



Centre for excellence  
for looked after children in Scotland



lawyers for  
children & young people

# From Act to Practice Practitioners Seminar

## Handout 2

# Working With Compulsion | Implementation of Compulsory Orders

Orders made by hearings, including interim orders, must specify

1. **At least one measure**, for example that the child resides at a certain place or that regulates contact with a person. The measures usually place a duty on the child and are able to be flexible to suit what is needed for the child. One of the measures allows a duty to be put on the local authority to carry out specific duties in relation to the child (s. 83).
2. **A local authority that is to be responsible for the implementation of the order**, including the securing or facilitating the provision of services for the child that the implementation authority does not provide (s. 144).

Although responsible for implementation, the authority can request assistance from another local authority or a health board in the carrying out of its functions. There is a duty on local authorities and health boards to comply for a request from a local authority for assistance. The implementation authority can refer matters to Scottish ministers to enforce health board obligations where there is any unjustifiable refusal to assist by a health board (s. 184).

The implementation authority is usually the ‘relevant local authority’ for the child i.e. the authority in which the child normally resides (s. 201). An authority can challenge being considered a relevant local authority by reviewing this through the courts (s. 166 and 167).

Once named in the order as the implementation authority, certain duties attach to the local authority, for example to require a review of the order where it needs to be varied because the child has moved to another area or, where the order is not being complied with (s. 131).

Where the implementation authority is in breach of its duties, a children’s hearing can make application to the court to enforce the duties (s. 146), and

3. **The duration of the order**. An order must have a ‘relevant period’ within which it has effect and this must be set out in the order (s. 83).

The order can last no longer than a year without being reviewed by a hearing and the order cannot last beyond the child reaching 18 years (s. 83 and 133). An implementation authority has a duty to request a review of the order in certain circumstances, for example where the order appears to need to be varied. A child and relevant persons can request a review which can only be held at least 3 months after the order was made (s. 132). Certain circumstances, usually emergencies, can prompt a review being held, for example when a child is moved from a residential setting to secure accommodation.

Orders should only last for as long as there is a need for compulsion.

## Working With Compulsion | Exercise 2

Issue	Your solution	<i>(please leave this column blank)</i>
Jess does not want Lucy to know anything about the hearing		
Jess is not engaging and she is saying that she will not come to the hearing		
Jess wants Harry to come with her to the hearing		
Jess is angry that David knows all her business and doesn't want him involved		

# Working with Compulsion | Preparation for a Hearing

The following rights and powers may be relevant for a child or young person who is to attend a hearing:

- Accessing, understanding and reviewing reports by others
- Views of the child or young person - having an opportunity to give, commenting on their views as reported by others, having their views heard and taken into account
- The child or young person providing a report or other information for the hearing
- Attending the hearing through video link or telephone, etc.
- A representative attending
- A legal representative attending
- Knowing about the availability of Advocacy services
- Requesting a person be deemed a relevant person
- Having an interpreter or other supports to participation
- Excusing the child or young person from their duty to attend
- Non-disclosure of information from person/s
- Information about the hearing, its purpose
- Understanding rights at the hearing
- Understanding process at the hearing
- Asking for an adjournment
- Objecting to observers
- Requesting to speak to the hearing on your own or with whom you choose

**Other supports that may be available include:**

- Agreeing times and timings
- Managing the venue
- Agreeing waiting arrangements
- Support after a hearing

# Moving to Compulsion | Hearing's Considerations at Review

## Reasons for Review Hearings:

- Compulsory supervision orders last as long as they are needed for the child.
- An order cannot continue without review for over a year and the reporter is responsible for organising a hearing if there has been no review within the year (section 133).
- A hearing that makes an order can set a date for a review (section 125).
- A child or relevant person can ask for a review to happen but the review can only happen 3 months after the order was made (section 132).
- If a child is re-referred to the reporter, the reporter can decide to refer these further grounds to a hearing, and this prompts an automatic review of an order (section 97).
- The implementation authority must ask for a review where the order needs to be varied or in certain other circumstances (section 131).

## Powers of Review Hearings:

As with other hearings the hearing considering a child's compulsory supervision order can

- Defer the hearing with or without a temporary variation to the terms of the order
- Terminate the order
- Vary the order
- Continue the order with or without variation or addition to any measures attached to the order (sections 138 and 139)

## Criteria for the Hearing:

The children's hearing may vary or continue a compulsory supervision order only if the children's hearing is satisfied that it is necessary to do so for the protection, guidance, treatment or control of the child (section 138(4))

The children's hearing may vary or continue the order, only if the children's hearing consider that it would be better for the child if the order were in force than not (section 28(2))

## Duties on the Hearing or chair of the hearing during the hearing:

The hearing has duties to ensure participation and to make sure that people have all the information that they need with time to understand and review information, and that they are heard as to what they want and what they think is best.

## Exercise 3

At the early review, the Panel members are asked to consider the recommendation from the Team Around the Child to end the Compulsory Supervision Order.

### The positives changes are:

- Jess has been working collaboratively and consistently with the Team Around the Child for three months.
- Lucy is noticeably happier and more relaxed at nursery
- Lucy has told the nursery staff that she is happy at home
- Jess has broken her ties with Harry.
- Jess and David are working together more easily

### Ongoing work is identified:

- Maintain the support of Women's Aid for Jess
- Continue to maintain regular meetings of nursery staff, health visitor, Women's Aid and Jess for at least six months
- The nursery staff will maintain ongoing contact with Jess and David

Think of yourself as a Panel member: what level and scope of evidence do you need to come to a decision?