

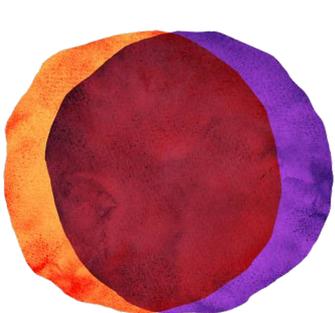
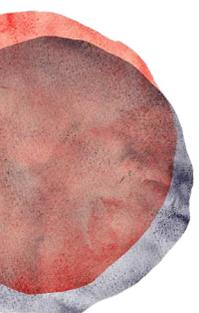
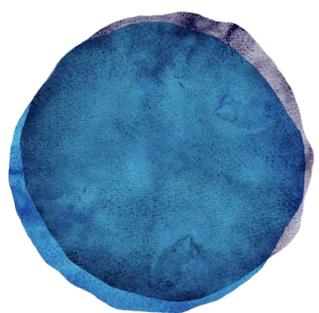
CHILDREN AND THE LAW: WHEN SOCIAL SERVICES ARE INVOLVED

Other **Children and the law** guides:

Parental responsibility

When families cannot agree

Adoption for women prisoners



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Introduction

This guide looks at the involvement of social services with children. It is for women in prison who want to know what their rights are. It only covers the law in England and Wales. **This guide contains general legal information, it is not legal advice as everyone's situation will be different.**

The term 'social services' is known by professionals as the 'local authority'. This guide will use the term 'local authority', as this is the term that would be used by the Family Court.

For help with some of the words used, see the **Definitions** section at the end of the guide.



Many women find it upsetting to think about their family while they are in prison. If you are affected by any of the issues discussed in this guide, make sure you speak to someone about it.



You can get legal advice about your circumstances from the Prisoners' Advice Service.



Or you may want to talk to someone about how you are feeling. You can speak to the family engagement worker, a peer mentor, the chaplaincy, the mental health team or the Samaritans.

See the **Useful contacts** page at the end of this guide.

Special thanks to the women at HMP Send and HMP Bronzefield who provided invaluable feedback on the contents of these guides.





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Your children have just been taken into care – what happens now?



Speak to the family engagement worker in the prison. She will have helped women in prison who have had similar situations. She can help you contact the social worker in an emergency.



Do you have any family or friends who can look after the children? Give their details to the social worker and your lawyer.

If you have arrived in prison and are worried that your children have been taken into care, you should take steps to contact the social worker as soon as possible.

Think about who you would like your children to live with. Do you have a family member who could look after your children? If so, try to get in contact with them and give them the social worker's contact details. They should tell the social worker that they want to look after your children while you are in prison. You should also tell the social worker who you want to look after your children.

There are different legal ways the local authority can take children into care. These are:

- **With your agreement:** if you signed an agreement that your children could be taken into foster care. Go to the section on **Section 20 agreements** on page 11
- **Under police protection:** this can only last for 72 hours. Once this time runs out the local authority will have to place your children with a family member (if you agree to this) or apply to the court for an order. You have to be told if they go to court. Go to the section on **Police protection** on page 14
- **Under an emergency court order:** if the local authority ask the court to make an order for your children, you should be told about this. When you speak to the social worker and your lawyer, tell them that you want to be at court for the hearings. Your lawyer can ask for you to be brought to court for the hearing. Go to the section on **Emergency protection orders** on page 16

You should contact a lawyer as soon as possible. If the local authority apply to the court for an emergency protection order, you will be able to get free legal advice.



Finding a lawyer

If you cannot pay for a lawyer to give you legal advice, you might be able to get legal aid. This means you will not pay for the legal advice you receive.

If you are told the local authority is going to court, you can get a lawyer for free no matter what. You should contact a lawyer as soon as possible.



In an emergency, speak to the family engagement worker to see if they can help you to telephone a lawyer quickly.

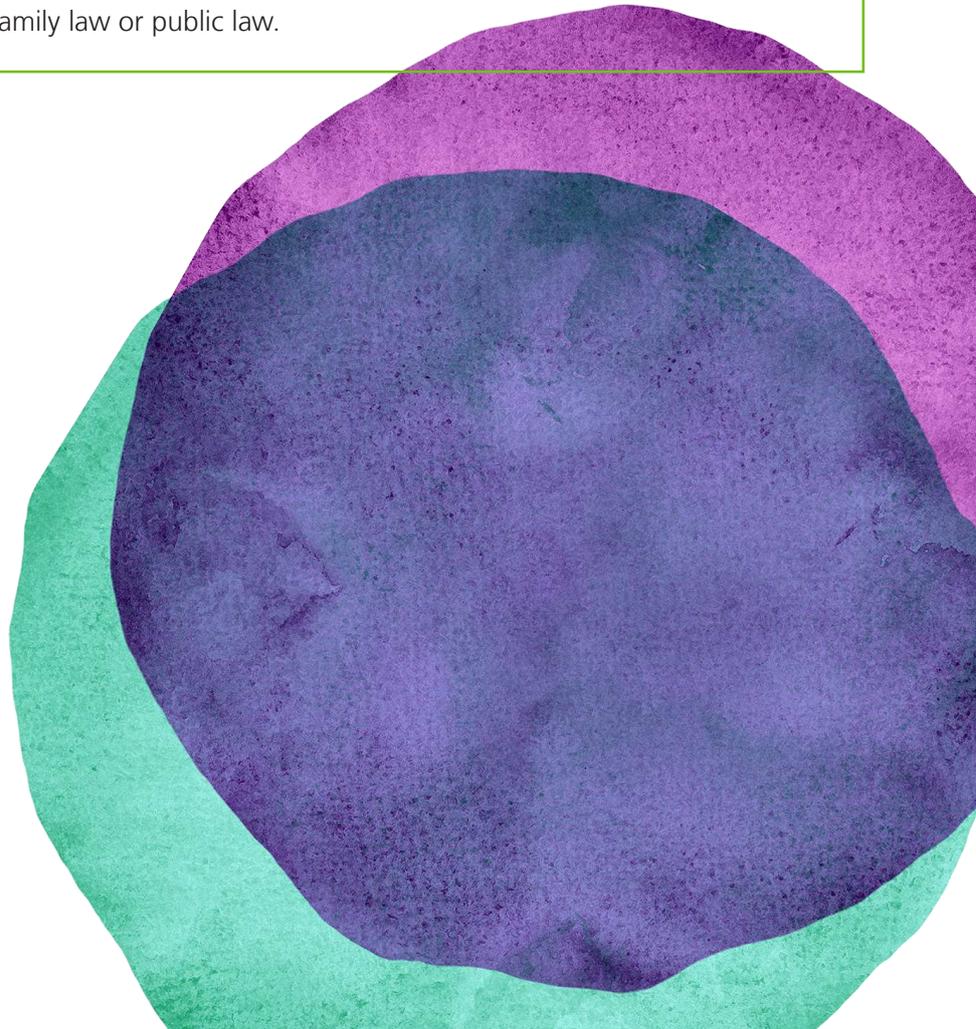
If you have access to the internet, you can find legal aid lawyers who specialise in family law here:

www.find-legal-advice.justice.gov.uk.

Alternatively, you can contact The Law Society and ask them for details of a solicitor that specialises in children cases when the local authority are involved.

You might be able to get legal aid even if the local authority is not going to court but it will depend on lots of different factors in the case. See the **Useful contacts** section for who to speak to about legal aid.

If you want to challenge a decision made by the social worker but there are no court proceedings, you can speak to a lawyer who specialises in family law or public law.



When will a local authority assess your children and family

When a local authority is told that someone is worried about your children, they have to look into this. There are lots of different reasons why this might happen. For example:

- you are about to be sentenced and there is no one to look after your children while you are in prison
- while you are in prison, something happens causing professionals to be concerned about your children
- you are pregnant while you are in prison

KEY FACTS:

- **The social worker should speak to everyone involved in your child's life when they investigate, including you.**
- **The family engagement worker may be able to help you contact the social worker. If you can, try to get the social worker's details from your family.**
- **The social worker should write to you with the outcome of their investigation.**
- **You should be sent a copy of any assessment the social worker writes about your children.**
- **If you believe that the social worker has not acted appropriately or has ignored important information, you can complain about the decision they have made. See the page on Complaints in this guide.**

When someone tells the local authority that your children are at risk of harm, they will investigate what they have been told. A social worker should speak to you, your children, the person caring for your children and your children's wider family. The social worker may also speak to professionals who know you and your children, for example, your children's school, doctor, health visitor, probation worker or other key workers. They may decide very quickly that they are not worried about your children and nothing else will happen.

The social worker should write to you explaining what they have done and the reasons why.

If the social worker feels that they do need to take further action, what action they take will depend on the information they received during their investigation. They will decide whether they think your children are at risk of harm. If they are, they will also decide what action the local authority can take to keep your children safe. The social worker will complete an assessment that explains their reasons.

When the social worker is investigating your family, they should also be looking at strengths in the family. It is important to work with the social worker and encourage your family to do the same. If you feel they are not thinking about the strengths in your family, speak to them about this.

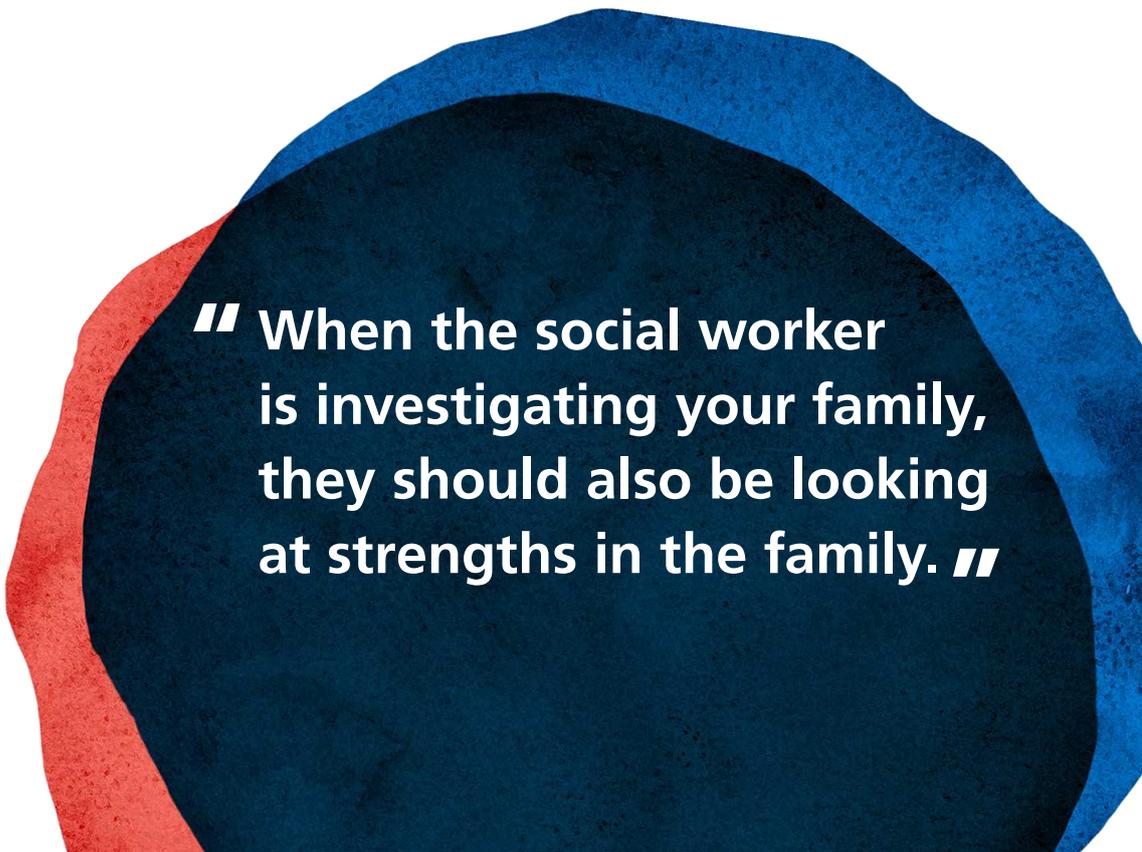
You should expect the social worker to explain clearly why they are concerned about your children and what they expect you to do.

You should be given a copy of the assessment when it is finished. If you do not believe the social worker has assessed your family properly, you can complain. See the section on **Complaints**.

Possible outcomes of the assessment:

- no further action is taken
- child in need plan
- child protection conference
- pre-proceedings meeting
- written agreement
- care proceedings

Go to the different sections in this guide for more information on each outcome.



“ When the social worker is investigating your family, they should also be looking at strengths in the family. ”



Child in need plans

The social worker may decide that your child is a **child in need**.

What is it?

If the social worker thinks that your child needs some support from professionals to keep them safe, they will say that your child is a **child in need**. This means they have a duty to help your child. It can include offering support to you or your family members to help your child. The social worker will put together a **child in need plan** with you and the people caring for your child. It will set out what support the social worker is going to offer your family. It might be something specifically for your child or something for another family member.

A child in need plan does not affect your parental responsibility and it won't give the local authority parental responsibility. For more information, see our guide, **Children and the law: parental responsibility**.

What does it do?

The child in need plan will set out what support the social worker is going to give your child depending on their individual circumstances. Support can come from lots of different places and will depend on the area where your child lives. For example, the social worker might:

- refer your child to Child and Adolescent Mental Health Services (or CAMHS)
- suggest the person caring for your child goes on a parenting course
- help your child's school arrange extra support for them in school
- help the person caring for your child arrange visits to see you

If your child has a disability, they are also a child in need and the local authority has a duty to support your child and their carer. You can ask for help from the disabilities team in the local authority.



“Support can come from lots of different places and will depend on the area where your child lives.”

Child protection conferences

One of the actions the social worker might take when they have done their assessment is to organise a **child protection conference**. This happens if the social worker believes that your children continue to be at risk of significant harm.

What is it?

- It is a meeting with the local authority, a group of professionals who know about you and your children and you to share information and decide whether your children continue to be at risk of significant harm.
- The meeting will be led by a **chairperson**. This is normally someone who works in the local authority but does not work with the social worker.

How can you take part in the conference?

You should be told that a meeting is taking place and who is invited. The local authority should take steps to make sure that you are able to take part in the conference. The social worker and chairperson should try to work out the best way of doing this, for example, it may be possible for you to attend by videolink if the prison and local authority have the facilities.

It is sometimes possible for an advocate to speak to you in prison and they can give your views to the conference for you. Unfortunately, it is very difficult to find advocates in the UK as there is no national service. However, if you have experienced mental health difficulties or learning difficulties, you can ask the social worker for an advocate. Contact MIND or Mencap and ask them if there are any services near you. See the section on **Useful contacts**.

You can write to the chairperson before the conference telling them what you think should happen. Speak to the family engagement worker to see if they can help you find out who the chairperson is and how to contact them.

Who will be there?

The social worker will invite:

- the person that is caring for your children
- the other parent
- professionals involved with your children, for example, the GP, teacher, health visitor or midwife
- professionals involved with you and your children's carer for example, drug and alcohol support workers, probation officer, domestic violence support worker
- the police (if they are involved)

What will happen?



Before the conference, the social worker will prepare a report. They may also ask the professionals that are attending to provide a report of their knowledge of you or your children. You are entitled to see these reports. You should tell them if you have not received any of the reports and ask for these to be sent to you. Keep a copy of any letter you send to the local authority.

At the conference, the social worker will summarise their assessment first. The other professionals and the person caring for your children will discuss their views too. You should be given the opportunity to speak too.

After all of the information is shared, the chairperson will decide if she agrees that your children continue to be at risk of significant harm. If she does, she will make a **child protection plan**. This will set out what work needs to be done by everyone involved to make sure that your children are safe and supported.

The child protection plan will be reviewed by the same group of people. The first review will be within 3 months. The plan will be reviewed every 6 months after that.

What if you do not agree with what happened?

If the chairperson or social worker has not made arrangements for your views to be given to the conference, you can complain about this.



A record of the child protection conference should be made by the local authority and you are entitled to a copy of this. You should be sent a copy of the child protection plan after each conference.

If you are not happy with the decision made at the child protection conference, you can complain about it. For example, if you did not receive the reports before the conference or you wrote to the chairperson and do not believe your views were considered, you can complain about this.

You should be sent a copy of the complaints process for child protection conferences before the conference. If you were not given a copy of it, you can ask the chairperson to send it to you. You can ask the family engagement worker to help you find out how to contact the chairperson.

You need to make the complaint within 12 months (1 year) of the local authority's decision or they may not deal with it. If it is after 12 months and you want to complain, you will have to explain why you did not complain on time. They can decide, if you have a good reason, to deal with your complaint even if it was made after 12 months.

If you are not happy with the local authority's response to your complaint, you can raise it with the Local Government Ombudsman. You have to complain to the Ombudsman within 12 months of the local authority making a decision about your complaint or they may not deal with it. See the section on **Useful contacts**.

Pre-proceedings meetings/legal gateway meetings

A pre-proceedings meeting is sometimes called a legal gateway meeting. They are the same thing.

What is it?

When a local authority is very worried about your children, and considers them to be at significant risk of harm, but believes that there is a chance to work with your family to make changes for your children, they may invite you to a pre-proceedings meeting.

The purpose of a pre-proceedings meeting is to agree a plan that will stop your children from being harmed or being at risk of harm. The local authority should try to avoid going to court if possible. This meeting is the last step the local authority will take to help your children while they are living with their family before they go to court.

Who will be invited?

The local authority will write to:

- you
- the children's father if he has parental responsibility even if he is not involved in your children's lives
- the person caring for your children

They will explain that they are thinking about going to court if the situation does not improve for your children.

The letter should be clear about what the local authority wants.

What will happen at the meeting?

You should have a lawyer there to give you advice. You can get free legal advice for this meeting. You should contact a lawyer as soon as you receive the letter from the local authority. The family engagement worker can help you contact a lawyer. See the section on **Finding a lawyer**.

These meetings are between the parent and the social worker.

The local authority should arrange for this meeting to take place in prison. You can speak to the family engagement worker about the best way for this to happen and tell the social worker how to organise it.

During the meeting, the social worker will explain what they are worried about and how they want things to change. You should give the social worker your views during this meeting.

The social worker may ask you to sign a written agreement at the end of the meeting. You should take your time to think about what they are asking for. **Speak to your lawyer before signing anything.**

You should ask the local authority if the person caring for your children has signed a written agreement and what they have agreed to do. You should also ask the local authority how they have agreed to support your children and their carer while you are in prison.

Written agreements

You are entitled to legal advice before signing a written agreement at a pre-proceedings or legal gateway meeting and should tell the social worker that you want legal advice before you sign a written agreement.

What is it?

A written agreement is a document that sets out what the local authority wants people to do including you and the person caring for your children.

The purpose of what is written in the agreement should be to ensure the safety of your children and protect them from harm or the risk of harm.

What does it mean?

A written agreement is not legally binding. This means the local authority cannot force you to do something in the agreement but there may be consequences if you breach the agreement. By signing a written agreement, you are agreeing that you will try to do what is written in the agreement. It is a sign that you intend to do something.

If someone does not do what they agreed to in the written agreement, the local authority will think about going to court. Breaking a written agreement does not automatically mean the local authority will go to court but they will have to think about how safe your children are in light of the broken agreement. They may say to the court that your children are not safe with their carer because they broke the agreement.

If someone does not do what they agreed to in the written agreement but the local authority decide that they are not going to court, it is possible they may organise another meeting. Instead, they may just speak to the person that broke the agreement and explain why they are worried about this.

“A written agreement is not legally binding. This means the local authority cannot force you to do something in the agreement.”

Section 20 Agreements

KEY FACTS:

- You may have signed an agreement before coming to prison. You can ask the social worker for a copy of the agreement so that you can speak to someone about it.
- If you are being asked to sign an agreement, you can tell the social worker that you would like to speak to a lawyer first.
- Make sure you read the agreement before signing it. If you do not understand it, ask for it to be written in a way you do understand.
- In an emergency, the family engagement worker can help you to contact a lawyer. See the section on **Finding a Lawyer**.
- If your children are given accommodation by the local authority under a section 20 agreement, they become looked after children. This means the local authority has certain duties towards them. See the section on **Looked after children**.
- Make sure you keep the social worker up to date on what your plans are after you are released from prison if you want your children returned to your care.

What is it?

You may sometimes hear the social worker talk about a section 20 agreement. This is a type of written agreement but it is an agreement that is specifically about the local authority providing accommodation for your children.

It is called a section 20 agreement because the law about the local authority providing accommodation for your children comes from section 20 of the Children Act 1989.

The local authority can provide accommodation in foster care or with relatives or friends.

Does it give the local authority the right to make decisions for your children?

A section 20 agreement does not give the local authority parental responsibility. They are not allowed to make decisions about the care of your children without your agreement.

You should ask for legal advice as soon as possible if the local authority asks you to sign a section 20 agreement. Tell the social worker that you would like to speak to a lawyer.

The local authority is not allowed to put conditions on your agreement.

For example, you tell the local authority that you will agree to your children going to foster care under a section 20 agreement. The social worker tells you that you have to tell them 7 days before you end your agreement. The social worker is not allowed to put any conditions like this on your agreement.

You are entitled to change your mind at any time after you have signed a section 20 agreement.

What can you do if you have already signed a section 20 agreement?

You should have a copy of the agreement. Ask the social worker for a copy if you do not have one.

If you are happy for the agreement to continue, then this is fine. You can speak to someone to make sure you understand the agreement.

If there are parts of the agreement that you do not like, you can ask the social worker to change them. You may find it helpful to speak to the family engagement worker or Prisoners' Advice Service to help you write to the social worker. See the section on **Useful contacts**.

If you want to end the agreement, you can do this at any time. You can tell the social worker where you want your children to live. If you are worried that the social worker will go straight to court, see the section on **Useful contacts** and speak to a lawyer first. You may be able to get legal aid.

What if you tell the social worker you want to end the agreement?

If you change your mind or have been released from prison and want your children in your care, the local authority has to return your children either to your care or to someone you have chosen. If the social worker tells you that they have to assess the person you have chosen to care for your children before they are placed in their care, this is incorrect. If you no longer agree to a section 20 agreement, the local authority cannot keep your children in foster care as this would be unlawful. They have to either place your children with the person you have chosen or get an order from the court.

You can tell the social worker that you no longer agree to the section 20 agreement in person or via telephone or by writing to them.

It will make things easier to work with the social worker. Keep them up to date on where you will be living once you are released from prison, let them visit you and tell them before you are released that you want your children to live with you. Make sure they know when you are going to be released.

If the local authority wants to keep your children in foster care, they have to apply for a court order. If the local authority does not return your children and they do not have a court order, this is **unlawful** and you should speak to a lawyer as soon as possible.

Complaints

If you are not happy about the way a social worker or staff at the local authority have behaved or do not believe they have conducted a fair investigation or assessment, you can complain.

Each local authority has their own complaints process.

If you are want to complain about the outcome of a child protection conference, see the section on **Child protection conferences**.



If your case is in court proceedings, speak to your solicitor about raising your complaints through the court.



The local authority should send you the information about how to complain when they send you assessments or the outcome of investigations.

If you ask the social worker to send you the information about how to complain in writing, they have to send you this.

You can ask the social worker to give you a copy of their complaints process or ask the family engagement worker to find out for you. It will be available on the local authority's website.

Unless you are complaining about the outcome of a child protection conference, you will initially complain to the social worker's manager. You can then raise this again with someone higher in the local authority if you are not happy with the manager's response.

If you have followed the local authority's complaints process and think your complaint was not dealt with properly, you can raise your complaint with the Local Government Ombudsman. You have to complain to the Ombudsman within 12 months of the local authority making a decision about your complaint or they may not deal with it. See the section on **Useful contacts**.

Make sure you keep copies of any letters or information you send to the local authority about your complaint, including the complaint itself.

There is a different complaints process for child protection conferences. See the section on **Child protection conferences** earlier in this guide.

What happens in an emergency?

Police Protection

What is it?

Sometimes, when the police are called in an emergency, they may be so concerned for your children's welfare, that they decide to exercise their powers of police protection. This means that they can remove your children from their carers for up to **72 hours**.

For example, your young children are living with their father. The police have been called to his home and discover that he is not there and your children are home alone. The police can remove your children from the home because it is not safe to leave them there alone.

Where will your children go?

The police will contact social services and ask them to provide foster care for your children.

What can you do from prison?

If possible, the social worker should try to speak to you about what is happening. It will be difficult for the social worker to organise to see you in the short time that your children are in police protection.



If you find out that this has happened from someone other than the social worker, ask them for the social worker's details. Ask them to keep contacting the social worker to find out what is happening and to tell the social worker that you want to speak to them.



Speak to the family engagement worker or offender management about making a telephone call to the social worker in an emergency.

If you do not have the social worker's details, ask the family engagement worker or offender management unit to help you find a number for the local authority. You will need to provide your children's names and dates of birth when you call the local authority so they can track down the social worker on the telephone.

If the social worker is not available when you call, ask to speak to their manager and explain that you are calling from prison and need to speak to someone while you are able to call.

If you already have a family solicitor, contact them and they will be able to find out what the local authority is doing.

What happens next?

The local authority will then investigate the concerns. They will speak to your children, their carer and the other parent. They will find out as much information about your children as possible. It is unlikely that they will be able to arrange to visit you in prison in this short time but consider whether you are able to take any of the steps set out earlier in **What can you do from prison?**

If you have information that will be helpful to the social worker, ask the offender management unit or family engagement worker to let you make a telephone call to give them the information. You can ask the family engagement worker to stay in contact with the social worker for you.

During the 72 hours, the social worker will be thinking about whether your children can return to their carer or if they need to get a court order to keep your children in foster care.

This police power only lasts for up to 72 hours. If this time has passed, your children must be returned to their carer unless the court has made an order for your children to stay in foster care.

The local authority could ask the court to make an emergency protection order or interim care order in this type of emergency situation.

If you are affected by any of the issues discussed in this guide, make sure you speak to someone about it. You can get legal advice about your circumstances from Prisoners' Advice Service. Or you may want to talk to someone about how you are feeling. You can speak to the family engagement worker, a peer mentor, the chaplaincy, the mental health team or Samaritans. See the section on Useful contacts.



Emergency protection order

What is it?

An **emergency protection order** (or EPO) is an order that the court will make in an emergency situation to remove your children from the person caring for them. The local authority will normally make applications for these orders very quickly and the circumstances should be exceptional.

The local authority needs to show the court that your children's safety requires their immediate removal from the person caring for them. An order can be made for up to 8 days. In this time, the local authority will consider whether they need to apply to the court for a different order or to return the children to the person who was caring for them.

In very unusual situations, the court can extend the order for an extra 7 days.

An emergency protection order will give the local authority **parental responsibility**.

Parental responsibility describes the legal duties and responsibilities a person has to a child. It affects the role that someone plays in making important decisions about a child's life. Birth mother's automatically have parental responsibility for their children. When an EPO is made, the local authority is also given parental responsibility, in addition to yours. This parental responsibility only lasts for as long as the order lasts.

For more information about parental responsibility, see our guide, **Children and the law: parental responsibility**.

What can you do from prison?

You can get free legal advice and have a lawyer represent you in court.

You should normally be informed of an application for an EPO unless the delay in informing you of the application would leave your children in a dangerous situation. If the court decides to make an order without telling you, you must be informed within 48 hours of the order being made.

As soon as you find out about the court case, you should try to contact a lawyer. Speak to offender management or the family engagement worker if you need to make an urgent telephone call. See the section on **Finding a lawyer**.

The court should try to make arrangements for you to be taken to court for the hearing unless they consider the case to be so urgent that there is no time to wait.

Care Proceedings

If the local authority is very concerned about the risk of significant harm to your children, they can apply to the court for a **care order** or a **supervision order**. They may do this after they have been involved with your children for some time and do not believe that the situation at home is improving. Alternatively, they may have started an assessment and decided that your children need to be removed from their carer straight away. Sometimes, in an emergency, the local authority will make an urgent application for a care order, instead of applying for an emergency protection order as described earlier.

- You must be informed if the local authority decides to apply to the court for an order.
- As soon as you know the local authority wants to go to court, you should find a lawyer to represent you.
- You will be able to get legal aid and will not have to pay for your lawyer. See section on **Finding a lawyer**.

If you want to attend court, you should tell your lawyer and they will ask the court to make a **production order** that means you will be taken court for each hearing.

While the case is ongoing, the court will give **directions** for parties to prepare evidence. Your lawyer will be able to help you understand what evidence you may want to provide, depending on what the local authority is saying.

It is common for the court to give directions for assessments of the parents and carers. If you are serving a short sentence and wish to care for your children when you leave prison, you should make sure the court knows this. They may direct that you to take part in a parenting assessment.

If your children are in the care of the local authority, the local authority has a duty to support contact between parents and children. This includes while proceedings are ongoing. If you are having problems having contact with your children, you should speak to your lawyer and ask them to raise this with the court.

There are a number of orders the court can make when a local authority applies for a care order. The main ones are:

Interim care orders

When the local authority applies for a care order, they can ask the court to make an order that will only stay in place while the case continues. This is called an **interim care order**. The local authority needs to show that there is reason to believe that your children were at risk of suffering or actually suffering significant harm as a result of the care they were receiving, or as a result of being out of the control of their carers.

Once an interim care order is made, it will stay in place during the court case unless the court brings it to an end.

Normally, the local authority will argue that your children need to be in foster care under an interim care order.

They will need to show the court that your children's safety requires this. It is possible for the court to agree to make an interim care order but for your children to stay with the person who is caring for them. This is unusual. Normally, if the court makes an interim care order, your children will be placed in foster care.

An interim care order gives the local authority parental responsibility for your children. It does not end your parental responsibility and they should still consult you on key decisions, however, they may be able to overrule your decisions if they believe it is in your children's best interests. See our guide [Children and the law: parental responsibility](#).

Supervision orders

A **supervision order** is an order that places a duty on a local authority to assist and support a child living at home. This may be with your children's father or a family member. A supervision order can be made at the same time as an order that says your children are to live with a family member. It does not give the local authority parental responsibility for your children.

The court can make a supervision order for up to 1 year. Before the order has ended, the local authority can ask the court to extend the order for up to 1 year more. A supervision order can only be extended up to 3 years at most.

Care orders

At the end of the court case, the court may make a care order. This is an order that gives the local authority parental responsibility for your children. It does not end your parental responsibility.

Normally, if the local authority has a care order, your children will live with foster carers.

Before asking the court to make a care order, the local authority must prepare a **care plan**. This should include information about what support the local authority will give your children.

The care plan will also have information about your contact with your children. You should ask to discuss this with your lawyer. If you are not happy with the local authority's plan for your contact, make sure your lawyer raises this with the court.



Make sure you keep a copy of the final care plan. The local authority should do what it says.

Special guardianship orders

A special guardianship order is an order that appoints someone as your children's special guardian. That person cannot be a parent. The order gives the special guardian parental responsibility for your children. They are sometimes made at the end of care proceedings. A special guardian is usually a friend or family member who can care for your children.

The special guardian must still consult with you about important decisions to do with your children. However, they are able to overrule your decisions if they believe it is in your children's best interests.

See our guide [Children and the law: when families cannot agree](#) for further information about these orders.

What happens if you are pregnant while you are in prison?



It is natural to have a lot of questions about what will happen while you are pregnant in prison such as who to call when you go into labour, who will be there when you give birth, will your family be able to visit you after the birth.



You can arrange to speak to the family engagement worker as soon as possible after you arrive in prison. Do not be scared to ask them lots of questions about how things work while you are in prison.

If you are pregnant while in prison, the local authority will be told about this.

Pre-birth child protection conference

The local authority will probably arrange a **pre-birth child protection conference**. The local authority's focus will most likely be on the risk of significant harm to your child once they are born. The rules for this are the same as set out above in the **Child protection conference** section.

Try to think about what you would like to happen after you give birth

The social worker should discuss with you what you would like to happen after you have given birth. You should think about this well before you give birth. For example, if you are serving a long prison sentence, do you have any family or friends who can look after your child during your sentence?

If you are due to give birth while you are still in prison, the local authority will be thinking about whether they want to apply for a court order once the baby is born. It is not definite that they will apply to the court for an order but they will think about all of the options available to them. They should discuss this with you before the birth.

“Babies are able to stay with their mothers in a mother and baby unit until they are approximately 18 months old.”

Mother and baby units

It is possible for babies to stay with their mother in prison in a special **mother and baby unit**. Babies are able to stay with their mothers in a mother and baby unit until they are approximately 18 months old.

If you are expecting to give birth while you are in prison or have a child under 18 months old, you can apply for a place in a mother and baby unit. Not all prisons have mother and baby units but you can still apply to go to one in a different prison. Make sure you tell the local authority that this is what you would like to happen.

The Prisoners' Advice Service have a **self-help toolkit on Mother & Baby Units** that explains the application process fully. See the **Useful contacts** page at the end of the guide for how to contact them.

The prison will also tell the local authority that you have applied for a place in a mother and baby unit. They will be asked to complete an assessment if they have not already completed one.

You should make an application to the mother and baby unit as early as possible, as your application will have to be decided by an admissions board. You must be able to participate in the hearing. If you cannot attend in person, a video or telephone link should be set up (if that happens, you must give your consent in writing). If you cannot attend even by a video or telephone link, you must be allowed to make a full written submission prior to the hearing date. If you attend in person, you can ask to be accompanied by another appropriate person for support. If your first language is not English you must be provided with translation services.

What happens when your child has to leave the mother and baby unit?

If you would like your baby's father or other family to care for the baby, you can still ask to care for the baby in a mother and baby unit for approximately the first 18 months. The 18-month rule used to be strictly applied but after a successful case in the courts some flexibility now should be allowed depending on the circumstances of the case. The person you are proposing to care for the baby will have to be assessed by the local authority before they can care for them

If you would like to find out more about mother and baby units and how to apply for a place, speak to the Prisoners' Advice Service for detailed advice on your situation.

What happens when your children are in care

If the local authority has an interim care order, full care order or you signed a section 20 agreement for your children, they become **looked after children**. The local authority has certain duties towards looked after children.

What does this mean for your children?

CARE PLAN/LOOKED AFTER CHILD PLAN



Every looked after child should have a plan in place for the local authority's care of that child. Depending on the local authority it may be called a **care plan** or a **looked after child plan**. You should be given a copy of this. There should be separate plans for each of your children.

LOOKED AFTER CHILD REVIEWS

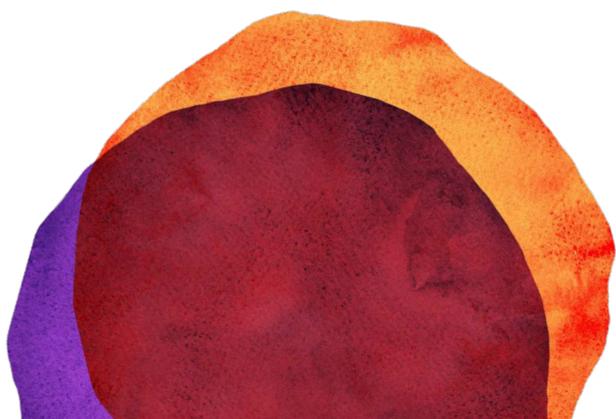
An important part of the local authority's responsibility towards looked after children is a **looked after child review**. For every looked after child, the local authority should have a looked after child review within 20 days of the child becoming looked after.

The second looked after child review should take place within 3 months of the first one.

The third and all following looked after child reviews should take place within 6 months of the second review and every 6 months after that.

The purpose of a looked after child review is to review the care that your child is receiving. This will include looking at:

- where your child is living and whether it is meeting your child's needs
- your child's educational needs and how they are being met
- your child's health needs and how they are being met
- your child's wishes and feelings about the care they are receiving
- the contact your child is having with family members including you



What does this mean for you?

If there is a care order or interim care order in place, the local authority will have parental responsibility for your children but you will continue to have your parental responsibility.

Despite the local authority having parental responsibility, they will have to obtain your consent to any important decisions about your children, for example, if they want to move your children to a different school or go on holiday abroad they must have your consent. The local authority will also need your consent for any activity that a parent would normally have to consent to such as school trips or ear piercing. See our guide **Children and the law: parental responsibility**

If there is no court order in place, the local authority will not have parental responsibility and will not be able to make decisions about your children. They will have to discuss decisions with you and if you do not agree, it will not be possible for them to take any further action.



You should have your views taken into account at the review. This may involve the social worker speaking to you before the review to explain what will be discussed and ask for your views.



Alternatively, you could write to the local authority before the review and raise any concerns you have.



You should be given a copy of the record of the review.

If you are worried that the local authority has not made any attempts to include you in the review, you can make a complaint. See the section on **Complaints**.



Contact with looked after children

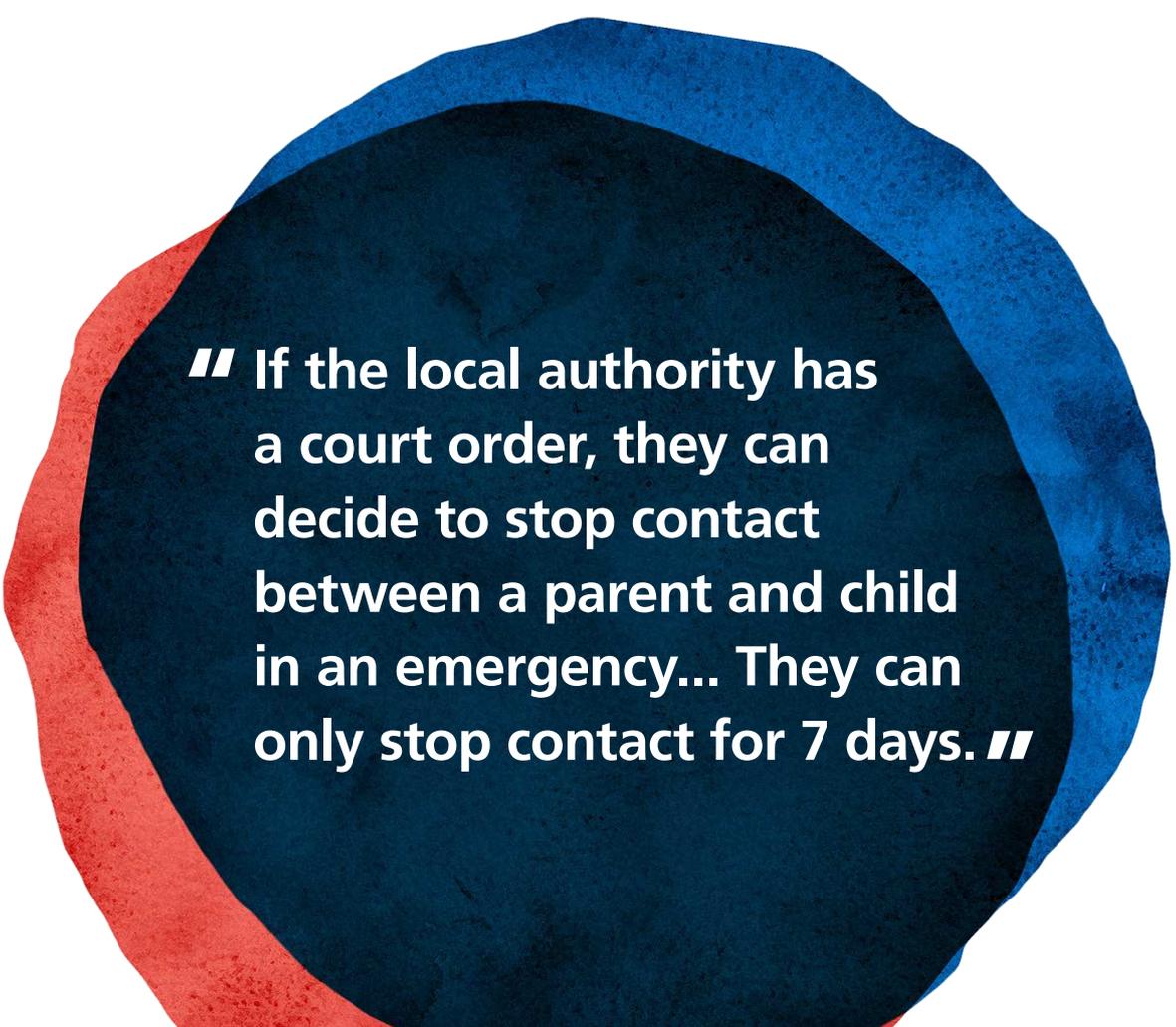
If your children are in the care of the local authority under an interim care order or care order, the local authority has a duty to allow your children to have contact with you.

When the local authority decides how contact will take place, they will consider the relationship between you and your children and any practical arrangements for how contact will take place.

For example, if you are in a prison a long distance away from your children, it is likely that your children will visit less often than if they were living nearby. This is because the local authority has to consider the impact that contact visits will have on the rest of your child's life and this would include the length of travel.

The local authority must set out what contact arrangements they suggest before the court makes a care order. If you are not happy with the proposals, you should ask your lawyer to raise this with the court.

If your children are in the care of the local authority under a section 20 agreement, they still have a duty to arrange contact between you and your children. However, in this situation, the local authority does not have parental responsibility so they cannot stop contact. They have to discuss the best contact arrangements with you and make those arrangements.



“ If the local authority has a court order, they can decide to stop contact between a parent and child in an emergency... They can only stop contact for 7 days. ”

What can you do if the local authority is not bringing your children to see you?

If the local authority has a court order, they can decide to stop contact between a parent and child in an emergency. They must give you written reasons for this. **They can only stop contact for 7 days.** If they want to stop contact for longer than this, they must get the court's permission.

If you believe that the local authority is being difficult about contact, for example, they make arrangements and then cancel them at the last minute. Or they may have changed the contact routine so they are bringing your children to see you less often, you can apply to court for an **order for contact with a child in care.** You may want to think about the following before you make an application to court:



Keep a record of the contact you do have and when contact has been cancelled or rearranged.



Speak to the social worker about contact. Listen to the reasons that the social worker has given for why contact has been cancelled or changed.



Think about whether the reasons the social worker has given are in the best interests of your children. *For example, maybe your children have just started school and are finding it tiring coming to see you so often. If this is affecting their schooling, then it may be best for the children to reduce how often they come to see you.*



Write to the social worker and explain why you are not happy with the reasons they have given. Set out a contact routine that you believe is best for the children. Write to the person that arranges the looked after child reviews. You should have been given their contact details. If you do not have them, the social worker should give them to you. Ask them to review contact at the next looked after child review.



If the social worker speaks to you about a plan to slowly increase contact or has a timeframe in mind for when contact will change, ask them to put this in writing to you.



If none of this is successful, then you can make an application to the court.

The court can make an order setting out how often your children should visit you and include details for how this will happen. They will make an order if they believe this is in your children's best interests. Speak to Prisoners' Advice Service for more information about how to make this application.

Who can help you in the prison



The **family engagement worker** can provide a lot of support including contacting family or social workers on your behalf.



Prisoners' Advice Service (PAS) can provide free legal advice and support and will be able to tell you if your case is eligible for Legal Aid.



Samaritans can provide emotional support if you need a safe place to talk.



The **chaplaincy** can provide emotional support and someone to talk to about your problems.



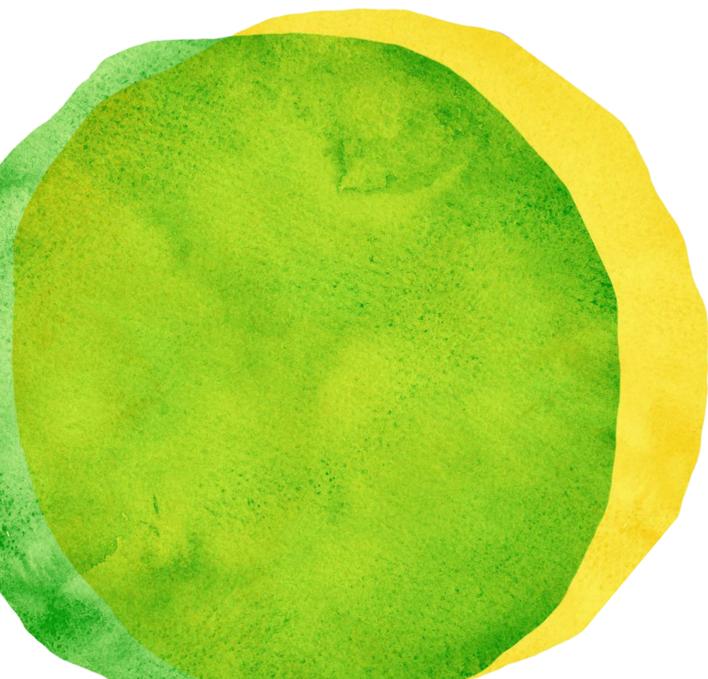
A **peer mentor** can help you talk through your problem.



The **mental health team** are available if you feel you are being affected by any issues in relation to your family



Speak to a **custody officer** if you feel overwhelmed and need support immediately.



Useful contacts

Please be aware that most of the services listed below work across England and Wales but some are limited to certain areas or specific prisons. We have included services that may be limited in this way because availability changes and a service that is currently only available in some prisons, may be available in all prisons in the future. It is always worth exploring what support you can get.

PRISONERS' ADVICE SERVICE

For free legal advice and support

T: 020 7253 3323

Monday, Wednesday and Friday.
10:00-12:30 and 14:00-16:30

Prisoners' Advice Service
PO Box 46199
London EC1M 4XA

www.prisonersadvise.org.uk

RIGHTS OF WOMEN

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children

Family law advice

T: 020 7251 6577

Mon-Thurs: 7-9pm & Fri: 12-2pm

Immigration law advice

T: 020 7490 7689

Mon and Thurs: 10am-4pm

ADVOCATE

(previously Bar Pro Bono Unit)

For representation at court. A solicitor will have to refer you for support

www.weareadvocate.org.uk

PERSONAL SUPPORT UNIT

For support during court hearings

T: 020 7947 7701

REUNITE

For legal advice about child abduction

Advice line: 01162 556 234

NATIONAL YOUTH ADVOCACY SERVICE

Helpline for support and advice for your child if they are in care or involved in court proceedings

Helpline: 0808 808 1001

FAMILY RIGHTS GROUP

Support for parents and family members when social services are involved

Freephone 0808 801 0366

THE LAW SOCIETY

For help finding a solicitor

T: 020 7242 1222

SOLICITORS REGULATION AUTHORITY

For information about how to complain about poor service from a solicitor

www.sra.org.uk

LOCAL GOVERNMENT OMBUDSMAN

To complain about a local authority once you have been through their complaints process

Helpline: 0300 061 0614

SAMARITANS

Emotional support if you need a safe place to talk

Freephone: 116 123

WOMEN IN PRISON

For advice and guidance in prison, on release and in the community

Freephone: 0800 953 0125

BIRTH COMPANIONS

Support for pregnant women and new mothers

Dalton House
60 Windsor Avenue
London SW19 2RR

FAMILY LIVES

Support for parents and families on a broad range of issues including adoption

Helpline: 0808 800 2222

AFTER ADOPTION - BIRTH TIES

Helpline for birth parents of children who have been adopted

Helpline: 0800 840 2020

NATIONAL OFFENDERS' FAMILIES HELPLINE

Support for your family

Telephone: 0808 808 2003

HIBISCUS

Support for black, Asian, minority ethnic or migrant women in prison

Telephone: 020 7697 4120

E: info@hibiscus.org.uk

ADVANCE - THE MINERVA PROJECT

Support for women in contact with the criminal justice service to prevent re-offending

*It is not possible to refer yourself - speak to the offender service about whether they can help and ask them to call: **020 8741 7008***

MIND

A national charity offering support in relation to mental health

Infoline: 0300 123 3393

MENCAP LEARNING DISABILITY HELPLINE

Advice and information about learning disability

Helpline: 0808 808 1111

The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

July 2019

Definitions

Assessment

When someone looks at you or your family's circumstances to understand what is happening for you or your children. *For example, a social worker will look into whether the person caring for your children is a good parent in a 'parenting assessment'.* They are 'assessing' you and your family. They will look at lots of different facts and speak to your children. They will give an opinion about what they think is happening. This should be explained in writing so that everyone understands why.

CAMHS

This is the Child and Adolescent Mental Health Service. It is part of the National Health Service (NHS) that gives support to children and teenagers with emotional, behavioural or mental health problems.

Hearing

When everyone involved in a case goes to court and speaks to the Judge about the case. Some hearings are short because the Judge wants an update on the case. They will think about what evidence they need to make a decision and then send everyone away to collect the evidence. Some hearings last for days when the Judge will listen to everyone speaking and then make a decision.

Interim

This means, 'in the meantime'. An interim order is one that only lasts while the court case is going on.

Lawyer

This is a general term for someone who is qualified to represent you in a legal case. Solicitors and barristers are types of lawyers.

Legal aid

When you do not have to pay for legal advice.

Local authority

This is the same as 'social services'. Lawyers and social workers will probably call social services the 'local authority'. This is the department in your children's local council that looks after children.

Proceedings

This is a general word to describe a legal case that is in court.

Social services

This is the department in your children's local council that looks after children. It is sometimes called the 'local authority' by lawyers and social workers.

Social worker

A qualified professional who works for the local authority.

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS

JUSTICE BEHIND BARS



Lancaster University
Law School

PAS offers free legal advice and information to adult prisoners throughout England and Wales regarding their rights, conditions of imprisonment and the application of the Prison Rules.

We pursue prisoners' complaints about their treatment in prison by providing advice and information and, where appropriate, taking legal action.

Examples of issues we can advise on include: parole, temporary release, indeterminate sentences, categorisation, adjudications, sentence calculation, licence and recall, discrimination, resettlement and healthcare matters. We also provide advice on Family Law and on Immigration Law to prisoners with issues relating to detention or deportation.

If you have something that you'd like to discuss with one of our Caseworkers, you can:

Write to us at: **Prisoners' Advice Service, PO Box 46199, London EC1M 4XA**
(Mark your envelope Legal Mail Rule 39 in all correspondence with PAS)

Call us Monday, Wednesday or Friday between 10:00-12.30 and 14.00-16.30 on 020 7253 3323

We produce the quarterly Prisoners' Legal Rights Bulletin, which shares information about key cases and changes in Prison Law, and is free to prisoners. To sign up for this, please write to the address above.

www.prisonersadvice.org.uk

Prisoners' Advice Service (PAS) is a registered charity (No: 1054495) and is a company limited by guarantee (No: 3180659).

RIGHTS of
WOMEN
helping women through the law

Rights of Women,
52 – 54 Featherstone Street, London EC1Y 8RT

Email: info@row.org.uk

Website: www.rightsofwomen.org.uk

Charity number: 1147913