (or which would be given if a care or supervision order were not made) and is not what could be reasonably expected of a parent, or that the child is beyond the control of the parents.

In order to determine whether these criteria are met, a thorough fact-finding exercise must first be carried out. One common difficulty arises when the proceedings to take a child into care are based on an expectation that the child may be harmed in the future, rather than on the basis of harm having been done to the child in the past. In such cases, the local authority is required to prepare a clear written analysis of the facts on which the authority's decision to apply to take the child into care is based. This analysis should be divided into three stages:

- An establishment of the primary facts;
- An assessment as to whether the criteria outlined above are met; and
- An overall assessment of what action is likely to be in the child's best interests.

All the other parties involved have the right to respond to any allegations made in the analysis.

We can assist you in your dealings with the local authority and other bodies. For advice on all aspects of family and matrimonial law please contact Liz Williams on Tel: 01274 728 327.

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It appears the courts are looking much more closely not only at the stated intentions of people going into a marriage but also at their relative contributions to the wealth created during the marriage. This does not mean that 'stay at home' spouses will necessarily receive a small settlement. If they can demonstrate that they provided the environment and support which enabled or assisted the 'go getter' to amass wealth, then there is every chance of them being awarded a significant proportion of the marital assets, particularly if the marriage has lasted several years.

The other factor the court will consider is the wealth brought into the marriage by each party. By and large, the 'non-marital assets' are divided in the proportion in which each spouse or civil partner introduced them.

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