

## **TRAVELLING TO SYRIA - GUIDANCE FOR PROFESSIONALS WORKING WITH CHILDREN AND YOUNG PEOPLE IN CALDERDALE**

### **When to use this Guidance**

Some situations will require urgent attention and partners will need to act quickly and communicate efficiently. In these situations, to aid professionals, this guidance has been developed. These are not a set of rules but a guide for professionals who are dealing with complex situations as outlined below.

### **Concerns regarding a family trying to flee the country for Syria/Daesh territory.**

Where there are concerns that a person/persons have attempted to leave the country for DEASH territory then the following protocol should be followed:

-The police should be called immediately and there should be no delay. A 999 call may be necessary in these situations.

-If there are children involved (i.e. a family attempting to travel with children) then Children's Social Care should undertake a section 47 investigation (section 47, Children's Act 1989) to consider the risk of significant harm to the children. Other professional should make a referral to MAST 01422 393336 add details.

-In any circumstances, a multi-agency strategy meeting including DC Ian McDoughall of the PREVENT POLICE TEAM, Sadia Hussain PREVENT Coordinator, Legal Services and all professionals involved with the individuals should be called. This meeting should be held within 2 hours of the referral being received and should be chaired by Adult/Children's Social Care. (This is separate to the Channel Panel).

The purpose of the strategy meeting is to:

- Consider risks involved.
- Decide on a multi-agency plan of intervention.
- To share information.

Once a plan has been formulated then interventions should be put in place and reviewed within 5 working days. The PREVENT coordinator should be updated on progress and involved in all stages of the planning and review process.

Where a child referred to children's social care is vulnerable to radicalisation, a Channel referral should also be considered. In those cases where a Channel referral is not appropriate and other safeguarding interventions are pursued (for example an application to court for an order which may result in a delayed Channel referral), the police should always be informed.

In the first instance, police and Borders Agency colleagues will need to ensure that they prevent the individual (s) from leaving the country. Colleagues in the police and Borders and security services are aware of what to do in this situation.

### **Rationale**

Early identification and mitigation of risk of harm from radicalisation or being taken to a country of conflict is important, and is always preferable to the use of formal child protection powers. However, the purpose of this advice is to consider the options that are available where there are concerns that a child might be at **immediate** risk of significant harm arising from radicalisation, travel to conflict zones, or involvement in terrorist activity. It also includes links to recent cases that may be relevant to local authority considerations of what actions to take.

### **Child Protection Powers**

The LA is familiar with its duties and powers under the Children Act 1989 to safeguard and promote the welfare of children suffering, or likely to suffer, significant harm.

Protecting children from the risk of harm from being taken into conflict zones or through radicalisation is similar in nature to protecting children from harm resulting from other concerns (e.g. drugs, gangs, neglect, sexual exploitation), whether these come from within their family or are the product of outside influences. Agencies responsible for safeguarding children should work together and use the most appropriate tools available to them to keep children safe.

The Local Authority threshold documents clearly identifies Radicalisation and extremism as a clear risk and should be understood by professionals in this context. Where there is a concern of immediate travel, this may trigger the use of child protection powers.

Where cases are referred to children's social care, there are a range of statutory interventions available to practitioners, for example:

-section 17 of the Children Act 1989: to provide a range of services appropriate to support a child in need;

-section 47 of the Children Act 1989: carrying out investigations where there is reasonable cause to suspect a child is suffering or likely to suffer significant harm to decide what, if any, Action should be taken to safeguard and promote the welfare of the child;

### **Information Sharing**

In a very small number of cases involving radicalisation, including where there is an intention to travel to a conflict zone, the police may be in possession of relevant sensitive intelligence. The police have guidance for the assessment, management and, if relevant, sharing of such intelligence with the courts in order to allow the presiding judge to make an informed decision. Where civil proceedings are a factor within safeguarding/risk management plans, guidance is available to local authorities, partners and their legal representatives in 'Radicalisation Cases in the Family Court'

<https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>

The local authority should work with the police to share information about the individual child and their family and network of close friends/associates as appropriate. Information should be sought at the earliest opportunity from all relevant agencies that may know about the family or child in question. This should be done via a multi-agency strategy discussion (this is a separate process to the Channel Panel and will be a key process within the section 47 process). This should take place as soon as possible to make sure that a plan is agreed and that any actions does not jeopardise current police investigations whilst still ensuring that the needs of vulnerable individuals are safeguarded.

In some cases where agencies are aware of imminent travel plans and that children are likely to be taken into conflict zones, or where there is a significant risk of harm through radicalisation and extremism, it may be necessary to take swift action through the courts to protect children.

In a small number of cases, the courts have made orders under the Children Act 1989 to protect children who are suffering, or are likely to suffer, significant harm as a result of

radicalisation occurring within their families or of travel to Syria. In those cases the effect of the orders is to protect (and if necessary remove) children from their parents. An application can be made to the court for an interim care order under the Children Act 1989. Where immediate action is necessary to protect a child an emergency protection order can be sought, with or without notice to the parents. The best course of action will be decided via a strategy meeting and will vary case by case, depending on the risks identified. These will be unique to each family situation therefore below are the full range of options available to the LA to consider during the initial stages of investigation.

### **Options Available.**

In other cases, action has been taken under the inherent jurisdiction of the High Court in relation to radicalisation and/or travel to a conflict zone. An application can be made to the High Court without notice to the parents, and even when the child has already been taken out of the country as inherent jurisdiction orders are recognised by many other countries. Wardship is one part of the High Court's inherent jurisdiction and offers immediate protection.

Under the inherent jurisdiction the courts have very broad powers to protect children, including imposing conditions on others both within and outside a child's family. The conditions that may be imposed include:

- confiscation of travel documents;
- prohibition from leaving the country or making travel arrangements;
- asking the UK Border Agency not to issue new passports;
- prohibiting individuals from association with a child; and
- restrictions on movement within the UK- electronic tagging and curfew of the parents has been used in one case.

The court's wardship jurisdiction is part of and not separate from the court's inherent jurisdiction. The distinguishing characteristics of wardship are that –

(a) custody of a child who is a ward is vested in the court; and

(b) although day to day care and control of the ward is given to an individual or to a local authority, no important step can be taken in the child's life without the court's consent.

This means that the child is likely to remain in the care of the parent/guardian but to remain a ward of the court.

### **Emergency Protection Orders (EPO) - Section 44 Children Act 1989**

These orders are obtained from the court to ensure the short term safety of a child. Any person can make an application including a local authority or other authorised body. The court will only make the order if they are satisfied that there is reasonable cause to believe that the child is likely to suffer significant harm if:

- 1) he is not removed to accommodation provided by the local authority
- 2) he does not remain in the place where he is currently being accommodated e.g. in hospital.

### **Emergency Protection Orders.**

In exceptional circumstances a local authority can apply for an EPO without notice to the parents.

In circumstances where the applicant believes that the child will be safe in the interim period, an application for an EPO will be made on notice to the parents. This gives them an opportunity to come to the court and advise the court of their views and plans to safeguard the child. When the court makes an EPO, the court can also make an exclusion requirement under s44 A where:

- a) there is reasonable cause to believe that if a person is excluded from the home, the child will cease to suffer or cease to be likely to suffer significant harm and

b) another person living in the home is able and willing to give the child the care which it would be reasonable to expect a parent to give him and consents to the exclusion.

The exclusion order may require a person to leave the home where he is living with the child, prevent him from entering the home or exclude him from a defined area. A power of arrest may be added to the order.

An emergency protection order is only a short order granted for up to a maximum of 8 days but can be extended for a further seven days. The order grants the applicant parental responsibility but only permits him to take such action as is reasonably required to safeguard the welfare of the child.

The court can give directions it considers appropriate with respect to the contact the child is to have with any named person or any medical or psychiatric examination or assessment of the child under S44 (6). If the child is of sufficient understanding to make an informed decision he may refuse to submit to the examination or other assessments.

This is a short term measure and is not a measure. It may be appropriate where a child or young person is stopped when exiting the country.

### **Care Orders - section 31 Children Act 1989**

These orders are usually sought by a local authority (although the NSPCC can bring proceedings it is extremely rare for them to do so) in respect of children who they believe are suffering or are likely to suffer significant harm and:

- a) the harm is attributable to the care being given to the child not being what it would be reasonable to expect a parent to give him or
- b) that the child is beyond parental control.

No care or supervision order may be made with respect to a child who has reached the age of 17 (or 16 if the child is married).

Care orders continue until the child is 18 years, unless discharged earlier. Once a local authority has made an application for a care order the court can make a series of interim orders under s38 which gives the local authority parental responsibility and the power to remove the child from home. Further investigations and assessments are carried out before any final orders are made by the court.

While a care order is in force with respect to a child, the local authority designated by the order shall:

- a) have parental responsibility for the child
- b) have the power to determine the extent to which a parent or guardian of the child may meet his parental responsibility for him.

This means that the Local Authority will share parental responsibility and decision making responsibilities with the child's parents.

### **Supervision Orders - section 31 Children Act 1989**

These orders are made on the same basis as care orders i.e. that the child is suffering or is likely to suffer significant harm.

These orders do not confer parental responsibility on the local authority, but when there is a supervision order in force it is the duty of the supervisor to:

- 1) advise, assist and befriend the supervised child
- 2) take steps that are reasonably necessary to give effect to the order and

3) where the order is not wholly complied with or the supervisor considers that the order is no longer necessary, to consider whether or not to apply to the court to vary or discharge the order.

A supervision order may require the supervised child to comply with directions given by the supervisor to do things such as:

- 1) live at a place specified by the supervisor
- 2) present themselves to specific people at specific places or times e.g. to meet with the social worker
- 3) to participate in activities specified on certain days.

A supervision order can also require the child to submit to medical or psychiatric examination as directed by the supervisor. This requirement will only be included where the court has been satisfied on evidence as to its need.

Initially a supervision order lasts for one year. The supervisor can apply to the court to extend supervision order, but the supervision order can only be in place for a maximum of three years.

#### **An application to court will involve:**

- A draft order
- A supporting Social Worker statement with evidence
- A supporting statement from the police or counter terrorism unit, which will require high level authorisation
- Evidence statements from other professionals involved i.e. schools.

#### **Information Sharing.**

**The right level of information to the court:** the court requires sufficient information to understand risks to the child and make a decision; however, this needs to be balanced against jeopardising any active investigations. This is also opposed to the care proceedings practice where there is complete disclosure of an evidence base at the outset.

- Clarity on position of the police and a clear statement required to support the Wardship application. We request CT perspective from police rather than providing the Channel Panel view (which was the backstop position) to maintain trust and engagement of the young person with the Channel.
- In cases where the Child is supported by an accredited Channel Intervention Provider and those reports are required for the application, it is important to be cognisant of the rights of the third party, seek advice and consent of the counter terrorism units, and the intervention provider. At a suitable time, the young person will need to be informed that these reports will be given to the court to manage risk of withdrawal of consent from the IP support amongst other considerations.

Where a child referred to children's social care is vulnerable to radicalisation, a Channel referral should also be made.

In a very small number of cases involving radicalisation, including where there is an intention to travel to a conflict zone, the police may be in possession of relevant sensitive intelligence.

Where civil proceedings are a factor within safeguarding/risk management plans, guidance is available to local authorities, partners and their legal representatives in 'Radicalisation Cases in the Family Court' (<https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>)

### **Case Management.**

In cases which require comprehensive consequence management, for example where a child has returned from a conflict zone such as Syria, it is recommended that a member of the senior leadership team is appointed as strategic lead to ensure that all aspects of a case, including information sharing and multi-agency work, are being conducted effectively.

In Calderdale, the case will be reviewed via the Channel Panel as well in order to offer additional support and the Police PREVENT Team and Prevent Coordinator.

### **Section Two; Adults**



Where an adult has travelled to or has attempted to travel to Daesh territory, a comprehensive consequence management plan is required, this should first begin by convening a professionals meeting. The professionals meeting should include:

- Police PREVENT Team.
- Counter Terrorism Unit
- PREVENT Coordinator
- Professionals involved for examples mental health services and adult Social Care.
- Local Authority legal services.
- A member of the senior leadership team if possible.

The purpose of the strategy meeting is to:

-Consider risks involved and how to manage these.

-Decide on a consequence management plan (see Appendix 1), which agencies will be leading on this and also when this will be reviewed.

-Sharing information.

-A referral to Channel Panel where appropriate.

### **Consequence Management Plan**

A CMP is a plan that is designed to understand and assist professionals in mitigating the impact of where someone who has travelled to Syria and has returned to the UK or attempted to travel. It is important to understand whether any person returning from Daesh territory pose a risk to the general public through the risk of committing terrorist acts but also through the risk of possibly radicalising and facilitating others to travel to Daesh territory.

The first stage of this should be to understand the risk and complete a Channel Vulnerability Assessment (CVA). The CVA looks at 3 essential factors:

-Engagement with a cause or Ideology.

-Intent to cause harm

-Capability to cause harm.

This assessment will be informed by information received from professionals but will also include speaking to the individual involved this may be done in a planned way and the decision to initiate a CVA will have to be balanced with national security considerations.

The plan should initially be reviewed every 7 days and after 2 weeks, the decision may be made to continue to review the case via Channel Panel. The Channel Panel in Calderdale runs every month and pre-meetings take place once a month.

It is recommended that a member of the senior leadership team is appointed as strategic lead to ensure that all aspects of a case, including information sharing and multi-agency work, are being conducted effectively initially, if the decision is made for the case to be managed via Channel Panel, a member of the Senior Leadership Team may wish to continue to have oversight of the case.

### **Additional Considerations.**

**Media Strategy** needs to be considered in parallel with the proceedings. All partners that will require briefing on the media strategy need to be identified. Considerations need to be given if and when communications with the elected members and the relevant Community are needed balancing the information leakage concerns with impact on communities and managing community tensions. Our approach was this is usual safeguarding business (not something extraordinary) and therefore should be treated in line with this. Liaison with the police, Home Office and Counter Terrorism unit is required around this issue. The PREVENT Coordinator will be the lead for this.

### **Travel specific considerations**

- Determining whose passport should be requested; checks for dual citizenship, and if travel is possible on parent's passport.
- Identifying the right embassies/ countries whose cooperation is needed
- In informing relevant embassies, it is important to identify lead points of contact to communicate with embassies as it requires diplomacy.
- Close cooperation with police to implement and monitor safeguards (passenger watch list), other checks (residence, curfew) and expectations that local authority (and Court) will be informed appropriately following successful application.
- Additional family members-Are risks posed to the wider extended family and friends network? Consideration may need to be given to them too being spoken to and managed through the Channel process.

## **Useful links/documents.**

'Radicalisation Cases in the Family Court' <https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>

PREVENT Duty Guidance <https://www.gov.uk/government/publications/prevent-duty-guidance>

*Working Together to Safeguard Children*

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/419595/Working Together to Safeguard Children.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf)

Guidance to judges and advocates around radicalisation cases <https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>

Channel Guidance <https://www.gov.uk/government/publications/channel-guidance>

Use of sensitive intelligence in Care Proceedings <https://www.judiciary.gov.uk/wp-content/uploads/2015/10/pfd-guidance-radicalisation-cases.pdf>

## **Examples of relevant cases**

*The London Borough of Tower Hamlets and M & Others [2015] EWHC 869 (Fam)*

<https://www.judiciary.gov.uk/judgments/between-the-london-borough-of-tower-hamlets-and-m-and-others/>

In these cases, the local authority was of the view that the families of the children involved were unlikely to adequately protect the children by preventing them from leaving the UK. The court was satisfied that each of the children “was at risk [...] of significant harm in the sense contemplated by section 31(ii) [sic.] of the Children Act 1989.” [paragraph 3] While noting that “the type of harm I have been asked to evaluate is a different facet of vulnerability for children than that which the courts have had to deal with in the past” [paragraph 57], the judgement concluded “What, however, is clear is that the conventional safeguarding principles will still afford the best protection. Once again, this court finds it necessary to reiterate that only open dialogue, appropriate sharing of information, mutual respect for the differing roles involved and inter agency cooperation is going to provide the kind of protection that I am satisfied that the children subject to these applications truly require.” [paragraph 58]

*Brighton & Hove City Council v Mother, Father and Y (A Minor) [2015] EWHC 2098 (Fam) and [2015] EWHC 2099 (Fam)*

<http://www.familylawweek.co.uk/site.aspx?i=ed145920>

The court considered that due to Y's personal history (both brothers and a friend had been killed fighting in Syria and his uncle had been held at Guantanamo Bay), he was "extremely vulnerable... to radicalisation." [paragraph 10]

Given the age of Y, the local authority considered that it was more appropriate for Y to be made a ward of court than to rely upon the limited scope of care orders in relation to 16 year olds. In addition, it appears there was no intention to remove Y from the care of his mother. The court concluded that the use of the wardship jurisdiction is "ideally fitted to the very specific nature of the risk contemplated." [paragraph 13]

In addition, the court concluded that "when balancing the competing rights and interests required under the Human Rights Act, to my mind the balance falls down clearly in protecting this young man, ultimately from himself." [paragraph 13]

*In the matter of M (Children) [2015] EWHC 1433 (Fam)*

<https://www.judiciary.gov.uk/judgments/in-the-matter-of-m-children-wardship-jurisdiction-and-use-of-super-injunctions/>

The court's inherent jurisdiction was used to facilitate the return of a family of four children (who were believed to be travelling with their parents on to Syria) from Turkey via Moldova. This included an order that the children be made wards of the court and that the parents surrender the passports of the children to social workers who had specifically travelled out to assess the children. The application for the order was made *ex partes* and a reporting restriction was made in relation to the case so as not to alert the parents to the fact of the order being made (for fear of flight by the parents).

*In the matter of X and Y [2015] EWHC 2265 (Fam)*

<https://www.judiciary.gov.uk/wp-content/uploads/2015/08/re-x-and-y-no2.pdf>

Despite interim care orders having previously been made in respect of the two families following attempts by the parents to remove the children to Syria, the court used innovative measures (the use of GPS tagging), as well as measures often used in cases of international abduction (removal of passports, etc.) under the inherent jurisdiction to return the children to the care of their parents.

In these joined cases, the primary focus was on the risk of significant harm to the children should they travel to Syria, rather than the question of whether the children had been radicalised.

*The London Borough of Tower Hamlets and B*

<https://www.judiciary.gov.uk/judgments/london-borough-of-tower-hamlets-v-b/>

B, a sixteen year-old girl, had already been made a ward of court on application from the local authority having attempted to travel to Syria. B was made the subject of a Child in Need plan, predicated on the local authority's evaluation of the parents' positive potential to safeguard her themselves.

Following a search of the family's home, radicalising material was found on devices belonging to B, her siblings and her parents. The local authority sought the removal of B and her siblings from their parents.

In this case, the court concluded that B "has been subjected to serious emotional harm, and, at the very least, continues to be at risk of such in her parent's [sic] care. I can see no way in which her psychological, emotional and intellectual integrity can be protected by her remaining in this household." [paragraph 28]

The court compared the harm suffered by B to the effects of sexual abuse: "The violation contemplated here is not to the body but it is to the mind. It is every bit as insidious, and I do not say that lightly. It involves harm of similar magnitude and complexion." [paragraph 29]

"ZX": Father convicted of terrorism offences prevented from seeing children

EXAMPLE CMP Plan

Outline of concern.	
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Detail of individuals involved					
Names	Age	DOB	Address	Nationality	Relationship to others
Any other significant individuals details-Do they need to be considered for risk/vulnerabilities.					
<i>This plan can be used for a family or individuals. Its purpose is to understand the risk posed by the subject (s) of the form to others and these risks will vary, for example, an individual may pose a direct risk to a partner or child living in the household but not to the wider community. A Channel Vulnerability Assessment may be used to inform this document.</i>					
Information from agencies involved					
Agency Name	Key Contact details including telephone number and email.	Information to contribute to CMP.			
Summary of risks					
Risk Include the risk level in each section	How do we know?	What will be done to mitigate the risk?	When will it be reviewed?	Whose responsibility is this?	How will we know when the risk is no longer a

(High, medium, low)					concern?
What are the risks to the individual?					
What are the risks to others? Do we know of individuals who are at risk and what is being done about this?					
Who do we know is at risk?					
Risks to the community					