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Contact in Public Law Proceedings

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Decisions about contact arrangements between children and members of their birth families are part of most public law family court proceedings. The recommendations of CAFCASS Guardians are central to the often highly contested decision-making processes.

INTRODUCTION

This knowledge set seeks to explore the main messages from research and the wider professional literature on contact and the implications for Children's Guardians in CAFCASS. Some key considerations include:

- International laws and conventions, including the United Nations Convention on the Rights of the Child (UNCRC) and the European Convention on Human Rights (ECHR)
- Children have psychosocial developmental needs that must be considered when making assessments and recommendations about contact. The importance of continuity of attachment relationships, whilst also being protected from harm, and the need to develop a coherent sense of self and identity are key for all children.
- Contact refers to a range of activities. Contact can be 'direct' in the form of face-to-face meetings, or can be 'indirect' through an exchange of letters and photographs, telephone, email, Skype and social media sites, such as Facebook.
- There are no easy answers and no 'one size fits all' solutions.

In Public Law proceedings, the local authority has a duty to promote reasonable contact between a child in care, his/her parents and other important people unless directed otherwise by court order or on a temporary basis in urgent circumstances. Children's Guardians will frequently be asked to make recommendations about what is 'reasonable contact'.

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> The purposes of contact during the proceedings are to minimise distress caused by separation; maintain family relationships; and to inform assessments.

INTERIM CONTACT ARRANGEMENTS

The observation of contact can be an important source of information in terms of assessing parenting capability, attachment relationships and family dynamics.

Two small-scale research studies by Kenrick (2009), and Humphreys and Kiraly (2010) raised concerns about the potentially stressful effects of high levels of contact for young infants during care proceedings, especially when involving long journeys to and from contact.. However, Dale (2013, p. 188) warns of the danger that 'minimal contact messages' from these projects may take root in mainstream practice to provide rationalization and justification for decisions that have been taken for other reasons, including lack of resources. Schofield and Simmonds (2011, p74) argue for the need to ensure that contact can be a positive experience, by attending to the complex pressures on all those involved – including the child – in order to 'create a stable, secure and sensitive set of arrangements'.

Where reunification is a suitable and appropriate option, Cleaver (2000) concludes that contact is key to reunification but only in combination with other factors. More recent studies (e.g. Biehal 2006; Sinclair *et al.* 2007; Farmer *et al.* 2008) Wade *et al.,* 2011 similarly indicate that contact is a necessary but not a sufficient condition for reunification with recent studies recognizing the complex ways in which child, family and service factors interact in determining outcomes. (for children)

CONTACT – PERMANENT SUBSTITUTE CARE

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Under section 34 of the Children Act 1989 local authorities are required to promote reasonable contact between a child, his or her parents and guardians. What is deemed 'reasonable' will depend on the needs and wishes of the child in question. Although the court's requirements for scrutiny of care plans is reduced following the implementation of the Children and Families Act 2014 there is still a duty to consider local authority contact arrangements between the child and the wider family under section 34(11).

In their review of the research in this area,, Neil and Howe (2005) suggest that the aim of permanent substitute care should be to help permanently placed children to achieve optimum levels of psychological development by helping them to:

- Build a relationship and establish a secure attachment with new carers;
- Resolve feelings of separation and loss;
- Form a coherent sense of self and a clear identity by achieving autobiographical completeness and a sense of genealogical connectedness. (Neil & Howe, 2005, p. 226)

Contact has the potential for helping children resolve these developmental tasks, especially in relation to separation and loss and identity development, however is not without risks. Although the three psychosocial tasks are important, primacy is given to establishing a secure attachment relationship with their foster carers or adopters, so contact should not necessarily be pursued if it destabilises the placement.

Research evidence suggests that kinship placements promote greater parental contact than other out-of-home placements (Hunt 2003). However, whilst studies indicated that kinship care is a positive option for many children, it is not straightforward and requires careful assessment and support. Importantly, research does suggest that kinship carers can find managing relationships with parents among the most stressful aspects of their role (Hunt *et al.,* 2008; Hunt and Waterhouse, 2013). Contact arrangements in kinship care placements can become complicated by difficult extended family dynamics and adjustments required to roles within the family network. Kinship carers tend to be less well supported than foster carers, often failing to receive adequate support (Hunt and Waterhouse, 2013). Farmer (2009) found contact supervised by professionals was far less likely in kinship care and such unsupervised contact was also associated with higher levels of placement breakdown. It is crucial that Children's Guardians scrutinize carefully all Special Guardianship Order support plans to ensure robust support for kinship carers around contact issues.

In terms of outcomes, having continued contact with members of the birth family is found in some studies to be associated with a reduced risk of breakdown, and appears to make no difference in others (Sellick *et al.*, 2004). Studies that have tried to measure the relationship between contact and wellbeing reveal a complex picture, but in general contact appears beneficial for most children (Neil, 2003). Another important consideration is that older children with established birth family relationships are now placed for adoption and may be able to clearly express their wishes. Many children in out-of-home placements remain concerned about their birth families and often spend a lot of time worrying about them (Sinclair *et al.* 2007; Moyers *et al.* 2006). Schofield and colleagues' (2000) study of children in long-term foster care found that an absence of contact with family members, especially against children's clearly stated wish for contact, can be problematic and potentially damaging.

Contact, however occasional, can keep alive a child's sense of his or her origins, and for minority ethnic children in particular could offer valuable connections with their racial, cultural, religious and heritage. Contact may offer future networks of support for care leavers given that a large proportion of children will return to their birth families at some point in their lives (Sinclair *et al.* 2007). However, direct contact may not always be in the children's interests, particularly if there is a risk of further harm or a disruption of the stability of the placement (Quinton & Selwyn, 2006).

Contact is more likely to take place, be supported and reviewed via the looked

> In the Care Inquiry (2013) on the whole the children and young people spoken to felt that contact with their birth family was important and that it should be well supported. This meant planning it properly, and making sure people turned up.

A child's contact needs should form an integral part of the decision-making process regarding the most appropriate placement option, and should consider parents as well as wider family members who are important to the child.

after children procedures in permanent foster placements, than in adoption placements; although open adoption does occur and can be positive for the child (Neil and Howe, 2005). If no direct contact takes place, indirect methods of exchanging information, such as letters and photos should be in place. However, in order to be maintained, birth family and permanent carers indirect or 'letterbox' arrangements are likely to need some on-going support. If siblings are placed separately, it is particularly important to ensure on-going sibling contact as research indicates sibling separation and lack of contact risks deeply felt

and long-term loss over a lifetime (Mullender, 2000).

There are no straightforward answers to broad questions about whether or not contact will be of benefit to specific children in particular permanent placements and, if so the frequency of contact. Simple formulas and rules cannot be applied, and in each case, decisions made on the basis of the individual child's needs. Contact plans must take into consideration the needs and wishes of the child (including safety needs); the views and attitudes of the permanent carers; the views and attitudes of birth family members; and support services available.

Neil and Howe (2005) suggest that contact is most likely to be beneficial when:

- Adopters/foster carers have an open and empathic attitude towards the child and birth family;

- Birth relatives show acceptance of placement;

- Issues of safety (physical, sexual, emotional) of   child are managed;

- Appropriate support is given to all parties.

Openness on the part of permanent carers to discuss the child's history and maintain a dual connection to two families, even if this does not involve direct contact is important. The resolution of additional developmental tasks faced by children in permanent substitute care is not helped, and may be impeded by, a closed model of permanency practice, that allows participants very little access to and information about each other (Neil & Howe, 2005). The ability to tune into the child's needs must be a central issue in the assessment of adopters and permanent foster carers. Children's needs and wishes will change, so contact plans need to be flexible. What endures over time is the child's need for sensitive, empathic parenting. Thoburn (1996) suggests that the art of child placement lies in meeting both the child's need for a sense of permanence and his or her need for a sense of personal identity and for that identity to be respected by the substitute parents. The aim should be to achieve permanence whilst minimising loss.

There is currently very little research on the impact of the internet and social media on contact between children in permanent substitute care and their birth families. Sen (2010) found that practitioners generally constructed new technologies as a risk rather than opportunity. For some children in out-of-home placements unsupervised contact via social media with birth families can put them at risk of harm. However, Ofsted (2009) found that children in care identified email and social media useful methods of maintaining contact with family members, especially siblings.

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Sen & Broadhurst's (2011, p.306) literature review concludes that in order to maximize the positive potential of family contact the following need to be recognised:

(1) Social workers have a central role in influencing the frequency, quality and safety of contact;
(2) Contact should be purposeful and contribute to assessment/rehabilitation or other objectives in terms of a child's identified needs;
(3) The wishes and feelings of the child, parent and significant others must be given thorough consideration;
(4) Appropriate support for the child, family members and carers is needed for successful contact to occur; and
(5) Where contact is refused because it is considered detrimental to a child's welfare, explanations must be provided that are appropriate to the child's age and understanding.

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