

## How to Guide: Residence Orders

Residence Orders may arise in the course of private law proceedings (where the LA is requested for a report under S7 of Children Act 1989), or in public law proceedings involving the local authority where a child may become or is already looked after. The order does not discharge Parental responsibility but does discharge a Care Order so a child becomes no longer looked after. Local Authorities have discretionary power to financially support children subject to these orders.

Where a child is being looked after, whether or not by legal mandate and rehabilitation is considered not viable the social worker should consider within the Child Care Review if a Residence Order may be used to increase the degree of legal permanence in a placement with relatives or friends, or a long-term fostering placement, where this would be in the child's best interests.

Where a child is at risk of accommodation would otherwise have to be placed with strangers, a placement with family or friends may be identified as a preferred option and the carers may be encouraged and supported to apply for a Residence Order.

Where an application for residence order is requested or considered for a looked after child the social worker will provide full information in writing to the prospective applicant explaining the effects of the order with regard to the applicants relationship with the child, the birth parents and the local authority.

In addition applicants should be provide with details of the departments policy in regard to the availability and criteria around financial support, and that this will be based on the needs of the child, the number of children placed, the assessed costs of caring for the child, that all state benefits will be taken into account, and that steps will be taken to explore parental contributions.

Foster carers applying for a Residence Order should be given the Fostering Network leaflet “Foster Carers and Residence Orders.”

When requested by a court to complete a report under Section 7 of the Children Act the headings below should be:

- Background;
- History of Children’s Services and other agency interventions;
- Profile of each child;
- Profile of each adult who is a party to the proceedings;
- The response of the family members to the current circumstances;
- A summary of the social worker’s assessment;
- The social worker’s comments regarding the welfare checklist;
- The social worker’s comments regarding the ‘no order’ principle and its relevance to this case.

The social worker’s conclusions and recommendations, with reasons:

- The social worker should discuss the contents of the report with his or her manager;
- The recommendations should take account of the orders available to the Court under the Children Act 1989. If there are any doubts about the recommendations that may be made to the Court, the social worker should seek advice from the Legal Department;
- As the local authority is not a party to the proceedings, the social worker will not be entitled to legal representation at the Court hearing. However, as indicated above, legal advice may be sought from the Legal Department prior to presenting the report and appearing in court;
- The social worker responsible for preparing the report will generally need to be present at Court when the application is heard – and should be prepared to give evidence in support of the information contained in the report.

Advise the prospective applicants that they can seek independent legal advice.

Consider the need for Support: As Residence Order applications are primarily for those placements which have been assessed as being able to provide stability for the child and where the carers are confident about meeting the child’s needs in the long term.

There may be some placements that require additional support either at the time of making the placement or in the longer term. In such cases an assessment of need should be made:

- This should include consideration around payment of a Residence Order Allowance (at the discretion of the local authority). The allowance is paid upon the making of an Interim Residence Order or Residence Order. The payment of a Residence Order allowance can be made to relatives or friends, but not to parents. The allowance ends at age 18;
- Consider where there are financial or support needs in respect of a child that will be recognised through the payment of an allowance. These can be where:
  - Family members agree with the local authority to apply to court for a Residence Order and the child or young person would be accommodated if the application was not made; or
  - A child or young person is accommodated and a family member or friend agrees to apply to court for a Residence Order so that they can be discharged from care; or
  - A child or young person is fostered and the foster parents agree to apply to court for a Residence Order; or
  - The child is subject to a Residence Order but due to changes in circumstances there is a risk of the child needing to be looked after if support through an allowance is not made.

Inform applicants who are requesting an allowance that they should write to the Relevant Children's Service Manager for consideration for a Residence Order Allowance.

Inform Applicants that the financial assessment will not include any reward element, and will take account of their own financial resources as well as any entitlement to benefits, in addition to consideration the financial needs / resources of the child excluding mobility / attendance allowance. An Annual Review will be required.

Conclude agreement to any Financial Support.

Communicate the outcome of the decision to the Applicants.