

# **POLICE POWERS OF PROTECTION/EMERGENCY PROTECTION ORDERS – INTER-AGENCY PROTOCOL AGREED BY DERBYSHIRE POLICE AND DERBYSHIRE CHILDREN’S SERVICES**

## **INTRODUCTION**

This protocol has been drawn up as a reference document for those making operational decisions in relation to the exercise of Police Powers of Protection and applications for Emergency Protection Orders for children at risk of significant harm in Derbyshire. It is not intended to be an exclusive guide and should be read in conjunction with the appropriate statutory provisions as well as the Derbyshire Safeguarding Children Board Procedures.

## **AGREED GUIDELINES**

Emergency action may be necessary at any point during involvement with children, parents or carers. Such action should normally be preceded by a Strategy discussion. In these circumstances this may take the form of a telephone conversation between the relevant agencies.

Police Protection Powers will be exercised at any time that the relevant Police Officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm if the child is not removed or kept in suitable accommodation. Ordinarily, this will be where there is an immediate or imminent risk of significant harm to a child.

Whenever a serious concern or event occurs after 4.30pm or at weekends and where a Police Officer considers a child to be at risk s/he should contact their Designated Officer and the Out of Hours Team, Children’s Services for advice. However, action must not be delayed if either is unavailable and the child is at risk of imminent danger.

If there is a need to take immediate protective action in relation to a child during these hours it is likely that this will require the exercise of Police Protection Powers as the Courts are not in a position to deal with Emergency Protection Order applications out of hours.

The relevant Police Officer must ensure that the Out of Hours Children’s Social Care Team are notified of any child subject to Police Protection as soon as possible so they can carry

out their duties as the Local Authority and in order that an application to Court can be made by the appropriate team at the earliest opportunity.

In circumstances where a Child Protection Plan is in place for an unborn child to remain in hospital after the birth, the child will remain in hospital until a planned discharge meeting has taken place. If anyone attempts to remove the child from the hospital, Police Protection Powers may need to be used to ensure the child remains in hospital until the relevant Children's Services Team can complete an assessment on the first available working day.

In cases where the statutory criteria for an Emergency Protection Order are believed by any person to be met an application for such an Order may be made. Children's Services' Managers must ensure that consideration has been given to the matters referred to in the High Court judgements in X Council v B and others (2004) EWHC 2015 and Re X: Emergency Protection Orders (2006) EWHC 510 in order to meet the requirements for an application. In particular there is a requirement to evidence imminent danger, if this is not connected to an incident then evidence must be provided regarding new additional factors that demonstrate the immediacy of risk to a child or young person. Separation is only to be considered if this is essential to secure the child's safety.

Where domestic abuse is a significant risk factor then full, detailed, precise and compelling evidence must be provided of convictions or of incidents that have occurred, the non-abusing parent's ability to protect and any additional issues such as mental health concerns or substance/alcohol abuse and the risk of imminent danger.

When attending the Court all relevant documents need to be produced. Where a child is subject to a Child Protection Plan then the record of at least the most recent meetings, plans and chronology should be provided to the Court.

When there is a likelihood of an Emergency Protection Order application being made by Derbyshire Children's Services the relevant Court centre should be notified as soon as possible and put on notice of the likelihood, by a representative of Derbyshire County Council Legal Services.

Emergency Protection Order applications will be 'on notice' to parties except when the giving of notice is likely to result in harm to the child or children involved. Harm in this context will include a likelihood of someone absconding with the child, and/or causing physical or emotional harm to the child. It will also include instances when giving notice at such an early stage would substantially prejudice the progress of an investigation relating to allegations concerning conduct involving the child.

The likelihood of disturbance at a Court hearing will not be a reason for not giving notice of a Hearing and the Court should be informed of any relevant concerns. In such circumstances additional security measures should be taken by the Court and the Police will be asked to assist.

When notice is required the Court will consider abridging notice whenever the urgency of the situation so requires. The Court will also advise CAFCASS of the need to appoint a Children's Guardian and a Solicitor for the child prior to the Hearing.

Within normal Court hours a representative of Derbyshire County Council Legal Services Team will make the initial contact to the Court for applications by the Children's Services.

Where it is considered necessary to access legal advice in respect of an emergency application to the Court after office hours all teams should contact the Out of Hours Children's Safeguarding Team.

Special arrangements will be made to ensure cover over the Christmas and other extended holiday periods.