



PUMP COURT CHAMBERS

When contact becomes care proceedings

Charlotte Street

When private law proceedings become public law

- Focus: recognising escalation points and advising clients effectively
- Core themes: indicators, thresholds, processes, and strategy
- Practical, procedure focused



Context

- High-conflict litigation and sustained parental acrimony heighten risk
- Escalation can arise from discrete safeguarding events, not just conflict
- Persistent allegations/counter-allegations of harm or neglect
- Repeated police call-outs, NFA patterns, or bail conditions
- Domestic abuse indicators, coercive control, MARAC involvement/ IDVA referrals
- Substance misuse, mental health instability, untreated risk factors
- Unexplained injuries, bruising patterns, or inconsistent accounts
- FII-type presentations or frequent healthcare attendances
- School/health concerns: attendance, weight, hygiene, disclosures
- Non-compliance with court orders; obstruction of contact or assessments



State protective action: how and thresholds

- LA contact commences: s.17 assessment or s.47 enquiries, following referral from parent or third party/ school/ police, possibly Cafcass
- Pre-proceedings (PLO) letter may be issued to parents with concerns
- Or Court may direct s.37 report within private proceedings
- Care/supervision proceedings may be issued if thresholds are met
- Interim orders possible: ICO/ISO, interim contact/safety measures



Section 17 Children Act 1989: child in need

- Threshold: child unlikely to achieve/maintain reasonable health/development
- Assessment: social worker-led, typically within set timescales
- Process: home visits, interviews, multi-agency checks, consent sought
- Support: CIN plan, services, practical assistance and reviews
- Interface: private proceedings continue; court may invite LA updates
- Timescales: assessment period and review meetings thereafter



Section 47 Children Act 1989: child protection enquiries

- Threshold: reasonable cause to suspect significant harm or risk
- Strategy discussion/meeting to plan enquiries and immediate safety
- Often multi-agency involvement: police, health, education
- Outcomes: Initial Child Protection Conference (ICPC) and Child Protection Plan (CPP) if needed
- Implications: tighter oversight; potential for pre-proceedings consideration



Section 37 Children Act 1989: court directed LA report

- Trigger: court has cause to suspect significant harm within private case
- LA duty: investigate child's circumstances and report to court
- Scope: risk assessment, support options, and need for proceedings
- Outcomes: recommendations; consideration of issuing care/supervision
- Case management: court directions aligned with s.37 timescales
- Distinguish evidential focus: risk of harm analysis (s.38) vs welfare dispute (s.8/s.1(3))



Timeline: typical escalation pathway

- Private law dispute and allegations arise
- Safeguarding referral made to LA (Cafcass following safeguarding enquiries)
- s.17 child in need assessment commenced
- s.47 enquiries and possible child protection plan
- Court directs s.37 report within private proceedings
- Pre-proceedings (PLO) letter and meeting
- Issue of care/supervision proceedings and interim orders as needed
- NB> Non-linear in reality; steps can accelerate or overlap
- Each step should trigger action and advice
- Keep clients informed about likely next steps and timescales



If LA issue

- Advise client of availability of legal aid (non means, non merits)
- Consider whether to direct client to care practitioner
- Approach:
- Process
- Timescales
- Expert instruction
- Keep in mind pre-issue. Case may be better suited to a care practitioner, or instruct one of our specialist team who do both.



What clients might expect

- Initial contacts: social worker calls, letters, and consent forms
- Home visits and interviews; requests for collateral information
- Invitations: CIN meetings, strategy meetings, ICPC
- Documents: assessment reports, plans, minutes; sharing with court
- Pre-proceedings: letter before proceedings; PLO meeting invitation
- Representation: entitlement to advice, especially under PLO
- Tell clients to keep all correspondence and meeting notes.
- Encourage bringing a supporter and asking for written summaries.
- Clarify what must be disclosed to the court and timing.



Practical advice: The accused parent

- Maintain calm, consistent, child-focused communication
- Engage promptly with social care; be honest
- Do not discuss proceedings with the child or coach accounts
- Preserve evidence; keep diaries and retain digital communications as contemporaneously as possible
- Cooperate with assessments and agreed testing; seek advice on scope
- Consider safety planning and interim contact proposals
- Warn against social media commentary or messaging the other parent about allegations
- Prepare client for unannounced visits and professionalism during them.
- Frame cooperation as safeguarding the child and demonstrating insight.



Practical advice: The accuser

- Report factually; avoid exaggeration and refrain from vexatious reporting
- Provide contemporaneous evidence and third-party corroboration
- Engage with school/health; authorise necessary information-sharing
- Focus on safe, workable interim arrangements; avoid unilateral actions
- Be open to alternative hypotheses and assessments
- Encourage early legal advice before repeated police calls or referrals.
- Advise asking for written outcomes of referrals and meetings.
- Ensure concerns align with welfare principles and proportionality.



Practical advice: where both parents are in conflict

- De-escalate communications; use structured channels (eg Parenting app)
- Encourage clients to separate adult grievances from child welfare.
- Flag risk of s.37 if conflict impedes safe arrangements.
- Consider non-court support where safe: parenting programmes/ any role for family therapy if appropriate
- Recognise patterns that look like implacable hostility with safeguarding features.
- Prepare for possible fact-finding. Structuring allegations, gathering evidence.
- Strict adherence to court orders and directions.



Preparing for assessments and testing

- Home visits: environment, routines, and child presentation scrutinised
- Parenting assessments: observations, history, insight, and protective capacity
- Drug/alcohol testing: timing, method, and reliability considerations
- Mental health assessments: consent, scope, and sharing of outcomes
- Cultural and disability considerations; reasonable adjustments
- Consider requesting assessment terms in writing and querying unclear tools or timescales.
- Ensure clients understand consequences of refusal vs cooperation.
- Encourage clients to prepare documents and references sensibly.



Working with professionals

- Liaison with school, GP, HV: consent for information-sharing
- Obtain up-to-date school attendance and health summaries where relevant
- Keep communications factual, brief, and respectful
- Counsel clients to avoid pressuring professionals or triangulating the child
- Request copies of records relied upon by professionals
- Clarify pathways for correcting inaccuracies in records



Court strategy and case management

- Seek timely directions for disclosure from police/LA/schools
- Identify if fact-finding is necessary and proportionate; define issues
- Consider expert evidence scope and timing in light of LA involvement
- Anticipate how s.17/s.47/s.37 will affect CAFCASS and timetable
- Maintain parallel planning for interim contact and safety



Court strategy and case management

- Manage expectations; give clear, proportionate advice in writing
- Assess capacity and vulnerability; consider intermediaries or adjustments
- Safeguarding duties: act where there is risk of significant harm
- Avoid being used to perpetuate conflict or vexatious tactics
- Consider withdrawing where instructions are abusive, unsafe, or unethical
- Record rationales for advice; maintain boundaries.
- Consult in complex (safeguarding) cases



Discussion...

- Consider scenario: 7-year-old in a private law dispute, living with Parent A. Court listed for FHDRA; CAFCASS seeking LA checks.
- Parent A alleges Parent B's neglect and alcohol misuse.
- Parent B misses two contact handovers and refuses school to speak with Parent A.
- School report 30% absence and child presenting hungry.
- Police called for parental arguments; no charges.
- Child seen at A&E twice in recent months for minor injuries.
- What red flags indicate likely LA escalation? What immediate directions would you seek? Would you press for s.37 now or await s.17/s.47? What client advice would you give each parent?



Contact details



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Charlotte Street enjoys a broad family law practice, encompassing all aspects of public and private law, children and money, injunctive relief and emergency applications.

Charlotte appears at Family Proceedings Court, County Court and High Court levels and regularly represents parents in care proceedings. She has been instructed in a number of lengthy and complex disputes, involving allegations of physical abuse. Charlotte has also been instructed by extended family members and prospective adopters regarding special guardianship and adoption applications.

In respect of private late applications Charlotte has significant experience of residence and contact disputes. She has dealt with a number of complex cases involving S.9.5 guardians. Issues have included allegations of abuse, personality disorders and hostile resident parents. Charlotte has dealt with applications for the removal from the jurisdiction.



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