

A

ABC – see approved behaviour contracts

ACPC – see Area Child Protection Committee

ASBO – see anti-social behaviour order

Absolute discharge - a sentence following a criminal conviction where the court considers no punishment to be appropriate.

Accommodated children - the local authority may consider that the only way to safeguard and promote the welfare of a child is through the provision of accommodation.

Accommodation is defined in s. 22(2) of the 1989 Act as meaning accommodation which is provided for a continuous period of more than 24 hours. Legislation provides that local authorities have specific responsibilities to children they accommodate.

Action plan order - a three month order following conviction of a juvenile; the court specifies a programme of activities to be carried out under the supervision of a probation officer or member of the Youth Offending Team.

Admissibility - a term used in the law of evidence. Some evidence, particularly in a criminal case, may be withheld from the court because it is 'inadmissible', for example evidence of the past convictions of the defendant, or of a confession which was obtained in breach of the proper safeguards.

Administrative law - the principles of law which attempt to ensure that justice is done between the state and the individual by restraining arbitrary or wrong decision making by the state.

Admission for assessment - under section 2 of the Mental Health Act 1983 a (maximum) 28-day period during which a patient can be detained and assessed as to whether further compulsory detention for treatment is required.

Admission for treatment - under section 3 the Mental Health Act 1983, a (maximum) six month period during which a patient can be compulsorily detained for treatment. The detention can be renewed after six months.

Advance directive – a means of deciding in advance the nature of any treatment (for example artificial feeding, resuscitation) which a person wishes to receive (or refuse). This is now recognised by the Mental Capacity Act 2005 and replaces the vaguer concept of the living will, which was beginning to be recognised by courts.

Adoption - an act by which the rights and duties of the natural parents of a child are extinguished and equivalent rights and duties become vested in the adopter or adopters, to whom the child then stands in all respects as if born to them in marriage.

Adoption agencies - local authorities and registered adoption societies which organise the adoption of children.

Adoption and Children Act Register - see s.125 of the Adoption and Children Act 2002. It contains prescribed information about children who are suitable for adoption and prospective adopters who are suitable to adopt a child. The Act puts onto a statutory basis the Adoption and Children Act Register for England and Wales which was launched in August 2001.

Adopted Children Register - is a register of adoptions. Entries are made in the Adopted Children Register following adoption orders, or following registrable foreign adoptions.

Adoption Contact Register - is a register which contains information about adopted people who wish to make contact with their birth relatives and birth relatives who wish to make contact with adopted people (see s. 80 of the Adoption and Children Act 2002)

Adoption order - is the court order which gives effect to an adoption. Section 46 of the Adoption and Children Act 2002 gives parental responsibility for a child to the adopters or adopter on the making of the order which also extinguishes any other person's parental responsibility.

Adoption Service - the services run by local authorities to support adoption. There is a statutory duty under s.3 of the Adoption and Children Act 2002 to maintain this service.

Adoption support services - are defined in s.2 of the Adoption and Children Act 2002 to include counselling, advice and information and any other services prescribed by regulations including financial support as part of adoption support services.

Adoption and Children Act 2002 - received Royal Assent on 7th November 2002. It is an act which modernises and regulates the adoption of children and introduces a new form of long-term court order – the special guardianship order. It substantially repeals the Adoption Act 1976.

After-care (under supervision) - a patient detained for treatment under s. 3 of the Mental Health Act 1983 must be provided with after-care on release from hospital under a plan agreed between social services and the hospital – s.117 of the Mental Health Act 1983; as a condition of release a supervision requirement may be imposed. See also supervised community treatment order.

Age of responsibility – children under 10 (it is higher in most other European countries) are considered capable of committing a crime at this age, and can be prosecuted.

Agent of social change - someone seeking to make life better for the service user. This is often the motivation behind the decision to become a social worker.

Agent of statutory control - a statutory relationship in relation to the service user. This refers to the role of the social worker when they are required to use statutory powers to protect the service user.

Anti-social behaviour - for the purpose of local authorities and the police applying for an Anti-Social Behaviour Order, the Crime and Disorder Act, 1998 formally defines anti-social behaviour as acting "in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as [the defendant]."

Anti-social behaviour orders (ASBO) - are orders provided for in s. 1 of the Crime and Disorder Act 1998 and designed to control anti-social behaviour.

Appeals Service Tribunals - the Appeals Service was formally launched on 3rd April 2000. The Service arranges and hears tribunal appeals on decisions on: Social Security; Child Support; Housing Benefit; Council Tax Benefit; Vaccine Damage; Tax Credit; and Compensation Recovery.

Appellant - someone who is appealing against a court decision.

Appellate structure - a description of the court structure in England and Wales which indicates that our court system works through an ability of individual litigants to appeal decisions to higher courts.

Appropriate adult - a person who must be called to be present at a police station interview of a vulnerable suspect.

Approved behaviour contract (ABCs) - are promoted by the Home Office to improve community safety. ABCs typically involve local authorities targeting disruptive young people and drawing up explicit behaviour contracts designed to improve their conduct.

Approved Mental Capacity Professional - AMCP - a new role introduced by the Mental Capacity Amendment Act 2019. AMCPs are practitioners – mostly social workers – with specialist training in the Mental Capacity Act. Their role is to provide an independent check, known as a pre-authorisation review, on whether the conditions for a deprivation of liberty under LPS have been met.

Approved mental health professional (AMPH) – AMHPs are mental health professionals who have been approved by a local social services authority to carry out certain duties under the Mental Health Act 1983 as a result of amendments brought in in 2007. Prior to this the role was known as Approved Social Worker or ASW. The amendment to the Act broadened who could undertake the role beyond social workers to other registered Mental Health Professionals such as Nurses and Occupational Therapists who underwent specific training.

Approved social worker - a social worker employed by a local authority social services department who is called on to take part in decisions on admission and discharge from hospital and guardianship under the Mental Health Act. From October 2008 the role became that of approved mental health professional (AMPH) and was opened to other care professions e.g. nurses.

Area Child Protection Committee - is an inter-agency forum for agreeing how the different services and professional groups should cooperate to safeguard children in their area, and for making sure that arrangements work effectively. It has been replaced by the Local Safeguarding Children Board.

Assessment Framework - see Framework for the Assessment of Children in Need and Their Families.

Associated persons - in order to get an order against someone under part IV of the Family Law Act (domestic violence) it is necessary that an applicant is associated with that person. Associated persons are defined under s.62 of the Family Law Act and include spouse or a 'cohabitant', a former spouse or former cohabitant, a relative, a man and a woman linked by being parents of the same child or having parental responsibility for the same child, a person who shares a household (but not as a lodger or tenant), and people who have agreed to marry each other (whether or not that agreement has been terminated).

At-risk register - see Child protection register.

Attendance centre order - a criminal punishment requiring a convicted person to attend on a regular basis at a specified place for a total of up to 24 hours (36 if 16 or over).

[\[Back to top\]](#)

B

Balance of probabilities - a term used in evidence to identify who has to prove what for a court to make a decision. Proof on the balance of probabilities means that one side's evidence is at least marginally more credible on the issues that are relevant than the other side's evidence.

Best interest assessments – procedures used to decide what is in the best interests of someone who lacks capacity particularly in relation to any deprivation of liberty

Bill - a parliamentary bill is a piece of draft legislation which requires the scrutiny of parliament and royal assent before it becomes an Act.

Bind over - a criminal court can bind over any person who appears before it. It is a requirement to be of good behaviour for a specified period, failing which the court can extract a financial penalty. It is normal for parents of convicted children to be made subject to a bind over in relation to their child's future behaviour.

Bournewood (gap) – the situation where a person goes into a hospital as an informal patient and then lacks the capacity to discharge themselves. Patient's carers had to battle all the way to the European Court of Human Rights to get principle established that this is detention and legal process is required.

Burden of proof - in any court or tribunal proceeding one party has the burden (task) of providing a particular disputed fact. If evidence on that fact is so evenly balanced that the court cannot decide, the party with the burden of proof loses on that issue, as they have not discharged the burden of proof.

[\[Back to top\]](#)

C

CAFCASS – see Children and Family Court Advisory and Support Service

Caldicott guardians - derives from the Caldicott review of personally identifiable information in 1997 which recommended that "guardians" of personal information be created to safeguard and govern the uses made of confidential information within NHS organizations. The Caldicott approach has been extended by the government to councils with social services responsibilities who were required to appoint a Caldicott Guardian by 1st April 2002.

Capacity - someone has legal capacity if they are able to take in, retain and use information to make an informed decision. Different criteria apply to children.

Care Act 2014 – The Care Act 2014, which received Royal Assent on 14 May 2014, replaces a multitude of overlapping and complex statutes with a single statute to regulate the provision of adult social care. The purpose of the Act is to consolidate and modernize care and support law. It puts into legislative form an important policy shift: the move from adult social care as a provision-centred service to adult social care as a person-centred service. In other words, the law now supports the approach that requires local authorities to meet individual needs rather than provide standardized services.

Care Order - a long-term order under s.33 of the Children Act 1989 which commits the child to the care of the local authority. It provides extensive powers to local authorities but requires evidence which demonstrates to the court that that a child is suffering, or likely to suffer significant harm and that the harm or likelihood of harm is attributable to a lack of adequate parental care or control.

Care programme approach – an approach to mental health service provision which requires providers to draw up a coherent programme of services for the service user.

Care Plan – when any application is made upon which a care order might be made, the local authority must prepare and submit to the court a section 31A care plan. The care plan must conform to the guidance set out in LAC 29/1999.

Care Quality Commission – the independent regulator of health and social care

Care Standards Act 2000 - an Act which establishes the National Care Standards Commission and provides for the registration and regulation of a number of institutional care settings. It also provides for a Children's Commissioner for Wales.

Care Standards Tribunal - is the operational name given to the tribunal that handles appeals provided for under the Care Standards Act 2000. However in law it is the tribunal that was set up under the Protection of Children Act 1999. The 1999 Act provides for a Tribunal to hear appeals against decisions of the Secretary of State for Health to include the names of individuals on the list of those considered unsuitable to work with children. The 1999 Act also provides for the Tribunal to hear appeals in respect of decision of the Secretary of State for Education and Skills to restrict or bar a person's employment in schools. The Care Standards Act confers additional functions on the Tribunal including appeals in respect of the registration of care home and children's homes. In future (when the relevant statutory provisions are enacted) it will hear appeals against decisions of the Secretary of State for Health in respect of decisions to include the names of individuals on the list of those considered suitable to work with vulnerable adults and appeals against decisions of the General Social Care Council in England and the Care Council for Wales in respect of the registration of social workers and social care workers.

Caution - before questioning a suspect the police must administer a caution, which explains the suspect's rights not to answer questions and, normally, the consequences at any later trial of not answering the questions now.

Chambers hearings - are hearings in private. (But rarely in the judge's private chambers from which the term derives; most chambers do not have the room to take all the people who will be involved in the hearing.) There are no press present and unnecessary formalities such as the wearing of wigs are not required.

Child Assessment Order - a short-term order (maximum 7 days) under s.43 of the Children Act 1989 which provides for the compulsory assessment of the child's state of health and development.

Child recovery order - s.49 of the Children Act 1989.

Child protection conference - is the basic instrument of the case by case child protection system. It has a double purpose: (i) to make judgments about the likelihood of a child suffering significant harm in the future; and (ii) to decide whether future action is needed to safeguard the child and promote his or her welfare, how that action will be taken forward and with what intended consequences. It is at the child protection conference that the investigative process and the planning process for children coincide. It is often called a case conference by children services authority social workers.

Child protection register - a management tool that records the fact that a child has been or is suspected of being abused or is believed to be at risk of being abused. It should serve to 'ring alarm bells' when a professional faced with a new situation of proved or suspected child abuse consults the register on a later occasion. It is being phased out as a result of the implementation of child care plans for each child and the creation of the children's database, contact point.

Child protection plan - is produced by the child protection conference with the aim of identifying risks of significant harm to the child and ways in which the child can be protected. It should establish short-term and longer-term aims and objectives that are clearly linked to reducing the risk of harm to the child and promoting the child's welfare.

Child safety orders - these are orders available under s.11 of the Crime and Disorder Act 1998 to control and protect children under the age of ten. The grounds for the order include behaviour that would be criminal but for the child's age. It is the local authority with social services responsibility which has to apply for the order.

Children Act 1989 - the Children Act 1989 came into force in England and Wales in 1991. It provides the legal basis for most proceedings relating to children. The aim of the Children Act was to simplify the law relating to children, making it more consistent and more flexible, and to make the law more appropriate by making it child centred.

Children Act 2004 - this Act was passed following the Laming Report and the Green Paper '*Every Child Matters*'. It creates a duty for children's services authorities in England and Wales to make arrangements to promote co-operation between the authority and its relevant partners and other bodies which exercise functions in relation to children. It also creates the Children's Commissioner for England and Local Safeguarding Children Boards.

Children and Family Court Advisory and Support Service - was established in April 2001 as a non-departmental government body. The principal functions of CAFCASS are set out in the Criminal Justice and Court Services Act 2000. These are in respect of family proceedings in which the welfare of children is or may be in question to:

- Safeguard and promote the welfare of children;
- Give advice to any court about an application made to it in such proceedings
- Make provision for children to be represented in such proceedings;
- Provide information, advice and other support for children and families

CAFCASS is a core member of Local Safeguarding Boards.

Children and Young People's Plans - section 17 of the Children Act 2004 imposes a duty on children's services authorities to plan for the provision of services for children. It is linked to the duty to co-operate which is the subject of section 10 of that Act. Regulations will make provision for the content, timescale, publication and review of the plan and what consultation should be undertaken in its preparation. The Government intends the CYPP to be based on the five outcomes for children and to contain a statement of local vision for children and young people, key outcomes, a strategic analysis, actions (with timescales), references to joint planning with key partners, performance management and review of children's services, and to outline the consultation undertaken in its preparation. The authority will have to publish the CYPP and to review it annually.

Children's Commissioner for England - a role created by the Children Act 2004. It includes the promotion and safeguarding of the rights and interests of children (and certain groups of vulnerable young adults) in England.

Children's Commissioner for Wales - is an independent body which has the role of ensuring that the rights of children and young people are upheld. It was set up following a recommendation in *Lost in Care*, the report of the Waterhouse Tribunal which looked into the abuse of children in care in the former county council areas of Gwynedd and Clwyd. The office of the Children's Commissioner for Wales was established under the Care Standards Act 2000.

Children's Guardian - rules of court set out the functions of the Children's guardian. The way in which the guardian works is by a process of investigation involving interviewing the local authority personnel, the child, the parents, relatives and any other persons the guardian considers relevant. The guardian then prepares a report stating what the guardian considers to be in the best interest of the child's welfare. This report must be made available to all parties to the proceedings in advance of the final hearing.

Children (Leaving Care) Act 2000 - the Act's main purpose is to help young people who have been looked after by a local authority move from care into living independently. To do this it amends the Children Act (c.41) to place a duty on local authorities to assess and meet need.

Children in need - there is a general duty in s.17 of the Children Act 1989 to safeguard and promote the welfare of children within their area who are in need. The definition of children in need is set out in s.17 (10) of the Act.

(10) For the purposes of this Part a child shall be taken to be in need if -

(a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;

(b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or

(c) he is disabled, and 'family', in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living;

Having established that the child is in need, the local authority has the power to provide the appropriate services. These services are set out in Part 3 of the Children Act and in Schedule 2 to the Act.

Children's National Service Framework - is a project which will set national standards across the National Health Service and social services for children and is a priority project for the Children's Taskforce.

Children's Rights Director - is an office set up as part of the Care Standards Commission. The office has a range of specific responsibilities in terms of children's rights which are set out in the National Care Standards Children's Rights Director Regulations 2002.

Children's Services Authorities – local government bodies which owe duties to safeguard and protect the welfare of children in their area under the Children Act 1989 and the Children Act 2004. They include county councils; metropolitan district councils; London Borough Councils.

Children's Taskforce - is an interdisciplinary team set up by the Department of Health in November 2000 to take forward the National Health Service National plan with respect to its implications for children. Its mission is "to improve the lives and health of children through the delivery of needs-led, integrated effective and evidence based services."

Children's Trusts - a Children's Trust is a model of partnership provision of social, health and education services for children which provides a framework for organisations to join together in local partnership where this would assist them to commission and, where relevant, directly provide services for children. It is designed to help in particular those children with a combination of health, educational and social care needs. It does not have a statutory basis.

Civil courts - are where people can gain remedies for injustices "proved on the balance of probabilities". The parties to the proceedings are the claimant - the person who is claiming their rights, and the defendant.

Claimant - someone who issues a claim in the civil courts.

Client - a customer of professional services.

Code C - under the Police and Criminal Evidence Act the police must abide by the requirements set out in Code C, the Code on Detention Treatment and Questioning. It sets out minimum standards of treatment, the role of the appropriate adult, and the limits and purpose of the questioning.

Committal - criminal cases start in the magistrates' courts (which include the youth court). These courts can commit a defendant for trial, or if convicted, for sentence, to the Crown

Court if the offence is an either way offence and the magistrates or youth court believes the Crown Court sentencing powers would be required to deal with this matter, or the case is so difficult that it ought to be tried before a judge and jury (adult defendants only, unless tried together with a juvenile).

Committal application - an application to commit a defendant to custody or prison.

Common law - a system of law which derives from judicial decisions as opposed to statutory authority.

Common law duty of care - some people have a legal responsibility under the common law towards other people and if they act carelessly in discharging that responsibility then the law will hold them responsible for the consequences.

Community order – a sentence for offenders age 16 upwards, which can have various requirements attached (e.g. curfew, activities, drug testing). Replaces community punishment order, combination order, attendance centre order etc.

Community rehabilitation order - formerly probation; available for a convicted child of at least 16.

Community sentence - a type of sentence which is designed to both punish and rehabilitate. Examples include community punishment order, action plan order, supervision, or referral order.

Complaints - local councils are required to have formal procedures to deal with complaints under the *National Health Service and Community Care Act 1990* and the *Children Act 1989*.

Conditional discharge - following a criminal conviction a court may decide that no punishment is now appropriate, but to persuade the offender to avoid further offending, the condition of the discharge is that she or he could be punished for this offence if they are convicted of a further offence during a specified period of up to three years.

Confession - evidence of what people say outside the witness box, if used at trial, is generally called hearsay, and is not admissible unless a specified exception can be identified. Confessions are a form of out of court statement by the defendant in a criminal trial, and are admissible as part of the evidence against the defendant as an exception to the hearsay rule, so long as the circumstances in which the confession was obtained meet the requirements of the Police and Criminal Evidence Act.

Confidentiality - a social worker (in common with all professionals) owes a duty of confidentiality to the service user and should not disclose confidential information without permission. However the duty is not absolute and can be breached in circumstances where it is in the public interest to do so.

Consent - lawful consent to a course of action, for instance medical treatment, has three qualities. First the person must have the capacity or competence to consent, second they must have sufficient information to enable them to give informed consent, and third it must have been given voluntarily.

Contact order - a private law children order under s.8 of the Children Act 1989, specifying the contact arrangements between the child and specified others.

Contact Point – the name of the information database on children set up by the Children Act 2004 and due to be implemented in 2008.

Contempt of court - if someone breaks a court order, such as an injunction, they are acting in contempt of court and can be imprisoned.

Convention adoption orders - are defined in the Adoption and Children Act 2002 as adoptions order made by virtue of regulations made under section 1 of the 1999 Act. What this means is that Convention adoption orders are regulated by the Hague Convention.

Core Assessment – an in-depth assessment of the needs of the child and the capacity of others to respond to those needs.

Coronavirus Act 2020 – wide ranging emergency legislation that provides for relaxations of key duties under various pieces of legislation in order to help public bodies respond to the pandemic.

Court of Protection - a Court set up under the Mental Health Act 1983 which is responsible for administering the financial affairs of a person who lacks the capacity to regulate their own affairs and for whom an Enduring Power of Attorney has not been made. It is the Court which has jurisdiction relating to the Mental Capacity Act 2005.

Court rules and Practice Directions - are judge made law which govern the day to day practice of litigation. These rules which are drafted by *the Rule Committee* are essential to the implementation of legislation. The Rule Committee is a committee of judges with legislative authority.

Covenant of quiet enjoyment - is implied by law into every tenancy. What this means is that the landlord makes a legally binding promise that the tenant's lawful possession of land will not be substantially interfered with by the landlord. In practical terms, therefore, the landlord cannot go into the tenant's home without permission, he cannot send the tenant threatening letters, neither should he stop the tenant using the premises as he wishes. The covenant is particularly useful in the context of harassment and illegal eviction.

Crime and Disorder Act 1998 - introduced a range of quasi-criminal orders, aimed at tackling bad behaviour in order to benefit the community, but not actually taking the form of a criminal prosecution. The Act also contains a range of strategic duties for local authorities working in partnership with other key organisations to reduce the level of crime and disorder in their areas.

Crime and Disorder Reduction Partnerships – the 1998 Crime and Disorder Act established partnerships between the police, local authorities, probation service, health authorities, the voluntary sector, and local residents and businesses to work together to reduce crime and disorder in their area by establishing the levels of crime and disorder problems in their area and devising a strategy to tackle those priority problems.

Criminal courts - are where the state prosecutes offences and courts impose penalties on those convicted. People can only be convicted where the evidence points to guilt "beyond reasonable doubt". The parties to proceedings are the prosecution and the defence.

Criminal Justice Act 2003 - contained controversial measures, including the reform of the ancient protection of the rule against double jeopardy and allowing juries to hear of a defendant's previous convictions and ending the right in many cases to trial by jury. Also reformed sentencing procedures.

Cross examination – see examination in chief

Crown Court - is where serious criminal cases are heard before a judge and jury following committal from the magistrates' court.

Crown Prosecution Service - advises the police on possible prosecutions and takes over prosecutions begun by police. It is responsible for the preparation of cases for court and for their presentation at court. It works in partnership with the police, the courts and other agencies throughout the criminal justice system. The role of the Crown Prosecution Service is to prosecute cases firmly, fairly and effectively when there is sufficient evidence to provide a realistic prospect of conviction and when it is in the public interest to do so.

Curfew order - this can arise in a number of ways. A curfew can be a condition of granting bail (though it is not then called a curfew order). It is a form of community punishment available for juveniles aged 16 upwards following a conviction. Curfews can also be imposed under local child curfew schemes in a particular locality by the Home Secretary at the request of a local authority under powers contained in s14 of the Crime and Disorder Act 1998. Curfew can also be part of a supervision order imposed following a criminal conviction.

Custody record - police must open this record for any person detained or volunteering for questioning at a police station in relation to a suspected criminal offence; the record contains a chronology of the treatment of the suspect while at the police station.

[\[Back to top\]](#)

D

Data controllers - are people, including organisations, who decide how and why personal data are processed. The Data Protection Act 2018 and GDPR imposes specific responsibilities upon data controllers.

Data Protection Act 2018 (DPA) - provides the legal framework for the protection of personal data. The explanatory notes to the Act say that it 'sets new standards for protecting personal data, in accordance with recent EU data protection laws, giving people more control over use of their data. The Act also helps prepare the UK for a future outside the EU.

Data subjects - are individuals whose data are held by authorities. They must be told the identity of the data controller and the purposes for which their data are to be processed. Individuals should also be made aware of any additional purposes for which their data may be used.

Declaration of incompatibility - whilst the courts cannot quash primary legislation under the Human Rights Act 1998 they can declare that provisions of a statute are incompatible with the Human Rights Act.

Defendant - a party to court proceedings who is defending him or herself against those proceedings.

Delegated legislation - as its name implies, gives the power to some person or body to pass legislation that has the same effect as if it had been passed by Parliament through its normal process of legislation. For the delegated legislation to come into force, normally it must be 'laid before Parliament'. This requires a copy of the proposed delegated legislation to be placed (or laid) in the House of Commons and the House of Lords for a specified number of days. After that the legislation comes into force. It may require a vote without a debate, or the alternative form is where it comes into effect by 'negative resolution'. This means that it will come into force unless sufficient members of Parliament put their names down so as to require a vote to be taken.

Deprivation of Liberty Safeguards – DOLS – extra safeguards introduced as an amendment to the Mental Capacity Act 2005 following litigation in the European Court of Human Rights in connection to what is described as the Bournemouth Gap. They are designed to ensure that someone who lacks capacity is only deprived of their liberty if it is in their best interests to do so. Care homes and hospitals can only do this if they receive authorisation from a local authority to do so. The statutory scheme has been reformed via the Mental Capacity (Amendment) Act 2019 and the new regime of Liberty Protection Standards will be finalised during 2022. DOLS will run alongside LPS

Derogation – the UK is committed by treaty to the European Convention on Human Rights and Fundamental Freedoms, but under the treaty a government can derogate from (declare itself not bound by) certain of the articles. The decision to derogate is reviewable by the UK courts and can be declared unlawful.

Detention and training order - a form of custodial sentence for young offenders in which the first half of the sentence is served in a young offender institution, a secure training centre or local authority secure accommodation, and the second half under supervision by a probation officer, social worker or other member of the Youth Offending Team.

Devolution- in general devolution means the transfer of powers from central government to local units. The particular devolution settlement in the UK is complicated. The Scotland Act 1998 established the Scottish Parliament and the Scottish Executive. The Government of Wales Act 1998 established the National Assembly for Wales. The Northern Ireland Act 1998 established the Northern Ireland Assembly and the Northern Ireland Executive. Devolution means that there will be increasing differences between the four jurisdictions on devolved matters. For instance prescription charges continue to rise in England, in Wales they have been abolished, and in Scotland they have been reduced with the intention of abolition by 2010.

Dilnot Commission – set up in 2010 to propose solutions to the funding crisis of adult social care. It reported in 2011. Nothing has happened in response.

Direct payments - local authorities are obliged to offer cash equivalent costs to service users to purchase the required service, as an alternative to providing care services. Direct payments are available for most forms of care service, including those to children and families under the Children Act. The service user must agree and be assessed as capable of benefiting from a direct payment.

Direction Hearing - a hearing designed to enable the court and the lawyers to decide what procedural matters need to be dealt with. It is a very important stage in the process of managing the case to ensure that the final hearing takes place as quickly as possible, is as short as possible and deals with those points that are actually in dispute.

Director of Children's Services – The Children Act 2004 requires local authorities to appoint a director of children's services to be accountable for, as a minimum, the local authority's education and social services functions in so far as they relate to children.

Disabled facilities grants - are available from local authorities under Part I of the Housing Grants, Construction and Regeneration Act 1996. Disabled facilities grants can help tenants and owner-occupiers meet the costs of installing an access ramp for wheelchairs, putting in a stair lift, or lowering work tops to make it easier to prepare and cook food.

Discretionary grounds - are grounds for possession where the court can decide whether it is reasonable in the circumstances to evict the tenant. This contrasts with mandatory grounds where, if the facts are made out, the court must make an order for possession.

Documentary evidence - evidence used in courts comprises oral evidence, (what witnesses say), real evidence (the examination by the court of actual things that are relevant), and documentary evidence – which includes things like computer print outs and videotapes. Documentary evidence often contains hearsay – evidence which really ought to be presented by the person who knows the facts coming into the witness box to testify. However this is becoming less of a problem, even in criminal cases.

Domestic abuse - encompasses the use of physical and/or emotional abuse or violence, including undermining of self-confidence, sexual violence or the threat of violence, by a person who is or has been in a close relationship. The Domestic Abuse Bill, once it becomes law will enshrine a very broad statutory definition of domestic abuse.

Domestic Violence, Crime and Victims Act 2004 - this Act extends protections offered to the survivors of domestic violence. In particular breach of a non-molestation order becomes a crime and the categories of 'associated persons' under the Family Law Act 1996 are extended to include co-habiting same sex couples.

Domestic Violence disclosure scheme (DVDS) DVDS (commonly known as Clare's Law) sets out procedures for the police to use in relation to disclosure of information to protect an individual whose current partner has a history of domestic violence and abuse. The DVDS has two routes:

The right to ask – this enables someone to ask the police about a partner's history of domestic violence or violent acts

The right to know – the police can proactively disclose information in prescribed circumstances

Domestic violence protection notices (DVPNs) - DVPNs are initial notices issued by the police to provide emergency protection to an individual believed to be the victim of domestic violence. The notices, which must be authorised by a police superintendent, contains prohibitions that prevent suspected perpetrators returning to the victims' homes or otherwise contacting victims.

Domestic violence protection orders (DVPOS) - DVPOs are civil orders that provide protection to victims by enabling the police and magistrates courts to put in place protective measures in the immediate aftermath of a domestic violence incident. DVPOs are used where there is insufficient evidence to charge a perpetrator with a crime and provide protection to a victim via bail conditions. Whereas DVPNs can be approved by a police superintendent, DVPOs are granted by a magistrate.

DVPNs are initial notices issued by the police to provide emergency protection to an individual believed to be the victim of domestic violence. The notices, which must be authorised by a police superintendent, contains prohibitions that prevent suspected perpetrators returning to the victims' homes or otherwise contacting victims. In the year ending March 2019 4,349 DVPN were granted out of 4,598 applications

Drug treatment and testing order - a form of community punishment following a criminal conviction.

Duty - mandatory statement within a statute - Where a statute imposes a duty on a person or a body then they have to carry out that duty. There is no choice, however hard the carrying out of the duty may be. (Chapter 1) One useful example is the duty to assess set out in s.47 of the NHSCC Act 1990

[\[Back to top\]](#)

E

ECHR – see European Convention on Human Rights and Fundamental Freedoms

EPO – see Emergency Protection Order

Education Supervision Orders- (s. 36 of the Children Act 1989) If a local education authority (which in most areas is the same authority as the social services department) can satisfy the magistrates' court that a particular child is both of compulsory school age and not being properly educated, the court may make an education supervision order. The order is designed to ensure that children do not go into care merely for non-school attendance.

Either way offences - are hybrid offences which, as the name implies, can be dealt with either by the magistrates' court or by the Crown Court before a judge and jury.

Eligible children - a definition for the purposes of the duties imposed upon local authorities under the Children (Leaving Care) Act 2000. It refers to those children in care aged 16 and 17 who have been looked after for a period to be prescribed.

Eligible for assistance - before someone can be provided with assistance under Part 7 of the Housing Act 1996 they must be eligible for assistance. No duty is owed by the housing department to anyone, however dire their situation, if the legislation and the regulations taken together make them ineligible for assistance - s. 185 of the Housing Act 1996.

Emergency Protection Order - a short-term order under s.44 of the children Act 1989 which either removes the child on a short-term basis, or allows the child to be kept in a place of safety or requires an alleged abuser to leave the family home. The grounds for the emergency protection order are much easier to prove than for a care order but successful applicants gain limited powers.

Employment Tribunals - tribunals that make decisions about employment disputes, including unfair dismissal, redundancy, and discrimination.

Enduring Power of Attorney - see Lasting Power of Attorney

Entitled people - Part IV of the Family Law Act categorises the property status of people in two different ways for the purposes of occupation orders. First you are an entitled person if you have some legal right to occupy a property as the freehold owner, the tenant or the contractual licensee. People who do not have property rights are *non-entitled* persons.

Environmental Health Officers - officers employed by the authority to advise on environmental standards and where appropriate to prosecute offenders. They have a specific role in policing housing standards.

Examination in chief – the first stage of a witness's examination in court, when the lawyer calling the witness asks non-leading questions to elicit the evidence that a witness gives in support of that party's case. Followed by cross examination (where the evidence is challenged by opposing parties and leading questions will be put) and re-examination, which is to clarify but not open up new areas. Examination in chief in civil cases is usually just a matter of presenting the witness's signed statement to the court.

Expert opinion - in making decisions courts like to hear facts and not opinions from witnesses. However an expert witness is an exception, as there will be issues on which the court does not know how to form its own opinion, for example the possible cause of bruising on a child, or the likely response of a child to contact with a particular parent.

The Equality Act 2010 - the Act which bans unfair treatment and helps achieve equal opportunities in the workplace and in wider society. The act replaced previous anti-discrimination laws with a single act to make the law simpler and to remove inconsistencies. The act covers nine protected characteristics, which cannot be used as a reason to treat people unfairly. Every person has one or more of the protected characteristics, so the act protects everyone against unfair treatment. The protected characteristics are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The Equality and Human Rights Commission - from the initial implementation of anti-discrimination legislation, government has recognised that individuals require assistance to understand and implement the law. Over time it created three commissions, the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission. In response to increasing pressure to create a Human Rights Commission, and in recognition of the need for a single Equalities body, it merged the work of the existing commissions, and extended their remit by establishing the Equality and Human Rights Commission in October 2007. The first chair of the Commission was Trevor Phillips. The work of the Commission is to promote equality and tackle discrimination in relation to race, gender, gender reassignment, disability, sexual orientation, religion or belief, age and human rights.

European Convention on Human Rights and Fundamental Freedoms (ECHR) - a set of principles drafted after the second world war by the Council of Europe. Member states who have signed the Convention are required to ensure that their laws are consistent with these fundamental rights. The United Kingdom achieves this by allowing its citizens to petition the European Court of Human Rights for a declaration that the UK is in breach. Also each jurisdiction within the UK has legislation in force which incorporates these provisions into law recognised by its courts. Within England and Wales this is achieved through the Human Rights Act 1998.

[\[Back to top\]](#)

F

FACS – see Fair Access to Care Services

Fact in issue – when a court is asked to make a decision, it has to identify what issues are in dispute, and that depends on what has to be proved to get the decision which each party is looking for. Those facts which must be established by evidence (i.e. they are not agreed by the parties) are said to be 'in issue'.

Fair Access to Care Services – statutory guidance produced to enable local authorities to make proper decisions about evaluating and meeting vulnerable adults' needs. The latest version was published in 2010

Family Proceedings Court - is the name for magistrates' courts when they deal with family matters. The magistrates who sit in the family proceedings court receive specialised training in family matters and form the family panel. Family proceedings courts deal with both public and private law matters relating to children. All public law cases start in the Family Proceedings Court. (Chapter 1)

Family Proceedings Courts (Children Act 1989) Rules 1991 - the rules which govern the procedures of the Family Proceedings Court.

Files - have many purposes but essentially hold the factual records of a case. They should be useful working tools. The Data Protection Act 1998 applies to information held on files.

Former relevant children - a definition of a particular group of children towards whom the local authority will have duties under the Children (Leaving Care) Act 2000. It refers to those who before reaching the age of 18 were either eligible or relevant children.

Foster parents - a child in care or being looked after on a voluntary basis can under s. 23 of the Children Act 1989 be provided with accommodation by being placed with foster parents. Foster parents are suitable people selected by the local authority to provide accommodation and maintenance for a child being looked after. The selection and registration of foster parents are subject to the detailed guidance of the Foster Placement (Children) Regulations 1991.

'Framework for the Assessment of Children in Need and Their Families' (DoH 2001) - provides a structure for helping social services to collect and analyse information obtained in the course of the inquiries into the welfare of a child. The Framework came into force on 1st April 2001, and must be complied with by the Local Authority unless there are exceptional reasons which justify a variation.

Freedom of Information Act 2000 - provides statutory rights for members of the public requesting information. Under the Act any member of the public will be able to apply for access to information held by a wide range of public authorities, including local authorities. The right of access to information is subject to a wide range of exemptions.

Full hearings - hearings of cases where a final order is made.

[\[Back to top\]](#)

G

General Social Care Council - a statutory body responsible amongst other things for establishing the standards and qualification requirements for social workers and other social care workers.

General Data Protection Regulation (GDPR) - GDPR is European Union law, specifically Regulation (EU) 2016/679. It came into force in May 2018 and regulates the processing by an individual, a company, or an organization of personal data relating to individuals in the EU. GDPR grants new individual rights, such as easier access to the information companies hold on a person; imposes new obligations on companies, for instance a clear responsibility on companies to get consent to the holding of personal data; and sets up a much stronger enforcement regime.

Gillick competence - refers to *Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AC 112 where the House of Lords discussed the relationship between parent and child and the responsibilities that arise from that relationship. A child under 16 is generally presumed not to be legally competent, but will be treated as competent if they demonstrate sufficient understanding of the question that needs to be decided.

Golden rule - see statutory interpretation

Grave crime - crimes of murder and homicide and crimes which can be punished with at least 14 years prison if committed by an adult. When alleged against a juvenile youth courts may, and in the case of murder must, commit the defendant for trial in the Crown Court.

Green Paper - a government paper which sets out a number of proposals to change the law and ask for comments. Green Papers got their name because in the past they were published with green covers.

Guardian - in general someone who is appointed by a court to protect the interests of a vulnerable person or a child - see children's guardian and guardianship order.

Guardianship order - an order under s.7 of the Mental Health Act 1983 in which the local authority appoints a person to act as guardian of the patient; this enables the patient to continue living in the community.

Guidance - advice issued by the Secretary of State. For example local authority social services functions are governed by the Local Authority Social Services Act 1970 (LASSA). Under s. 7 these functions must be exercised under the general guidance of the Secretary of State. Where guidance is issued to local authorities under this s. 7, it is not, in law, mandatory. Such guidance, nevertheless, must be followed unless there are justifiable reasons for not doing so.

[\[Back to top\]](#)

H

Hague Convention - is the shortened reference to the Convention on Protection of Children and Co-operation in respect of Inter-country Adoption, concluded at The Hague in 1993. It

sets out minimum standards for the process of inter-country adoption. One of its main aims is to prevent adoption trafficking.

Health Service Ombudsman - investigates complaints about the failures of National Health Service hospitals or community health services and other National Health Service provision. Any member of the public may refer a complaint direct, though normally only if a full investigation within the National Health Service complaints system has been carried out first.

Hearsay - if a person has something of relevance to say about a case before a court, and that evidence is not given by her or him from the witness box but is presented by someone reporting what they said or a document is produced, this is hearsay. The old rule is that hearsay is excluded, but in civil cases that rule is abolished, and in criminal cases there are many exceptions. Hearsay is generally less persuasive than direct testimony.

High Court - a civil court which consists of three divisions;

1. Queen's Bench (can be known as King's Bench Division if a King is assuming the throne) - civil disputes for recovery of money, including breach of contract, personal injuries, libel/slander;
2. Family - concerned with matrimonial matters and proceedings relating to children, e.g. wardship;
3. Chancery - property matters including fraud and bankruptcy.

Homeless - a person is homeless for the purposes of Part 7 of the Housing Act 1996 if he or she, together with any person he or she can reasonably be expected to live with, has no accommodation which they are entitled to occupy and which it would be reasonable for them to continue to occupy (s. 175). Accommodation includes accommodation overseas. A person does not have to be actually homeless to qualify under the Act, if he or she is likely to become homeless within the next 28 days.

Homelessness Act 2002 - imposes strategic responsibilities for homelessness on local housing authorities and makes important amendments to the homelessness provisions contained in Part 7 of the Housing Act 1996.

Homelessness Code of Guidance for Local Authorities - was published by the Department of Local Government and Communities in 2006; this provides a thorough and wide ranging explanation of the council's obligations and is an essential reference tool for anyone involved in homelessness.

Homelessness (Priority Need for Accommodation) (England) Order 2002 - SI 2051 - a statutory instrument which extends the categories of those treated as in priority need for the purposes of the homelessness provisions of the Housing Act 1996.

Homelessness (Suitability of Accommodation) Order 1996- SI 3204 states that a housing authority must take into account whether the accommodation is affordable for the applicant when deciding whether it is reasonable for them to remain in that accommodation for the purposes of Part 7 of the Housing Act 1996.

Hospital order - a court can commit an offender to a hospital if, following a conviction where it has a power to imprison the offender, there is a medical report which indicates that the conditions for admission to hospital for treatment for mental disorder apply.

House Renovation grants - may be available if a dwelling falls below the fitness standards set out in the Housing Act 1985 and referred to above, and the council are satisfied that renovation is the best way of dealing with the problem. The grant will be means tested, and no work commenced prior to the grant will be covered.

Human Rights Act 1998 - this legislation requires courts and public authorities to act and make decisions in keeping with the principles set out in the European Convention of Human Rights. The articles are set out in a Schedule to the Act, and therefore are part of the law of England and Wales from October 2001.

[\[Back to top\]](#)

I

Incompatibility (declaration of) – the Human Rights Act 1998 requires legislation to be interpreted as far as possible to achieve a result consistent with the principles of the European Convention. If that is impossible the court is obliged to follow the wording of the English statute and can then declare that a provision in the statute is incompatible with the HRA. (Chapter 3)

Independent Housing Ombudsman - deals with complaints against housing associations.

Independent Reviewing Officers - following the implementation of s.118 of the Adoption and Children Act 2002 which amends s.26 of the Children Act 1989 all children's services authorities must appoint Independent Reviewing Officers to chair the statutory review meetings of all children looked after or accommodated by them. The IROs have a duty to monitor the responsible authority's review of the care plan, with the aim of minimising 'drift' and challenging poor practice. The Regulations give them a new power to refer a case to the Children and Family Court Advisory and Support Service (CAFCASS) to take legal action as a last resort where a child's human rights are considered to be in breach

Independent advocates - Independent advocacy is an important service available to certain adult service care users. Section 67 of the Care Act 2014 places a duty on local authorities to provide access to independent advocacy to those who would have substantial difficulty in being involved in care and support 'processes' and have no appropriate individual(s)—carer, family, or friend—who can support their involvement.

Independent visitor - (See Sch. 2, para. 17 of the Children Act 1989 and Definition of Independent Visitors (Children) Regulations 1991). If a child has had infrequent contact with his or her parents or has not been visited or lived with them during the preceding 12 months, the authority may appoint such an independent visitor. An independent visitor must be appointed if there have been no visits to the child during the preceding year. The role of the visitor is to visit, befriend and advise the child. In doing this the authority must apply the 'respect for the child principle' and the child has the right of informed consent to object to the initial appointment and to the continuation of the appointment (Sch. 2, para. 17(6)).

Indictable only offences - are cases that 'just pass through' the magistrates' court. They are the serious offences, such as murder, rape and arson that, for an adult (over 18), can be dealt with only by the Crown Court.

Inferences - a court is entitled to make inferences when evidence points towards a factual conclusion.

Informal admission - under the Mental Health Act 1983 patients can enter hospital without an order i.e. voluntarily. As informal patients they are free to leave, unless detained while in hospital.

Information Commissioner's Office (ICO) - the UK's independent body set up to uphold information rights.

Informed consent - see consent

Injunction - a court order restraining someone from doing something or (more difficult to obtain) ordering someone to do something. In general an injunction is only available to an applicant if there is a substantive cause of action, for instance breach of contract. However injunctions under Part IV of the Family Law Act 1996 and under the Housing Act 1996 can be obtained without the need for other court proceedings.

Inquiries - describes a whole range of investigations/hearings which take place outside of the court system. Local authorities may initiate, participate in, or contribute to many types of inquiries. They are a useful mechanism for dealing with complaints or investigating failure and may prove more helpful in finding out facts than the adversarial system used in the courts.

Intentionality - when deciding what if any duties are owed to an applicant under Part 7 of the Housing Act 1996 the authority has to decide if the applicant became homeless intentionally (s. 184), which means that the applicant has to have had accommodation which it would be reasonable to continue to occupy, and by some deliberate act loses it (s. 191). The same criteria apply to threatened homelessness (s. 196).

Interim orders - orders made pending a full hearing of the case.

Interim Care/Supervision Order - orders made under s.38 of the Children Act 1989 pending a full hearing of the application for a care order. An initial interim order cannot last longer than eight weeks. Subsequent interim orders cannot last longer than four weeks.

[\[Back to top\]](#)

J

Judicial notice - in determining a case a judge does not need to have all possible facts proved by evidence; judicial notice of a fact is possible without proof where it is a fact that is well known, for example that in summer in the north of England it is not dark at 8 o'clock.

Judicial review - judicial review is the process by which the courts oversee decisions made by public officials and ensure that they have been made fairly.

Justice for All - (Cm 5563) the name of the White Paper published by the government in July 2002 which focused on reforms to court procedure and sentencing.

Juvenile - a term to describe a child involved in criminal proceedings.

[\[Back to top\]](#)

L

LASSA – see Local Authority (Social Services) Act 1970

Laming Report – see Report of the Inquiry into Victoria Climbié

Lasting power of attorney - replaces enduring powers of attorney, and introduced by the Mental Capacity Act 2005 (chapter 3 and 17). It enables a person to make decisions in advance and is particularly useful to provide directions to those managing personal affairs of a person who later becomes mentally incapable.

Law Commission – an independent body which works on law reform

Law for Social Workers - a comprehensive clear account containing almost all you need to know, useful both for students and practitioners, regularly updated, well-reviewed and authoritative.

Legal Aid - public funding provided by the Legal Services Commission for advice or representation. (Technically the term was abolished by the 1999 Access to Justice Act, but is so widely used that even the Government has reintroduced it into its literature.)

Legal Services Commission - administers public funding for legal advice and legal representation.

Legal Services Ombudsman - handles complaints about services provided by lawyers.

Liberty Protection Safeguards - (LPS) - rules set out in the Mental Capacity Amendment Act 2019 which have been inserted into the Mental Capacity Act 2005 to regulate deprivations of liberty of those lacking capacity. LPS, which replace DOLS, are due to be implemented in 2022. The aim is to reduce bureaucracy and increase the involvement of families in decisions.

Literal rule - see statutory interpretation

Litigation privilege - the right of lawyers to talk to witnesses and obtain reports for the purpose of preparing actual or probable court cases and not to disclose the material if it is unhelpful.

Local authority's duty to investigate - (s. 47 of the Children Act 1989) – if a local authority has reasonable cause to suspect that a child is suffering or is likely to suffer significant harm then the local authority is placed under a statutory duty to investigate. The duty also arises if a child is the subject of an emergency protection order, is in police protection or has contravened a ban imposed by a curfew notice under the Crime and Disorder Act 1998.

Local Authority (Social Services) Act 1970 - the principal Act imposing social services functions on local authorities (metropolitan boroughs and county authorities). The Act brings together in schedule 1 a list of the functions of social services departments. This schedule is continually updated as new legislation sets out new responsibilities.

Local connection - under s.198 and 199 of the Housing Act 1996 a person who has local connections with a local authority can be referred back to that local authority for the provision of permanent housing, notwithstanding the fact that he or she has applied elsewhere as homeless. A person will not be referred back to their local area if they left the area because of violence and return would lead to a risk of further violence.

Local government and social care ombudsman - the final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services.

Local Safeguarding Children Boards - were created by the Children Act 2004. They bring together each of the main organizations who work with children and families in a children's services authority, with the aim of ensuring that they work together effectively to keep children safe. They replace the Area Child Protection Committee.

'Looked after' children - this term is not actually defined specifically in the Children Act 1989. To become 'looked after', the child, first, has to be in need. To be looked after the child either has to be the subject of a care order, or be supplied with accommodation by the local authority. The 'looked after' child has access to the range of services the local authority provides for children in need.

'Lost in Care'- *The Report of the Tribunal of Inquiry into the Abuse of Children in Care in the Former County Council Areas of Gwynedd and Clwydd since 1974*, have informed recent developments of the law, in particular the Care Standards Act 2000 and the Children (Leaving Care) Act 2000.

[\[Back to top\]](#)

M

MAPPA and MAPPs - see Minimum Requirements for Multi-Agency Public Protection Arrangements and Panels

MHRT - see Mental Health Review Tribunal

Magistrates - are members of the local community appointed by the Lord Chancellor (or by the Chancellor of the Duchy of Lancaster) to sit in magistrates' courts and decide on cases brought before them. Magistrates are not normally appointed before the age of 30 and all

magistrates retire at the age of 70. Of the 30,000 lay (unpaid) magistrates in England and Wales today, almost half are women.

Magistrates' court - are local courts which deal with a wide variety of legal matters. Almost all criminal cases start in the magistrates' court and over 95% of cases are completed there. Last year over 1,500,000 cases were dealt with by magistrates' courts. Most magistrates' courts have a special court - The Family Proceeding Court - which deals with issues such as family disputes, adoption and care orders of children. Magistrates also deal with licensing, betting and gambling in their local area as well as witnessing documents, public entertainment licence appeals etc.

Mediation - a form of dispute resolution in which the parties are guided by a mediator to achieve their own decision rather than have the court resolve the dispute. It is particularly encouraged in resolving family disputes.

Mental capacity - a term introduced by the Mental Capacity Act 2005. The Act creates a framework for making it lawful for people to intervene on behalf of those who lack mental capacity (Chapter 3 and 17). The Act sets out a new definition of capacity, works from an assumption that someone has capacity to make a decision unless it is shown otherwise, requires that all decisions taken on behalf of someone who cannot make his or her own decisions must be made in that person's best interests, sets out a new checklist of "best interests" factors, to guide decision-makers and creates a number of new decision-making mechanisms.

Mental disorder - defined in section 1 of the Mental Health Act 1983 as 'mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind'. Diagnosis is sufficient for compulsory admission to hospital for assessment.

Mental illness - not defined in legislation, but if found is sufficient to trigger a compulsory admission to hospital for assessment.

Mental impairment - defined in section 1 of the Mental Health Act 1983 as a 'state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible behaviour.' Diagnosis can lead to compulsory admission to hospital for treatment, if treatable.

Mental Health Act 1983 - the primary piece of legislation governing the rights of people compulsorily detained in mental hospital. The Act applies in England and Wales.

Mental Health Review Tribunal – a statutory body which hears applications for discharge where a patient has been detained for treatment.

Minimum Requirements for Multi-Agency Public Protection Arrangements and Panels - describes the arrangements made under the Criminal Justice and Court Services Act 2000 which placed a duty on the National Probation Service, in collaboration with the police, to make joint arrangements for the assessment and management of the risk posed by sexual, violent and other offenders who may cause serious harm to the public.

Mischief rule – see statutory interpretation

[\[Back to top\]](#)

N

National Adoption Standards - were published in August 2001 as part of the Government's commitment to improve the performance of the adoption service. The standards can be found on the Department of Health adoption website given earlier. The standards became statutory guidance on 1st April 2003. The purpose of the standards is to make explicit what the stakeholders in the adoption service can expect, particularly with regard to the quality and speed of service.

National Assembly for Wales - was set up in May 1999 with powers and functions determined by the Government of Wales Act 1998. Its powers were extended under the Government of Wales Act 2006 and following a referendum in 2011 it gained powers to implement primary legislation. The National Assembly has legislative competence in health, social welfare and housing, amongst other policy areas. This is likely to mean that in future social workers in Wales will be working to a different set of laws from those in England.

National Care Standards Commission - was established under the Care Standards Act 2000 to regulate a wide range of social care and private and voluntary health care services. From 1st April 2002, the Commission took over inspection and regulation duties from local authorities and health authorities.

National Care Standards Children's Rights Director Regulations 2002 - set out the responsibilities of the Children's Rights Director.

National Health Service and Community Care Act 1990 - an act which provides for the organisation and planning of health and community care services.

National Probation Service - was created in April 2001 by the Criminal Justice and Court Services Act 2000. It provides a national service delivered through 42 local probation areas. It is now subsumed within the National Offender Management Service, which also runs prisons.

National Offender Management Service – a new government agency created by merging the Prisons Service with the Probation Service and designed to achieve coherence in dealing between custodial and community sentences and also between rehabilitation/supervision services within prison and after release.

National Service Frameworks – Department of Health guidance on provision of services for particular users of health/social care services. So far only elderly service users and mental health have been published.

Natural justice - a set of principles which underpin lawful decision making by public authorities. These principles are openness (often described as transparency by lawyers and public administrators), fairness, rationality (including giving reasons for decisions),

impartiality (which means that decision takers should be independent), accountability, the control of discretion, consistency, participation, efficiency, equity and equal treatment.

Nearest relative - the nearest relative, as defined in section 26 of the Mental Health Act 1983, has the power to apply for a person to be admitted to hospital for assessment or treatment, and to discharge the patient. Their powers of discharge are subject to veto by doctors; and a court can order that a different person take on the role if they are not acting in the patient's best interests.

No order principle - this principle of the Children Act 1989 means that the court should not make an order unless it considers 'that doing so would be better for the child than making no order at all' (s. 1(5)). It is important to realise that the 'no order principle' is a principle for the court, not for social workers.

Non-delay principle – the Children Act 1989 requires that the court 'shall have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child'. (s.1(2)). The 'question' here means the question on upbringing the court is deciding.

Non-entitled persons – see entitled persons.

Non-molestation order - an order made under Part IV of the Family Law Act 1996 which restrains someone from causing or threatening violence to the applicant or to any children or from molesting them.

Non-unitary authorities – see unitary authorities.

Notice of intention to adopt - Where proposed adopters wish to adopt a child who is not placed for adoption with them by an adoption agency s.44 of the Adoption and Children Act 2002 requires them to give notice to their local authority. The notice must be given not more than two years or less than three months before the date on which the application for the adoption order is made. The local authority must then investigate and report to the court on the suitability of the proposed adopters and other matters relevant to s.1 of the Act.

Notice of seeking possession – notice that a landlord must serve on a secure or assured tenant prior to issuing possession proceedings.

[\[Back to top\]](#)

O

Occupation orders - orders made under Part IV of the Family Law Act 1996 which regulate the occupation of the family home to protect any party or children from domestic violence. A power of arrest can be added when the court considers it to be justified.

Offences - can be either summary offences, indictable offences or either way offences.

Office of Fair Trading - an independent organisation set up under consumer and competition legislation to help consumers and regulate the operation of business.

Ombudsmen - are designed to provide a possible source of redress where private individuals have suffered through the poor administration of a public body, such as a local authority. Public ombudsman schemes originated in Scandinavia and were imported into Britain in the 1960s.

Opinion evidence – courts generally like to hear accounts of fact, and to form their own opinions. However much evidence inevitably contains the opinion of a witness, and if there is no other way of giving the evidence, the court will also hear (admit) the opinion evidence. See also expert opinion.

Oral evidence – evidence given in court or a tribunal from the witness box.

Orders - a form of delegated legislation.

[\[Back to top\]](#)

P

PACE – see Police and Criminal Evidence Act 1984

PCCSA – see Powers of Criminal Courts Sentencing Act 2000

Parenting order – an order under s.8 of the Crime and Disorder Act 1998 which can be made when a child has been convicted of a criminal offence, an anti-social behaviour order is made, a child safety order or conviction for truanting, the parents can be ordered to attend parenting skills classes.

Parental responsibility – mothers automatically have this and fathers too if they have been married to the mother; unmarried fathers can acquire it by registering the birth of their child. Parental responsibility empowers the person to take decisions about the upbringing of the child. In cases of dispute courts can determine issues which could have been determined by a person with parental responsibility, and can give people other than the parents parental responsibility. It is lost if the child is adopted.

Parliamentary Commissioner for Administration - is the name for the ombudsman who deals with the administrative failings of government departments. The public does not have direct access to the ombudsman. Complaints must go first of all to Members of Parliament. MPs are not obliged to refer the complaints they receive to the parliamentary ombudsman if they consider that they can deal with the matter themselves.

Parliamentary Commissioner for Local Government – see local government ombudsman.

Patient – for the purposes of mental health law a patient is any person suffering from any mental disorder, including inability to manage their affairs, if this can trigger the use of Mental Health Act powers. A person can be a patient without being in hospital or receiving treatment.

Penal notice - is attached to an injunction warning of the risk of imprisonment. Penal notices are compulsory on non-molestation orders which are available under Part IV of the Family Law Act 1996 (domestic violence).

Personal information or data - The GDPR defines personal data as Any information relating to an identified or identifiable natural person ('data subject'). An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. -

Pindown - refers to physical restraint used on children in care see The Pindown Experience and the Protection of Children, by Allan Levy QC and Barbara Kahan: Staffordshire County Council, 1991.

Placement for adoption - placement of children by adoption agencies for adoption is covered by s. 18 – 29 of the Adoption and Children Act 2002. Placement can either be actual placement with the prospective adopters or it can act as an authority to place with prospective adopters once these have been identified. Placement allows adoption agencies to plan effectively for any subsequent adoption.

Police Protection – see removal and accommodation of children by police.

Police and Criminal Evidence Act 1984 – legislation which sets out, among other things, the way in which police will question and treat a suspect, and which provides limits on the use of the evidence obtained through questioning.

Power – a permissive statement within a statute - where a statute gives a person or a body a power to do some act, the person or the body may exercise that power but they are not obliged to do so.

Power of arrest - where a power of arrest is attached to an injunction a police officer can arrest without warrant anyone suspected of breaching the terms of the order, and bring him or her before the court for punishment for contempt of court. Powers of arrest are available under Part IV of the Family Law Act (domestic violence) and under s.152 and s.153 of the Housing Act 1996.

Power of Attorney – a way of delegating authority to a named person who then can carry out property or financial transactions on behalf of the person drawing up the power; a particular form which is useful if a person later becomes mentally incapable of managing their affairs is the Lasting Power of Attorney (see Lasting Power of Attorney).

Powers of Criminal Courts Sentencing Act 2000 – legislation which consolidates all the courts' sentencing powers previously set out in Acts dating back to 1933.

Practice Directions – are judge made law which govern the day to day practice of litigation.

Precedents - are court decisions which state legal principles which provide an example or authority for judges deciding similar issues later. Generally, decisions of higher courts (within a particular system of courts) are binding on lower courts within that system.

Pre-sentence report – a report prepared either by a social worker or probation officer to assist the court to determine the appropriate sentence for this offender.

Presumptions - courts can make assumptions about the meaning of evidence without hearing further proof, for example that a child born to a married mother is the child of the father. Presumptions do not apply if there is evidence which rebuts this conclusion but they will apply if not challenged.

Primary Hearing Centres - are the principal venues for civil and family hearings. They are based mainly in existing county and combined court centres in towns and cities across England and Wales. They will deal with most types of hearings and provide a full range of counter services. They will have high quality facilities and support including the use of video-conferencing and digital audio recording.

Principal Social Workers - introduced by the Care Act 2014 principal social workers role is to lead and oversee excellent social work practice, support and develop arrangements for excellent practice and lead the development of excellent social workers;

Private law - cases are cases brought by private individuals.

Privilege – information or communications which are privileged do not have to be disclosed to others or, depending on the level of privilege, in court. A high level of privilege is accorded to communications between a lawyer and a client.

Prohibited steps order – an order made under s. 8 of the Children Act 1989. A court can order a parent not to take a particular step, for example taking a child to another country or having him circumcised, which that parent would otherwise have the power to carry out because of having parental responsibility.

Protected information – is, for the purposes of the Adoption and Children Act 2002, information which allows the adopted person or any other person connected with the adoption to be identified.

Psychopathic disorder – defined in s.1 of the Mental Health Act 1983 as a 'persistent disorder or disability of mind (whether or not including significant impairment of intelligence) which results in abnormally aggressive or seriously irresponsible conduct'. It is sufficient to trigger compulsory admission to hospital for assessment, but if it is not treatable it is not a ground for detention for treatment.

Public Guardian - The Office of the Public Guardian (OPG) protects people in England and Wales who may not have the mental capacity to make certain decisions for themselves, such as about their health and finance.

Public Interest Disclosure Act 1999 - is an act that is designed to encourage people to raise genuine concerns about malpractice in the workplace by providing legal protection against dismissal or victimisation.

Public interest immunity - is the shorthand for the legal rule which allows public bodies to withhold information on the grounds of public interest.

Public law cases - are cases brought by public authorities, such as the social services departments of local authorities.

Public Law Outline – this replaces the Protocol for Judicial Case Management from April 2008. The purpose is to ensure that local authorities submit improved applications to court, ensuring all kinship options have been fully explored and all relevant assessments are completed before applications are made to the court.

Public Sector Equality Duty - the public sector Equality Duty (section 149 of the Equality Act 2010) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

[\[Back to top\]](#)

R

Racially aggravated offences – these were created by Crime and Disorder Act 1998 s.29 – 32. The offences are racially aggravated assaults, racially aggravated criminal damage, racially aggravated public order offences and racially aggravated harassment. The offences are all pre-existing offences which become more serious as a result of the racial motivation for the offence.

Racial harassment - this is difficult to define but the metropolitan police define it as any incident in which it appears to the reporting or investigating officer that the complaint involves an element of racial motivation *or* any incident which includes an allegation of racial motivation made by any person.

Real evidence - things which a court can observe in the course of trying a case; it can include the physical appearance of the witness and how they behave, as well as objects (such as for example the hairbrush which a witness says was used to hit a child).

Recovery orders - are orders under s. 41 of the Adoption and Children Act 2002. Where it appears to the court that a child has been or may be removed in contravention of the provisions of the Act then the court may order the removal and production of the child to the court.

Re-examination – see examination in chief

Refugee – a person whose status as a person fleeing persecution in their own country has been accepted in the new host country; under both international and UK law entitled to remain, work, receive benefit etc.

Removal and Accommodation of children by police – this refers to a power under s.46 of the Children Act 1989. No court order is necessary for the police to implement this power which enables the police to remove a child or to keep a child in a safe place.

Regulations - are a form of delegated legislation.

Regulation of Investigatory Powers Act 2000 - an Act which regulates surveillance of individuals by the state. It claims to ensure that the use of powers to investigate individuals through surveillance or to intercept telecommunication complies with the Human Rights Act, in particular Article 8.

Relevant children – those young people aged 16 and 17 who meet the criteria for eligible children under the Children (Leaving Care) Act 2000, but who leave care. Regulations may exclude certain groups, such as children who return home permanently and children who receive respite care.

Relevant evidence – rules of law derived from past cases restrict the admissibility of evidence to what is relevant, which means that if it were to be believed it would help to decide the case. Some forms of evidence which might appear relevant, such as a person's past history in a criminal case, are excluded as legally irrelevant.

Remand – where a court has to adjourn (or where a magistrates' court or youth court commits to the Crown Court) in all but a trivial case it will remand the defendant. This means it must consider whether to grant bail (a form of remand) or remand in custody.

Reparation order – a community sentence available only to juveniles in which the offender makes reparation to the victim directly or to the community in general.

Reports - written communication. There are three particularly important reports which social workers are required to produce, internal agency reports which inform decision-making in particular cases, court reports which are primarily to assist the court in knowing what type of order to make and evidential statements or proofs of evidence – statements provided to a lawyer which will be provided to the court.

Report of the Inquiry into Victoria Climbié - the Laming Report - on 28th January 2003 Lord Laming's report into the death of eight-year-old Victoria Climbié was published. The report highlighted the breakdown in communication between social workers hospital staff and police. It also emphasised the need for accountability at a managerial level.

Representations - courts have to make decisions on whether certain facts are true (did the accused carry out the burglary? Has the child suffered significant harm?) The court then has to decide on how to exercise its powers (for example the sentence in a criminal case, a care order in a Children Act case). It can hear representations from, for example, lawyers and social workers as to how it should exercise these powers (and will also consider reports which contain representations).

Reprimand – the police can reprimand a person who admits a criminal offence which in the view of the police it is not appropriate to charge the offender with. This power is to be abolished and replaced with the power to caution (see youth cautions and youth conditional cautions) when the relevant section of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is implemented.

Residence order – an order in which a court determines who a child will live with, and if necessary the actual details of the place, the time etc. A residence order to a particular person provides that person with parental responsibility.

Resource Allocation Systems – systems devised by local authorities to calculate, for the purposes of direct payments, the costs of providing care services to meet eligible needs

Respondent - a person being sued.

Right to fair trial – article 6 of the ECHR and perhaps the most important of the Convention rights. Requires not just courts and tribunals to make decisions in an independent and fair manner, but also other decision making forums, such as child case conferences or decisions relating to the child at-risk register.

Right to respect for private and family life – article 8 of the ECHR, and an important ground on which acts of social services departments which interfere with family life can be challenged.

Right not to suffer inhuman or degrading treatment – article 3 of the ECHR. The welfare services of the state owe a duty to protect children from such treatment; also care homes and prisons must comply.

Right to liberty and security – article 5 of the ECHR. This would for example prevent disruptive children in care being locked up without lawful grounds and fair hearing.

Right to life – article 2 of the ECHR. Under this, as well as under the Children Act, the state through its welfare agencies must prevent children being killed by abusive carers.

Right to silence – when being questioned by police or appearing in a trial, a suspect or accused person cannot be required to help the prosecution with their case and can remain silent. A court may in certain circumstances use the silence to strengthen the case against the accused, but silence can never suffice on its own for a conviction.

Rule Committee - is a committee of judges with legislative authority which draft the court rules necessary to implement legislation.

Rules of court – rules which cover the procedures of court such as those issued under the Children Act 1989.

Rule of law - means that no matter how much any individual may dislike a law, whilst he or she remains a member of this particular society, they are required to obey the law. The rule of law in a democracy means that we are ruled by politicians in Parliament who can pass whatever laws they see fit, and the citizens have to obey those laws.

[\[Back to top\]](#)

S

s.31A plans - from the implementation date of s.121 of the Adoption and Children Act 2003 s.31 of the Children Act will be amended by a new (3A). The courts will be required to consider care plans before making a care order although the responsibility for the operationalizing and review of the plans will remain with the local authority.

s. 37 investigation - this refers to a power which is given to the courts in s.37 of the Children Act 1989. In the course of any family proceedings not involving a local authority, a court may have legitimate reasons to be concerned about the care of children. If that is the case the court has the power under s. 37 of the Children Act 1989 to give directions to a local authority to investigate and consider whether care proceedings should be brought.

Safeguarding Adults Boards - Local Safeguarding Adults Boards are multi-agency partnerships made up of a wide range of statutory agencies and voluntary organizations. They are aimed at facilitating joint working in adult protection, and their responsibilities include ensuring that multi-agency policies and procedures are in place, conducting serious case reviews, and providing training and informa

Safeguarding Children – s.8 of the Children Act 2004 imposes a specific duty on certain agencies including children's services authorities to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children.

Secondary legislation – see delegated legislation

Section 8 (s.8) order – a reference to s.8 of the Children Act 1989. These are orders by which a court specifies the exercise of particular responsibilities which would otherwise be exercised through parental responsibility. There are four types: contact, residence, specific issue and prohibited steps orders.

Secure accommodation - is accommodation that restricts the liberty of a child. Detailed regulations have been issued under s. 25 of the Children Act (written in the light of 'pindown') in respect of the type of accommodation and who may be placed in it. See The Children Act 1989 Guidance and Regulations, Vol. 4, 'Residential Care', and the Children (Secure Accommodation) Regulations 1991.

Secure tenancies – are tenancies provided by local authorities to people who occupy the property as their only or principal home. The respective rights and responsibilities of the local authority landlord and the tenant are set out in the Housing Act 1985. Rights of the tenant include the right to buy, the right to repair, the right to take in lodgers and the right to information.

Security requirement – when a juvenile is refused bail by a criminal court, he or she must normally be accommodated by the local authority. If 12 or over the juvenile can be made subject to a security requirement, which can impose conditions on what the juvenile can do, who they must reside with, and which can require their liberty to be restricted.

Seebohm Report – the report which recommended the creation of unified social service departments within the local authority, which was enacted in the Local Authority Social Services Act 1970.

Sensitive personal data - for the purposes of the Data Protection Act is data concerned with ethnic origin, political or religious beliefs, trade union membership, physical or mental health, sexual life and criminal offences. There are strict controls on its use.

Severe mental impairment - defined in s. 1 of the Mental Health Act 1983 as a 'state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible behaviour.' Diagnosis can lead to compulsory admission to hospital for treatment.

Sex Discrimination Act 1975 – the first anti-discrimination measure, which makes unlawful most discrimination on grounds of gender, marital status or gender reassignment in employment situations, and in relation to education, and provision of goods and services.) There are exceptions which permit acts of discrimination to be lawful.

Sex offender order - following a criminal conviction of a person for a sex offence police can obtain this order, under the Sex Offenders Act 1997 which can limit the freedom of the offender to go to certain defined places.

Shelter – a national voluntary organization campaigning to improve rights for the homeless and badly housed.

Significant harm - this is an essential component of the 'threshold criteria' set out in s.31 of the Children Act 1989. Harm is defined in the Act as ill treatment or the impairment of health or development. The harm or likelihood of harm has to be attributable to the fact that the care given or likely to be given to the child (as appropriate) is not what a parent would reasonably be expected to give to the child. Whether harm is significant is a matter for the court to decide as a question of fact.

Silence – see Right to silence.

'Someone Else's Children' (DoH, 1998) - a report summarising concerns about the inadequacies of the provisions for looked after children.

Social Services and Well-being (Wales) Act 2014 – the Welsh equivalent to the Care Act 2014, but arguably more ambitious.

Special guardianship - is a legal status created by s. 115 of the Adoption and Children Act 2002 which amends the Children Act 1989 to insert new provisions, sections 14A – G. The special guardianship order, as the explanatory notes to the Act set out is intended "to provide the child with the stability he needs", and therefore "the special guardian has clear responsibility for all the day to day decisions about caring for the child or young person and for taking decisions about his upbringing.

Special measures – under the Youth Justice and Criminal Evidence Act 1999 vulnerable witnesses are entitled to special measures to reduce the trauma of giving evidence in a criminal trial. These range from the removal of wigs through to pre-recording a child's evidence and carrying out any cross-examination via a video link.

Specific issue order – an order under s.8 of the Children Act 1989 which is used to resolve a disagreement about a particular aspect of a child's upbringing (for example which school he will go to, what surname she will be known by) the court can make the decision instead of the persons with parental responsibility.

Standard of proof – in a criminal case this is 'beyond a reasonable doubt', which means that a defendant is entitled to an acquittal if the prosecution have not convinced the jury or magistrates beyond a reasonable doubt of all elements of the crime; for a civil case see balance of probabilities.

Statutory instruments - see delegated legislation. Statutory instruments come in two forms: Regulations and Orders. It is not important to distinguish between these.

Statutory interpretation - has evolved over centuries as guidance to courts on how to interpret statutes of parliament. When courts have had to decide what a statute says, there has developed a series of so-called 'rules' that guide the courts. Their effect is to set out the approach that should be adopted by the courts. There are three main 'rules': first, the 'literal rule', which says that the words in a statute are taken to have their literal meaning unless such an interpretation produces a nonsensical result. In that case the 'golden rule' applies which says if the literal meaning produces an absurd result then you look at it in the overall context of the statute. If these two 'rules' do not help then the 'mischief rule' is applied. This rule states that you interpret the meaning of the word in the light of what the problem or mischief was that the statute was passed to deal with.

Statutory nuisance - part Three of the 1990 Environmental Protection Act has a list of statutory nuisances which includes any premises in such a state as to be harmful to health or a nuisance (See section 79(1)(a)). This enables environmental health officers to issue abatement procedures for housing that is in an unhealthy state.

Statutes – Acts of Parliament - start life as Bills. These may be bills sponsored by Government ministers, or private members bills. Private members bills are as the name suggests bills sponsored by ordinary backbench Members of Parliament. Most bills are government bills, but within the field of social care there have been some very significant Acts which started life as private member's bills, for instance the Homeless Persons Act 1977 and the Disabled Persons (Services, Consultation and Representation) Act 1986.

Summary offences - are the most common offences. Examples include common assault, less serious criminal damage and taking a motor vehicle without consent (this offence is known by the acronym 'TWOC'). They can normally be dealt with only in the magistrates' court which has limited powers of sentencing.

Supervised community treatment order – available from October 2008 as a package of controlling measures for a patient released from hospital detention under the Mental Health Act.

Supervision order – there are two types of order, one arising from a criminal conviction, which can lay down a series of requirements for the child offender to comply with; the second is under s.35 of the Children Act 1989 if significant harm, or risk, have been established and the court believes supervision by a social worker would be in the interest of

the child. The grounds on which a supervision order can be made under the Children Act 1989 are identical to the grounds for a care order.

Supporting people – interagency framework for meeting housing and social care needs at the same time by pooling funding and effort.

[\[Back to top\]](#)

T

Threshold conditions – the Children Act 1989 under section 31 provides that a court has to be satisfied of certain facts before it can make a care order or a supervision order. These facts are that a child has suffered or is likely to suffer significant harm because of the quality of the parenting. This does not mean a court will then make the order – once the threshold is crossed, it is still necessary for the court to consider whether the order would be in the interests of the child, and better than making no order.

Tribunals - are created by statute and are administered by the Ministry of Justice. Tribunals generally consist of three people, with only the chair being legally qualified. Their numbers have dramatically increased over the last 50 years. Currently there are about 80 types. Their purpose is to provide a quicker and less formal forum than the courts and to allow cases to be adjudicated by people with an expertise in the particular jurisdiction.

[\[Back to top\]](#)

U

Unitary authorities - are in London and metropolitan areas. Unitary authorities carry out all local authority functions for the geographical area they serve so in these authorities the local housing authority will be the same authority as the social services authority. In non-unitary authorities social services and housing are in different authorities.

[\[Back to top\]](#)

W

Ward of court – a child who has become the subject of wardship proceedings.

Warning – an alternative to a charge available to the police where the person admits the offence; if the offender is convicted of a further offence the court will be made aware when deciding the sentence that he or she was previously warned. See also reprimand. This power is to be abolished and replaced with the power to caution (see youth cautions and youth conditional cautions) when the relevant section of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is implemented.

Wardship - is the process by which the High Court steps in and takes over in place of the child's parent. The authority of the High Court to do this derives from what is described as its inherent jurisdiction.

Wednesbury principles - are the principles stated by the judges sitting in a case called *Associated Provincial Picture Houses v Wednesbury Corporation* [1947] 2 All ER 680. The case concerned the question of whether or not cinemas should be allowed to open on Sundays in the town of Wednesbury. The cinema lost. The Wednesbury principles of reasonableness are used to determine whether an agency or authority has acted outside the scope of its delegated administrative powers.

Welfare checklist - this is found in the Children Act 1989, s.1(3). It is applicable to all court proceedings in both private and public law, except court proceedings under Part V (the emergency protection of children). It consists of a uniform checklist to which the courts need to have regard when they are faced with a dispute concerning any child. It is applicable whether the dispute is between individuals, or a local authority is applying for an order.

Welfare reports - are prepared by court and family reporters employed by CAFCASS

Welfare principle - the welfare principle is set out in s.1(1) of the Children Act 1989. When a court (but only a court) considers any matter concerning the welfare of the child, the court shall treat the child's welfare as its paramount consideration. This means that although the Act tries to balance the rights of the child and the rights of the parents, finally the court must do what the court sees as being best for the child. The welfare principle in s.1 does not apply to all decisions by the court.

White Paper – a document setting out the government's policy objectives prior to legislation. White Papers were originally published with white covers.

Without notice – generally hearings are only held when both sides are aware of the case. However in emergencies hearings can be held without the party against whom an application is made having notice of it. Full hearings will be held at a later date.

Working Together to Safeguard Children, Department of Health 2018 - is a guide to inter-agency working to safeguard and promote the welfare of children.

[\[Back to top\]](#)

Y

YOT – see Youth Offending Team

Young offender institution Young Offender Institutions (YOIs) are prisons for 15-21 year olds. They are run by the Prison Service. YOIs are distinct from Secure Training Centres and Local Authority Secure Children's Homes, which focus on different types of youth offenders and therefore have different staffing and accommodation specification. Young Offender Institutions have a lower staff to offender ratio, reflecting the focus of these institutions on incarceration as opposed to rehabilitation and care. YOIs are also generally larger. Perhaps the best-known YOI in England is Feltham in west London.

Youth conditional caution The Youth Conditional Caution (YCC) is a statutory out-of-court disposal which aims to reduce the number of young people being taken to court for a low-level offence. The YCC is available for use by the Police and the Crown Prosecution Service (CPS) if the offender has not previously been convicted of an offence, admits guilt

and consents to the caution. The YCC can have conditions attached to it that may include provisions to support rehabilitation, effect reparation or punishment and can include a fine and/or an attendance requirement (which may include the completion of a specified activity, but cannot exceed 20 hours).

Youth caution The Legal Aid Sentencing and Punishment of Offenders Act 2012 provides the police with the power to give youth cautions regardless of whether the recipient has previously been convicted of an offence. The provision is not yet in force. When it is implemented guidance will be issued to its use. The statute provides that provided there is sufficient evidence to charge Y with an offence, the young person has admitted committing the offence and the police officer does not consider that Y should be prosecuted or given a youth conditional caution in respect of the offence, then a youth caution can be administered. A youth caution given to a person under the age of 17 must be given in the presence of an appropriate adult.

Youth court – a part of the magistrates court which deals with all offenders under 18, unless they appear in the adult court together with an adult; the youth court will try and sentence in most cases, unless the juvenile is charged with a grave crime.

Youth Justice Board - was established to have oversight of local arrangements for youth justice. It has developed national standards for youth justice work and sets targets for local services.

Youth Justice Service - was established by the Crime and Disorder Act 1998 with the principal aim of the prevention of offending by children and young people.

Youth Offending Team – a multi-disciplinary multi-agency team co-ordinated by the social services department with a statutory responsibility to provide a range of services including making appropriate adults available in the police station, providing reports to the court for sentencing purposes, and administering community sentences.

[\[Back to top\]](#)