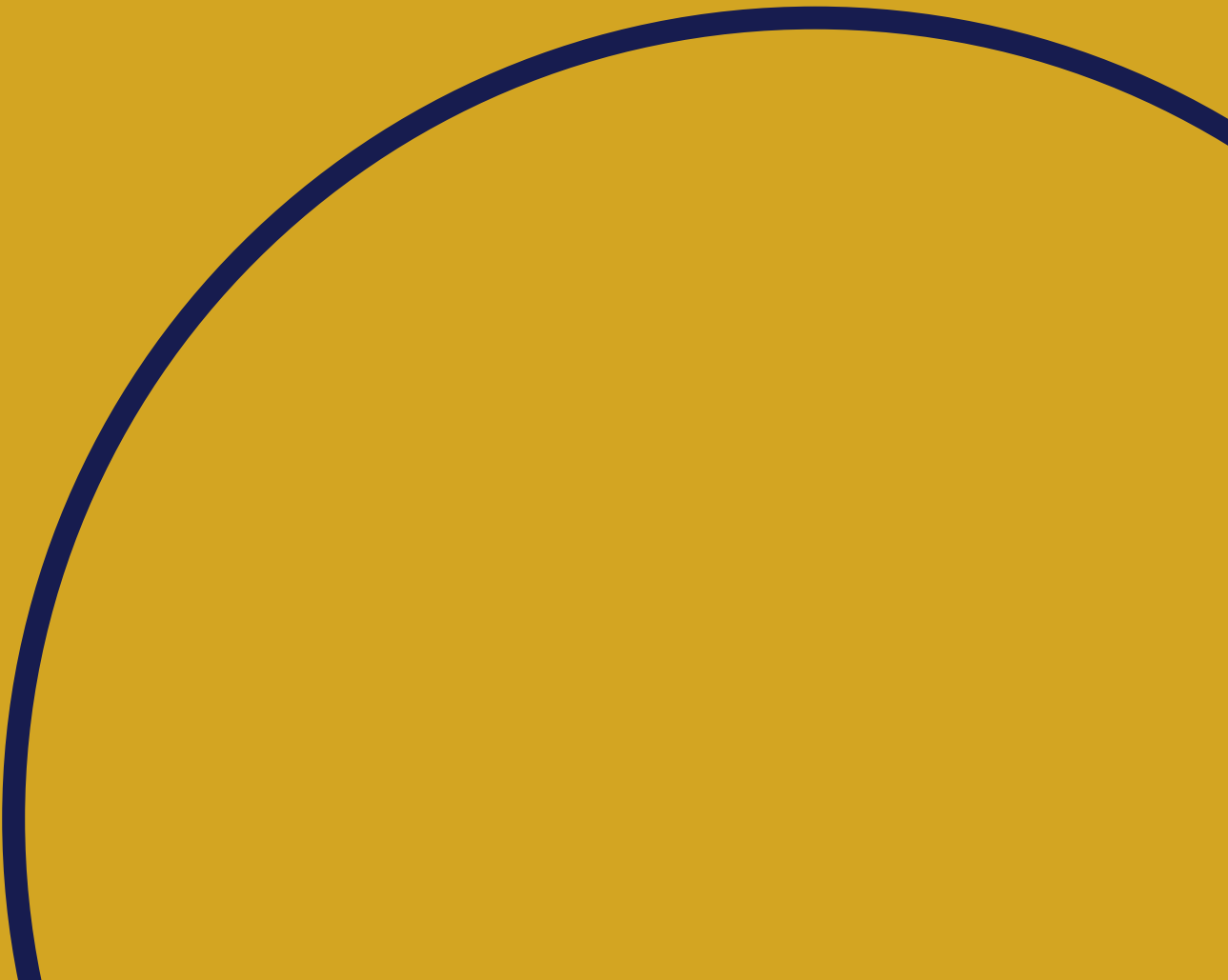




Supervision orders in care proceedings: survey findings

April 2021



About this report

This is a report on the findings from a survey into the use of supervision orders in care proceedings. The focus of the survey was on standalone supervision orders made in relation to children who had returned home at the end of care proceedings or who had stayed at home or been returned during proceedings. The survey ran for three weeks from 15 February to 8 March 2021. Responses to the survey came from a range of legal and children's social care professionals, as well as parents. The report will contribute to the current review of supervision orders being carried out by a sub-group of the President of the Family Division's Public Law Working Group.

The survey questions can be found at: <https://www.nuffieldfjo.org.uk/resource/supervision-orders-care-proceedings-survey>

Authors

- Mary Ryan is an associate of Nuffield Family Justice Observatory.
- Alice Roe is a researcher at Nuffield Family Justice Observatory.
- Jordan Rehill is a researcher at Nuffield Family Justice Observatory.

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About the Nuffield Family Justice Observatory

Nuffield Family Justice Observatory (Nuffield FJO) aims to support the best possible decisions for children by improving the use of data and research evidence in the family justice system in England and Wales. Covering both public and private law, Nuffield FJO provides accessible analysis and research for professionals working in the family courts.

Nuffield FJO was established by the Nuffield Foundation, an independent charitable trust with a mission to advance social well-being. The Foundation funds research that informs social policy, primarily in education, welfare, and justice. It also funds student programmes for young people to develop skills and confidence in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Ada Lovelace Institute and the Nuffield Council on Bioethics.

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Abbreviations and acronyms

CA	Children Act
CAO	child arrangements order
CIN	child in need
CO	care order
CP	child protection
CPR	child protection register
DFJ	designated family judge
DSL	designated safeguarding lead
FDAC	Family Drug and Alcohol Court
ICO	interim care order
IRO	independent reviewing officer
LA	local authority
PLWG	Public Law Working Group
PR	parental responsibility
PWP	placement with parents
SO	supervision order
SW	social worker

Not all of these acronyms or abbreviations are necessarily used by the authors but might appear in some survey responses.

Executive summary

This report presents findings from a survey about standalone supervision orders, carried out between 15 February and 8 March 2021.¹

Previous research raised some questions about the usefulness of standalone supervision orders, and identified varying practice across different regions (Harwin et al. 2019). In its final summary report, the Public Law Working Group noted ongoing concerns about supervision orders and recommended the creation of a sub-group to consider the issue further (Public Law Working Group 2021). It also recommended that the government should review supervision orders with the aim of providing ‘a more robust and effective form of a public law order’ (para 228). The results of this survey intend to help inform this process.

What is a supervision order?

Supervision orders are one of the options available to courts hearing care proceedings if they are satisfied that the grounds for a care or supervision order contained in s.31 Children Act 1989 exist. It might be made alongside another order, such as a special guardianship or child arrangements order, or it can be standalone.

A supervision order places a child under the supervision of the local authority. While an order is in force, it is the duty of the local authority to ‘advise, assist and befriend’ the child, and to take such steps as are necessary to give effect to the order (s.35 CA 89). The local authority does not share parental responsibility with the parent, as is the case with a care order.

- A total of 301 valid responses were received in response to the survey—10 from parents and 291 from professionals. Responses were received from a wide range of professionals involved in family justice, mainly social work managers (53), judges (48) and barristers (45).
- The majority of professional respondents (90%) thought that supervision orders should be retained, with a key reason for this being that there was a need for a proportionate order that was between a care order and no order when children were returning home at the end of proceedings in which the threshold for a care or supervision order had been established.
- Reasons for making or arguing for supervision orders, or for seeing them as helpful, included:
 - keeping the local authority involved with the child and family
 - encouraging the local authority to provide support
 - the need for a proportionate order
 - to support children and parents where the situation had improved but where ongoing help was necessary
 - where some risk remained that the return home might not be successful
 - where children were older and did not want a care order
 - to encourage engagement between parents and the local authority
 - for supervision of contact.
- Concerns about supervision orders and their use included:
 - the support identified was not always provided
 - they were not properly enforceable

¹ A full list of the survey questions can be found at: <https://www.nuffieldfjo.org.uk/resource/supervision-orders-care-proceedings-survey>

- there was a lack of clarity about accountability
- they added little to the support that could be provided under a child in need or child protection plan.
- Responses to this survey reflected the findings of Harwin et al. (2019) and the Public Law Working Group (2021) regarding the wide variation in practice, the management of supervision orders once proceedings are over, and the support provided under them. Concerns about the effectiveness of supervision orders noted in the earlier research are also reflected. The responses overall support the recommendations of the Public Law Working Group that a review of the effectiveness and robustness of the order should be carried out.
- Proposals made by respondents to this survey for improving the effectiveness and robustness of the order included:
 - specific obligations for both parents and local authorities should be set out in a written plan
 - the support plan should be specific to the needs of the child and parents, and not formulaic
 - measurable outcomes should be identified
 - there should be an agreed process for reviewing the progress of the support plan, which should involve an independent element
 - the process for returning to court if the support plan is not being followed should be clearer and available to all parties
 - there should be more flexibility in the time periods supervision orders can be made for
 - there should be more funding available for the implementation of support plans.

1 Introduction

1.1 Background

Supervision orders are one of the options available to courts hearing care proceedings. They can be made alongside another order, such as a special guardianship or child arrangements order, or they can be the only order made at the end of proceedings—a standalone order—which is what this survey was focused on. Recent research looking at the use of standalone supervision orders to support children returning or remaining at home raised some queries about their usefulness as well as identifying varying practice across different regions in the use of such orders (Harwin et al. 2019).

The Public Law Working Group, which was set up by the President of the Family Division to develop guidance and recommendations that would address regional variations in approaches to care proceedings and pre-proceedings activity and contribute to greater diversion of cases from court, reported in 2021 (Public Law Working Group). The report refers to ongoing concerns about the effectiveness of supervision orders and the outcomes for children subject to such orders (para 160 and 213–228). It recommends the setting up of a sub-group to consider the issue further, and that the government should review supervision orders with the aim of providing ‘a more robust and effective form of a public law order’ (para 228). The responses to this survey will contribute to the information being gathered by this sub-group to inform their work.

1.2 Survey structure

This survey was open for three weeks from 15 February to 8 March and it contained questions focused on the use of standalone supervision orders in care proceedings over the last six years. The survey was divided into four main sections.

- Questions for professionals whose main experience is of the making of supervision orders in courts. This includes judges, lawyers, magistrates, Cafcass, Cafcass Cymru, and independent social workers. These respondents are referred to as ‘family justice’ respondents.

About supervision orders

A supervision order can be made if the court is satisfied that the grounds for a care or supervision order contained in s.31 Children Act 1989 exist. A supervision order places a child under the supervision of the local authority. The local authority does not share parental responsibility with the parent, as is the case with a care order. While a supervision order is in force it is the duty of the local authority to advise, assist and befriend the child, and to take such steps as are necessary to give effect to the order (s.35 CA 89). A supervision order may contain directions to the supervised child (to take part in particular activities for example) and also directions to the parent to take reasonable steps to ensure the child complies with any requirement under the order.

Supervision orders can also contain specific requirements in relation to psychiatric and medical examination or treatment where there is evidence that children may be suffering, or is suffering, from a physical or mental condition that requires treatment. Such requirements cannot be imposed unless the child (of sufficient understanding) consents.

Supervision orders can initially be made for up to one year but the supervisor can apply to extend the order, and the court may extend for further period, providing the order does not last for more than three years in total (Schedule 3, CA 89).

- Questions for professionals working in children’s social care. This includes social workers, social work managers and independent reviewing officers (IROs). These respondents are referred to as ‘children’s social care’ respondents.
- Questions for professionals working in third sector or other organisations working with families and children, who are referred to as third sector.
- Questions for parents and other relatives.

Apart from five questions asked of all professional groups, the questions for each group were different, with family justice professionals being asked about the thinking behind the making of these orders during care proceedings and children’s social care professionals being asked about the management of orders once they have been made. Third sector professionals were asked about their perceptions of why orders were made and of the levels of support provided to children and families under them. And parents were asked about their understanding of why the order had been made, the length of time it was made for, and whether they received the support they needed while the supervision order was in place.

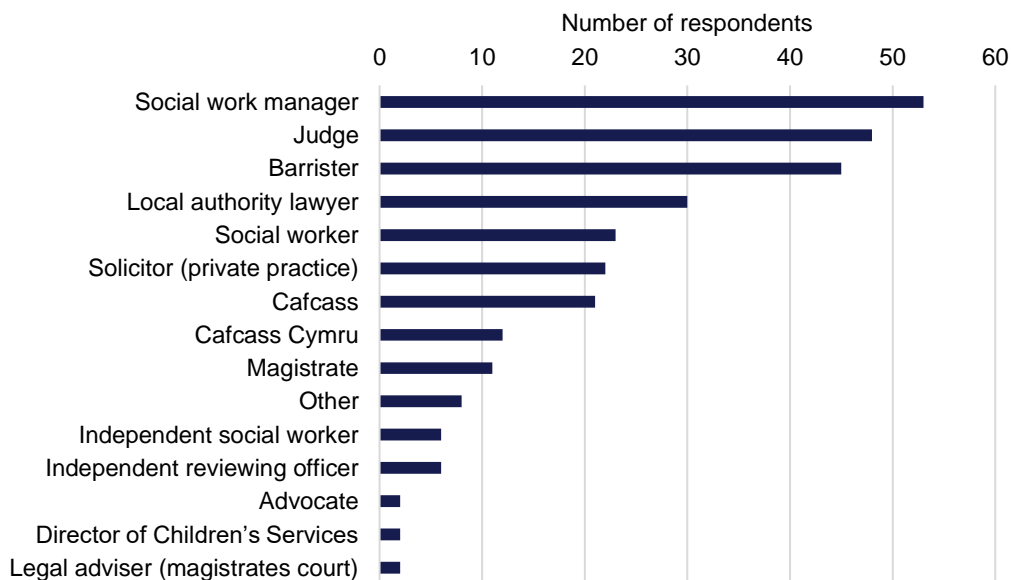
The full list of survey questions is available from:

<https://www.nuffieldfjo.org.uk/resource/supervision-orders-care-proceedings-survey>

1.3 Who responded to the consultation?

A total of 301 valid responses were received, 10 from parents and 291 from professionals.² Responses were received from a wide range of professionals involved in family justice, mainly from social work managers (53), judges (48), and barristers (45).

Figure 1: Respondents’ profession and role (n=291)

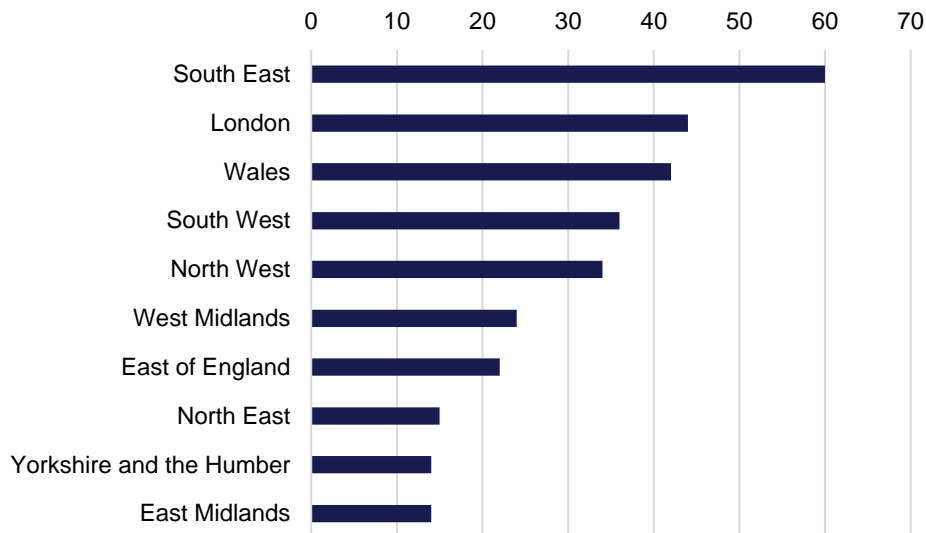


Note: ‘Other’ includes responses from health visitors and Family Drug and Alcohol Court (FDAC) team members.

² An additional 46 responses were received from professionals who had not had experience of care proceedings in the past six years where a standalone supervision order had been made in relation to at least one of the children involved in the proceedings. These respondents were identified by a screening question at the beginning of the survey and given the option to leave a comment related to the use of supervision orders. They did not complete the rest of the survey, and hence are not included above.

Individuals from across England and Wales responded to the consultation. There was a reasonable geographic spread in terms of where respondents worked, although relatively few responses were recorded for the North East, Yorkshire and the Humber, and the East Midlands. Several respondents had experience of working in more than one region.

Figure 2: Which of the following areas do you work in? (n=305)



1.4 Responses from parents

Responses were received from 10 parents who had been involved in care proceedings in the last six years where a standalone supervision order was made for a child in their care. The small number of parent responses mean that quantitative survey results for this group are not reported. Responses and comments from parents are however included in the different sections below.

As part of their review of supervision orders, the Public Law Working Group will receive information from a team at the Centre for Child and Family Justice Research, University of Lancaster, who are undertaking focus groups with parents to ascertain their views and experiences.

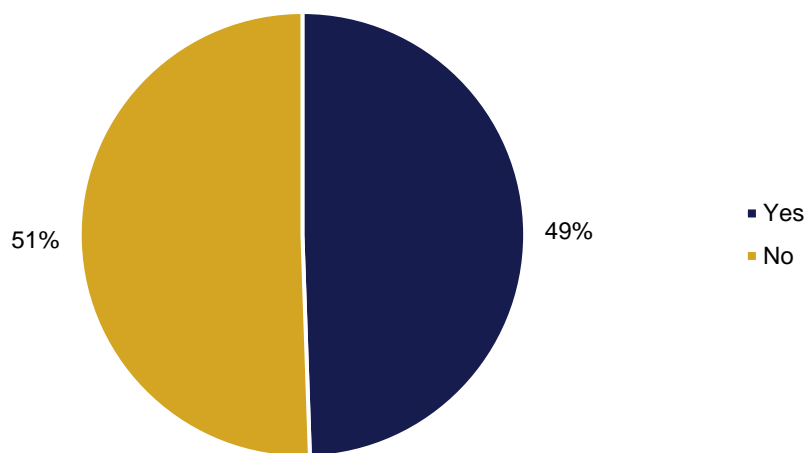
2 The making of supervision orders

All professionals who responded to the survey had experience of a standalone supervision order being made in care proceedings within the last six years.

2.1 Regional variations in the use of supervision orders

Family justice respondents were asked whether they had experience of different courts and whether there were variations in approaches to supervision orders in different areas. Among those who had experience of different courts, the responses indicated a mixed picture as the chart below demonstrates.

Figure 3: If you have experience of courts in different areas, have you experienced different attitudes towards the use of supervision orders in different areas? (n=93)



Where respondents had experienced differences, some attributed this to particular court culture, including different approaches to managing the 26-week timescale in care proceedings, different attitudes to risk, and different views about making care orders when the plan is for the child to return home at the end of proceedings.

In England—specifically in London—it was much more usual for proceedings to end with a supervision order, even when the initial application was for a care order. Applications for supervision orders at the start of proceedings were also more commonplace. In Wales, I have never seen an application for a supervision order and have found that it is rare that proceedings conclude with the making of one (Cafcass Cymru).³

³ Throughout the report, we have corrected typographical anomalies in direct quotes, and may have shortened some of the responses, but otherwise survey respondents are cited verbatim.

Different areas are more/less risk averse, leading to differing views of robustness of the order (Cafcass).

Some use them rather than a care order at home, there is almost an unwritten policy not to have a care order at home (Cafcass).

I have found [Area A] less keen, whereas [Area B] [seems] more open to the idea (Cafcass).

Other responses indicated that variations were more dependent on the attitude of the local authority.

Local authorities in other areas would never send a child home under a care order and the use of supervision orders is much more prevalent. The two councils in [... Areas C and D] DFJ [designated family judge] area have many children at home under care orders (Judge).

I understand that in the Midlands and North it is often the practice for local authorities to invite the court to make a care order with a plan for reunification or placement of child at home. That is not the practice in the South East where supervision orders are used to support such a plan (Judge).

Some local authorities will always seek a supervision order if they are planning to continue to work with the family post proceedings under a child in need plan or child protection, others take the view that if their plan is child in need or child protection there is no need for an order (Solicitor).

In the opinion of one respondent:

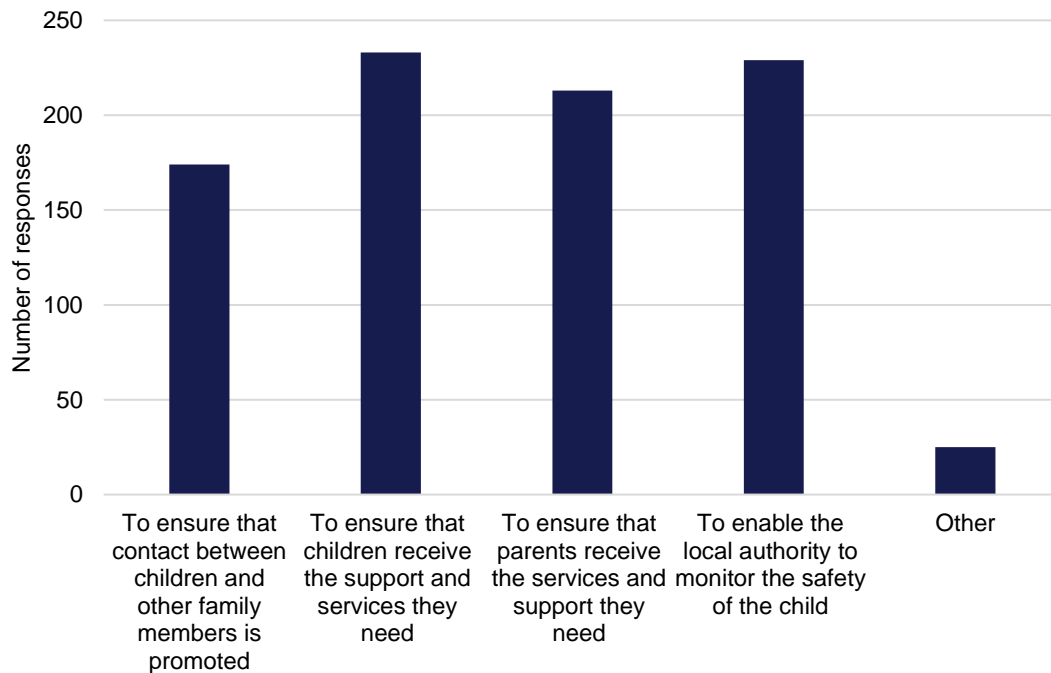
There may be one law but it is applied and thought of very, very differently in different parts of the country (Local authority lawyer).

2.2 When do supervision orders become part of the care plan?

Family justice professionals were asked about the numbers of cases they had been involved in where the local authority had applied for a supervision order at the start of proceedings and numbers of cases where a supervision order became part of the care plan as the proceedings progressed. The answers to these questions indicated a mixed experience of both possibilities but it was not possible to link these responses to any regional differences. Additional comments made by family justice and children's social care professionals in relation to a number of different questions indicate that practice varies across local authorities. And while many local authorities would rarely or never seek a supervision order, others would, depending on the particular circumstances of the case.

2.3 Reasons for supervision orders

All professional respondents were asked why a supervision order or orders had been made in the cases they had been involved in and were offered four options to choose from. The chart below indicates the overall response to these questions from all three groups of professionals. There were some differences between the groups, but these were minimal.

Figure 4: In cases that you have been involved in, why have supervision orders been made?

Parents were asked whether they had understood why a supervision order had been made: four out of the ten said that they had but six others said that they had not. Comments from three of the four parents who had understood said that the order had been made to ‘ensure that the children continued to live in safety’, to monitor a situation where there had been domestic abuse, and to provide support to recover from the proceedings. In one case the parent felt that the order was made to ‘save face’ in circumstances where the case should never have come to court.

Professionals were also offered the opportunity to identify other reasons for making supervision orders and to comment on the reasons for supervision orders generally. For family justice professionals there was also a question about their thinking when making, or when advocating for or recommending, such an order. All professionals were asked which cases were most suitable for supervision orders, and whether they considered supervision orders helpful or unhelpful. The responses to these questions confirmed the main reasons in the table above and elaborated on them. Some clear themes were apparent from the responses to all these questions and are set out below.

2.3.1 Ensuring the continued involvement of the local authority

The comments here show that some family justice professionals were concerned that, without a supervision order in place, the support identified as necessary for the child and family would not be provided, or that the local authority would close the case too quickly after the end of proceedings.

Helpful for ensuring the child is monitored by the LA [local authority] at the conclusion of proceedings (Legal adviser).

Ensure that any provision of services required to increase the likelihood of success of reunification are provided and not forgotten about. Ensure that the case doesn't get closed prematurely if the case is moved to another team in social care or the allocated social worker leaves (Solicitor).

To guarantee they remain subject of CIN [child in need] plan for at least length of order. To avoid them being de-planned at first review after case concludes (Barrister).

Fundamentally, supervision orders are being made to place a statutory obligation on a local authority to provide support in circumstances where experience shows that leaving an over-stretched, under-resourced LA to provide support without an order will lead to cases being closed too quickly and important contact arrangements left to family members to manage where emotions are still running high at the end of proceedings. The point is to make sure the LA stay involved, and to give the placement the best chance of working (Solicitor).

In general they are helpful. As they impose an obligation on the local authority to advise, befriend and assist throughout its duration. As such the order gives enhanced protection to a child. It also allows parents and others who are caring for children subject to such an order to hold local authority to account (Judge).

Responses from some children's social care professionals and local authority lawyers indicated that they were aware that it was relatively common for supervision orders to be made because there was a lack of confidence that the necessary support would otherwise be provided, but they considered this concern to be unfounded. They also challenged the belief that more support and resources would be available under a supervision order, although there was some recognition that the defined time for the supervision order did distinguish it from a child in need plan.

We have filed robust child in need plans with clear commitments to the services we will offer as a local authority however have often seen Cafcass guardians and/or judges want supervision orders to ensure that we are involved for a specified time period (Social work manager).

Supervision orders are often made because the guardian prefers this option in order to feel that risks are being managed but in reality they usually achieve nothing more than we could achieve under a child in need plan, but a supervision order ties the local authority to providing this support for a prescribed period of time (Social work manager).

If LA involvement needs to be maintained, then this can usually be carried out on a voluntary basis e.g. a working agreement and/or a CIN plan. A supervision order will rarely add to the sum total of protective measures that can be put in place for a child if there is a reasonable measure of parental co-operation. If there is not parental co-operation, a supervision order is unlikely to assist. Supervision orders are generally regarded as toothless as they do not give the local authority additional powers or real authority (Local authority lawyer).

As an LA lawyer we do not expect it to achieve any more than a child in need plan or a child protection plan and so we query its added value (Local authority lawyer).

2.3.2 A recognition of threshold and a proportionate order

A number of family justice and children's social care respondents noted that the making of a supervision order at the end of the case is a recognition that the threshold for making an order under s.31 Children Act 1989 has been established and that there is some need for continuing support but that a care order would not be a proportionate response. Some thought that without supervision orders, more care orders would be made.

Because it is a less intrusive order, not carrying the stigma which can attach to a care order. Also where a specific issue of support and assistance may be required rather than a direct concern about a continued significant overall risk to the child (Judge).

A recognition that the case has reached the level where such an order is necessary. A record that the threshold criteria are fulfilled and why (Judge).

The right balance of intervention by the LA without the extensive involvement, stigma, and statutory powers of a care order (Barrister).

The gap between care orders and no order is too wide. If no supervision order available I predict many more care orders (Judge).

They provide families with a guarantee of support. They provide a statutory level of oversight that is, on the whole, non-intrusive. They enable the LA to work to the family's strengths (Director of Children's Services).

The child and family can be appropriately supported and monitored for an identified period but they are empowered to resume family life without the long-term interference of the state or the child having a care status (Local authority lawyer).

There is a need for an order which places responsibilities on the LA to remain involved with a family post proceedings without the interference of sharing parental responsibility (Solicitor, private practice).

In general my opinion is that there is an absolute need for supervision orders. Where the child has remained living at home or plan is to return home from a short period of being looked after and there is no other order in place. The input is time-limited and reviewed. The need to return to court to discharge the order is generally removed and the order on the whole does not exceed what is needed (IRO).

Another comment from a social work manager indicated that the message of the supervision order was that more oversight and support was needed than might be expected under a child in need plan.

For the family I was involved with it was felt that there needed to be the presence of a protective order to recognise the continued need for family support and engagement that was 'greater' than a child in need plan and no order given the historical concerns about cycles of behaviour. I also feel that this promotes a greater degree of accountability/oversight of the order in monitoring and reviewing progress, although this should not be necessary (Social work manager).

2.3.3 Provide support where significant improvements had been made during the course of proceedings

Overall, the majority of comments by both family justice and children's social care professionals about the reasons for supervision orders related to the need for ongoing support for a range of reasons. Comments about proportionality were often linked to comments about the ongoing need for support in cases where parents have demonstrated commitment and capacity to change.

In my experience they are usually made when concerns have abated during proceedings and parents have responded effectively to the concerns raised at the outset (Magistrate).

So that any outstanding work with the family can be completed and that the parents sustain change in order for the local authority to withdraw from the family or at least reduce to very low level (early help) support (Local authority lawyer).

So that there can be local authority monitoring of a situation where there are background concerns but where it is safe to return to parental care. I would never recommend one where it was considered the child would be unsafe (Barrister).

Where the threshold has been met, there are still identified concerns, although there have been positive changes, the plan is in its infancy ... there needs to be a local authority to advise, befriend, and assist the family working through the plan (Cafcass Cymru).

Domestic abuse, mental health problems, and/or parental alcohol or drug misuse were often involved in cases where further support was needed.

Usually where a parent has made progress in neglect cases, but there are concerns as to whether it will be sustained, e.g. very recent cessation of drug taking, or there is a need to ensure they do engage with ongoing work e.g. on parenting skills or staying off drugs or a young parent (typically mother) who needs to accept support but has history of resisting efforts to support and assist (Magistrate).

Appropriate to monitor progress that parent has made, usually in addressing dependency issues whether it be drink, drugs or abusive relationships (Barrister).

Very young unsupported parents. Unsupported mother who did well in residential assessment after leaving domestic abuse. Chaotic parenting situation needing multiple interventions e.g. re school and medical appointment attendance (Magistrate).

Reunification with mother who had been a victim of domestic abuse. The supervision order allowed us to maintain relationships with the children and oversee their reunification whilst also monitoring the mother (Social worker).

Also given as examples were cases where the parents had been involved in previous care proceedings concerning other children.

It was not in the best interests of the children to separate them from their mother. Mother completed all the work that was asked of her but it needed to be tested whether the changes would be sustainable as this was a case where we had already had two sets of care proceedings (Social work manager).

Or cases where mothers had been in residential placements and had only returned to the community shortly before the case concluded.

Mum had done everything that the LA had asked, but had lost children before and so a longer period of monitoring was required. Also, she had been in hospital or a mother and baby placement for most of the proceedings, so her ability to manage long-term in the community was untested at the point of final hearing (Social worker).

Most recent supervision order was on completion of proceedings when young mother and baby returned to their local community after being placed in a residential assessment unit (Local authority lawyer, Wales).

Mother and child were assessed within a residential parent and child placement, then a step down house, then into the community using a supervision order to support mother settle into the new community in which she located to (Social work manager).

Mention was also made of children having been separated from their parents for some time before the return home.

Following rehabilitation of a child that has been removed previously. [...] These cases will always have an air of uncertainty and a need to monitor to make sure positive progress is sustained and to make sure rehabilitation is successful and given the best chance to work (Solicitor).

Often the child has been out of the parent's care for a significant period and the hope is that the local authority will support the transition under the order and ensure there are no issues/reduce the chance of placement breakdown (Solicitor).

If used properly they are a useful way to support a child's return home or a family that has achieved change, and to make the move from the high intensity of involvement during proceedings to a step down of involvement, all too often return home breaks down because the key support needed wasn't provided, the SO [supervision order] should be a way to prevent that and avoid repeat cases (Solicitor, private practice).

They are helpful in the majority of cases and serve to stabilise or consolidate permanency plans for children. They have ensured that children continue to be safeguarded, through reduction of risk and in the majority of cases have achieved positive permanent outcomes for children often with the least disruption to their family life (IRO).

I feel they are helpful. They are a way to monitor and identify any concerns following reunification. They can also be viewed as supportive by parents if their children are returned after a period in LA care. Reunification can be overwhelming for children and families, so it is helpful to have a support plan in place (Social worker).

One comment from a social work manager sums up the range of support issues a supervision order might be related to.

We have just completed a review of when supervision orders have been granted between Jan 2018 and- May 2020, and in the vast majority of cases we went into court with the care plan of a care order. During the process of the proceedings, a number of things happened to result in the adjusted outcome including, children were removed from parents, and this contributed to an adjusted/increased commitment from parents to undertake work. Perspective on parents' capabilities therefore were observed differently albeit these demonstrated under pressured circumstances. In some instances guardians disagreed with the LA care plan for care order and this resulted in the SO outcome. In most instances the supervision order plan of work focused on contact issues, housing stability, drug and alcohol support.... and general support for children and parents (Social work manager).

However, there was considerable concern that, while supervision orders were helpful in principle, support was not always provided, which significantly limited the effectiveness of the order and led to cases returning to court.

I have concerns that once an SO is made the LA who have limited resources lose focus/attention to the family and have heard families say that they struggle to get the support they require but at least the order means the family can seek support which may not be available without an order being in place (Solicitor, private practice).

What concerns me is that a lot of what is promised including visits falls by the wayside (Barrister).

I have found that the LA fades away from involvement in the family fairly quickly within the life of the SO. In many cases I have found that significant incidents (some risky) have happened during the SO or very near to the ending of that order where I believe the case should have been returned to court (Cafcass).

2.3.4 Risk

Some comments were more focused on the issue of risk to the child if the plan for return home was not successful. Here the order was seen as a framework for providing support but also returning to court quickly if necessary:

In some cases it is because no one is sure that the arrangements will work out for the child so it is to keep the child and the family on the radar (Judge).

It ensures the right support is put in place to prevent proceedings having to be issued again in respect of the children. Often parents are able to sustain the changes (Local authority lawyer).

This should enable the child to be supported by the local authority with a recognition that risk remains and needs to be managed. [...] I hope the order will set out a plan to support the child and family, this also enables the local authority or family to return the matter to court should the need arise (Cafcass).

Help ensure that recent turnaround is sustained, but also provide protection for the child in case of relapse where there is a non-negligible risk of this—allows a decision to return home where there is still some risk. Allows more confidence that problems can be sorted, or matter returned to court, when there has been enough harm or risk of harm for interim care order to be made, and by definition parental improvements have not been observed for very long, and there is therefore a risk that they won't be sustained without support. And clear risk that without a supervision order the local authority will less likely to be as alert to a deterioration, and/or that the parent will resist efforts to help (Magistrate).

The LA recommends a SO in care proceedings as part of the final care plan where the case is finely balanced and the LA is concerned about the progress and wishes to monitor the child's safety further and if necessary return the matter to court. These are on rare occasions where the threshold is not met for separation legally however the concerns remain (Social work manager).

In some cases it acknowledges the progress the parents have made through the proceedings but there remain risks to the child that need to be monitored to ensure continued safeguarding of the child and where a supervision order has been made it indicates threshold has been crossed and is the next step up from a child protection plan. It is an acknowledgement that future proceedings are a possibility if progress is not maintained (Cafcass Cymru).

Some respondents queried whether supervision orders were particularly effective in ensuring the necessary support in cases where there was ongoing risk.

I think that often the LA apply for an SO because they have lingering concerns that require monitoring, I think that this is inappropriate, a supervision order is not the best tool for monitoring, particularly as when we have the cases back the parents say they did not hear from the LA and many opportunities to provide support are missed. This then leads to re-litigation (Judge).

In most cases it's about services or monitoring for a period, it has to be said my experience is despite careful negotiation on the issues at a final hearing, rarely does it happen as planned, and support usually tails away and the commitment made at the final hearing is not kept (Solicitor).

Some respondents felt that supervision orders were most suitable for cases where the risk was relatively low at the outset.

I think they are useful in less serious cases i.e. parental use of cannabis, intermittent engagement with services, educational low attendance, varying hygiene in the home. I do not think they should be used in cases where there are persistent serious concerns; parental class A drug misuse, physical harm, serious emotional abuse, domestic violence in the home etc (Barrister).

Where the threshold was passed at a low level and significant improvement during the course of the proceedings (Judge).

2.3.5 To encourage greater engagement

Some respondents felt that a proportionate response through making a supervision order gave families more control and was likely to encourage greater engagement with services. Supervision orders were deemed to be helpful in signalling to the parent/family and the local authority that ongoing support and monitoring were required, and that the parents needed to engage with this support offer. As noted earlier, among family justice professionals in particular, supervision orders were seen as helpful in ensuring continued local authority engagement in a case.

It makes it clear to parents what the expectations are, parents have legal representation and it shows parents how serious the situation is especially if they have had a number of CP [child protection] episodes (Social work manager).

In general the purpose could be fulfilled with an appropriate care and support plan. However there is a place for an order that does not confer a share of PR [parental responsibility] yet provides obligations of engagement and support on each of the parents and the local authority to make clear that the conclusion of the proceedings is not the end of engagement, compliance and protection of the children (Solicitor, private practice).

That the local authority will befriend and support the family without the heavy-handed nature of a care order. It makes the family feel less powerless I think and encourages engagement a lot of the time (Cafcass).

Supervision orders could be used more effectively as they do not disempower parents/carers in the same way as care orders (IRO).

That the parent(s) will continue their progress in being able to care for the child(ren). Sometimes extra support is needed without the additional pressure a care order brings. From a parental view I find that a supervision order allows the LA to be more involved but allows the parent(s) to retain control (Local authority lawyer).

Cases where parents can demonstrate that they recognise the concerns to some extent and are committed to working with the LA to reduce the level of risk/maintain the current situation which has been assessed as safe. If the care arrangements are new/untested and there remain live concerns about risk or the carers' engagement, I would be less inclined to endorse/recommend a supervision order (Cafcass Cymru).

However, there were a handful of comments that suggested that supervision orders were only suitable for those parents who were already engaging and cooperating with the local authority. For uncooperative parents, it was felt that supervision orders could achieve little.

I have doubts about their value. If parents are working well with us then the SO is largely redundant as a CIN plan is usually sufficient. If the parents are not working well with us then the SO achieves very little and unless we can establish the threshold is met and issue new care proceedings all we can do is apply to court to extend an order which has already proved to be ineffective (Social work manager).

2.3.6 Supervision of contact

Respondents commented that supervision orders had a role to play in ensuring that contact was promoted between children and other family members and that this was supervised by the local authority where necessary. In particular, some respondents who were otherwise negative about the use of supervision orders, felt that there was a role for them in relation to contact.

They are essential to make the plans which the court has approved work in many cases. Contact would often not happen otherwise (Judge).

Where contact is an ongoing issue; it is unreasonable often to expect the family to manage contact which the child needs but which has not been managed safely or at all before (Judge).

The primary reason should be to ensure a child's safety is promoted, this can apply to cases that historically may have been PWP equally there are cases where inappropriate management of contact has the potential to cause significant emotional harm and a supervision order would also be applicable to cases of this nature (Social work manager).

2.3.7 Age of the child

One or two respondents suggested that the age of the child may be important and also that the order provided some security for the child.

Providing an outlet for child to speak with a safe adult (Cafcass).

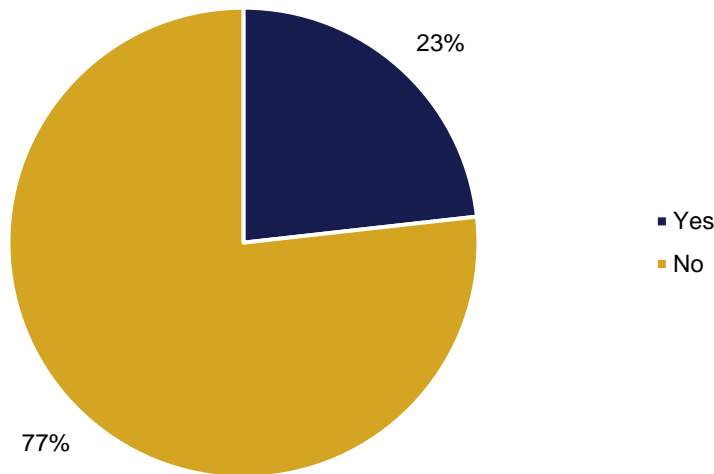
I think the age of the child also plays an important role in the decision (Cafcass Cymru).

Supervision orders made to enable services to be provided to the children in cases where the children are older (15+), threshold is met but the children do not wish to be removed and the parents will not work with the LA. The hope has been that the SO can send the message that the LA is still involved to formally support the children and services will focus on their well-being (Social worker).

2.4 Use of family assistance orders

Family justice professionals were asked whether they had experience of a family assistance order being made at the end of proceedings if children were returning home. Family assistance orders (s.16 Children Act 1989) can be made in any family proceedings, public or private. They can require a local authority to provide someone to 'advise, assist and (where appropriate) befriend any person named in the order'. The person named could be the parent and/or the child. A family assistance order cannot be made unless the circumstances of the case are exceptional, everyone named in the order apart from the child consents, and the local authority also agrees. As indicated in the chart below, the majority of those responding had not had experience of these orders.

Figure 5: In the last six years, have you made, or had experience of a family assistance order being made, when children return home at the end of care proceedings? (n=198)



Respondents who had had experience of family assistance orders being made were offered the opportunity to comment on the reasons for this. Comments suggested a range of reasons, with the most common being that it was the most proportionate order in the circumstances and that some additional support was needed.

In very fact specific cases where threshold was disputed and disproportionate to determine so an FAO [family assistance order] was a good solution all would agree to (Judge).

Where threshold for public law order is not met. FAO can ensure LAs remain involved to offer ongoing support (Cafcass).

Where the issues in the case are at a lower level than would justify a supervision order (Judge).

The structure of an SO wasn't required—the purpose of the FAO was to assist with contact (Barrister).

Threshold was not established within the care proceedings but there was a clear need for support—as such the only order that could be made was a FAO. The local authority wished to manage the placement with the child on a CIN plan, however this was prejudicial as the child would be unnecessarily entered onto the CP register (when the concerns were not of a safeguarding nature). The LA argued against the making of a FAO but the court ultimately made one (Barrister).

Many comments noted that family assistance orders were rarely used.

I often suggest this. Just does not appear to find favour with any LA [Area E and Area F]. I am disappointed about the lack of enthusiasm for FAO—least interventionist ideal with older children and separated siblings (and family) across different LAs. It is as if the LA do not have a 'department'/structure for FAOs (Judge).

Other examples of the use of family assistance orders included the following.

There was a family assistance order in a case where a supervision order would not be accepted because the parent did not want a public law order (and there was an issue as to threshold) (Barrister).

This was seen as an alternative to a supervision order as some value was seen to advising and assisting other people than the child whereas the duty to advise, assist and befriend under a supervision order extended only to the child. This was seen as perhaps giving the FAO more 'clout' than a supervision order and more likely to be taken notice of. I am doubtful that that is how a family would perceive it ! (Local authority lawyer).

Some respondents raised some concerns about the use of family assistance orders in cases they had been involved in.

The court preferred the name of an FAO to that of an SO as it took the view that the family would buy into it if the word 'supervision' was removed. Less than four weeks after proceedings concluded the family failed to engage and the LA has no means to advise, assist and befriend the child (Local authority lawyer).

It was felt to be sufficient in the particular case, but they are rare at the outcome of a care case. In one local authority area they had a habit of offering them rather than agreeing a supervision order and the court would accept it, often against the wishes of the family and recommendations of the guardian as they place even less obligation on the local authority (Solicitor).

There was a dispute over which local authority would hold the supervision order. The court felt an FAO would be a more suitable order than a public law order. It was not without difficulties for the parents and the LA, as the LA cannot keep a case open without seeing a child, and parents were clear that they agreed the making of an FAO but would not engage with the LA (Barrister).

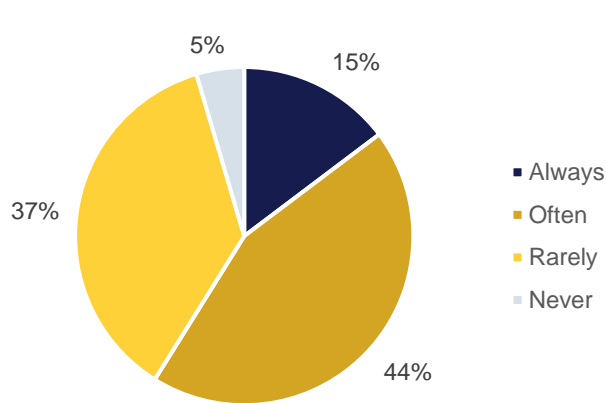
Have seen this in the past, but FAOs are so limited as to be of little discernible benefit. That's because of a case that left it up to an LA to decide what service to provide once an FAO was in place—which quickly became, in practice, whatever service it would have provided anyway (Judge).

3 Managing supervision orders after proceedings

3.1 Expectations and commitments

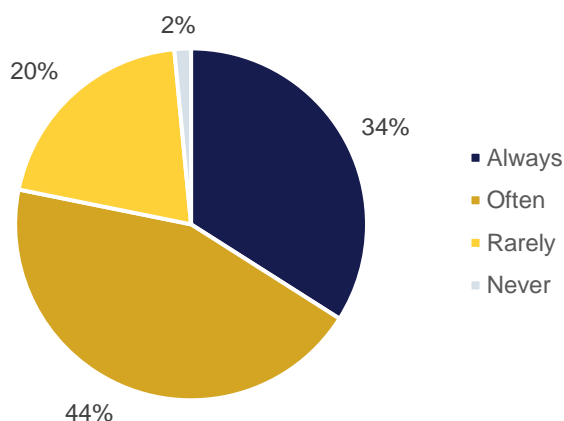
Overall, the majority of family justice professionals involved in standalone supervision orders had often (44%) or always (15%) experienced a preamble to the order setting out expectations for either parent/other caregivers and the local authority. However, this was far from commonplace, with over a third (37%) of professionals stating they had rarely seen expectations or commitments set out prior to the order being made.

Figure 6: At the end of proceedings, how often do you see a preamble to the order setting out expectations? (n=197)



The majority of family justice respondents stated they always (34%) or often (44%) see a written support plan, detailing these expectations, at the end of proceedings. Around one fifth (20%) of respondents 'rarely' see a support plan.

Figure 7: At the end of proceedings, how often do you see a support plan? (n=197)



There was a clear sense among family justice respondents that the preamble set out by the court, or the written support plan, was seen as a set of expectations rather than requirements.

Not requirements but expectations relating to the focused area of support and assistance identified (Judge).

Usually by means of a written agreement. There is no requirement for a supervision support plan. I think the arrangements are often fairly loose (Barrister).

There are usually 'expectations' in terms of what is to be offered to the child/family given their identified needs and similarly in relation to the parents seeking support for the same reasons but not requirements so much (Barrister).

I would expect to see proceedings conclude without a support plan being filed which makes clear the expectations on both. But in terms of court ordered requirements—struggling to think of an occasion when this has arisen (Solicitor).

For the local authority, these often take the form of an expectation to provide follow-up direct support. A number of respondents noted that supervision orders often contained an expectation for local authorities to refer family members to external support services, and in a smaller number of cases, even fund this support.

Requirements usually about levels of support, frequency of visits, referrals that are to be made or external work to be funded, timetables for reviews of placements or contact arrangements (Barrister).

Ensure that any provision of services required to increase the likelihood of success of reunification are provided and not forgotten about. Ensure that the case doesn't get closed prematurely if the case is moved to another team in social care or the allocated social worker leaves (Solicitor).

For the LA it might be to provide support i.e. a child and family worker visiting, discretionary funding for certain things i.e. CBT [cognitive behavioural therapy], provision of parenting classes for example (Barrister).

Some respondents commented that the preamble or support plan set out clear review deadlines and timetables, as well as a named worker to lead on the plan.

Yes, there is a clear outline of what is expected for the parents but also the local authority. This will include a named worker and set review periods for the plan (Cafcass guardian).

For parents or other caregivers, these expectations or requirements often related to attendance at drug and alcohol meetings or services, as well agreeing to regular check-ins with the local authority.

The plan normally operates as a child in need plan, so the expectations of the parents are to cooperate with such a plan. It might include ongoing drugs screening tests, ensuring school attendance, keeping appointments (Barrister).

Parents are often asked to sign up to meetings, reviews, some form of support work; sometimes even therapy (Barrister).

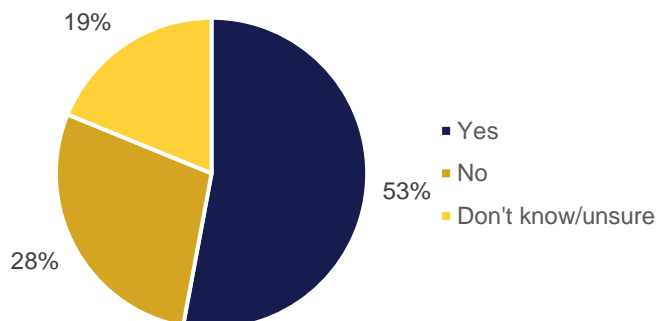
Children's social care professionals, as identified in Section 2, often commented that a supervision order implied a lack of trust in the authority to provide ongoing support above what was often already being offered with a child in need plan.

In six years the local authority have never issued a set of proceedings specifically requesting a SO as the outcome. In spite of this an SO has been the outcome in 18 cases (families) in the last 3 years. Generally, these are rehab to parent cases or cases where the children have not been removed from parent's care during proceedings. The proposed care plans would indicate the ongoing support plans from the LA to be offered under a CIN plan and typically it will be the guardian who introduces the idea of an SO which is then supported by the court to provide some level of 'guarantee' that the LA will continue to offer support to the family (Social work manager).

3.2 Processes once a supervision order has been made

The survey went on to ask local authority respondents a series of questions around the process for when a child is returned home under a supervision order. When asked about a specific protocol or guidance for practice when a supervision order was made, just over half of respondents (53%) stated their local authority provided guidance at the end of proceedings. Again, as with other sections of the survey, just under one fifth (19%) of respondents stated they did not know whether their authority provided any guidance.

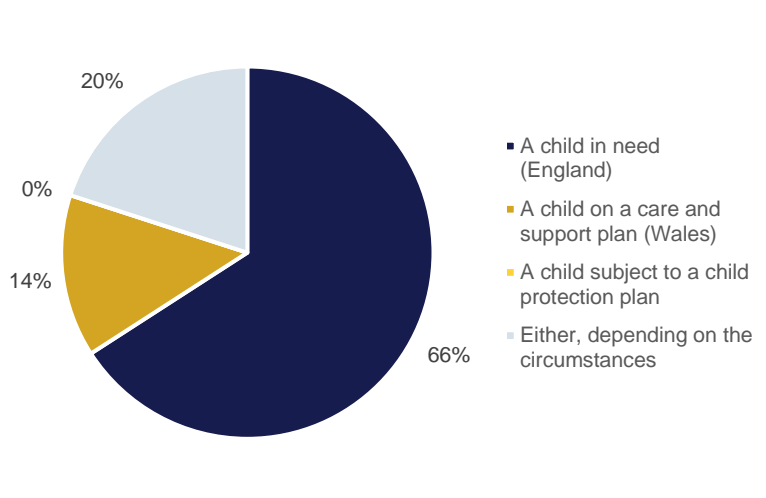
Figure 8: Does your local authority have a protocol or guidance for practice when a supervision order is made in relation to a child returning home at the end of care proceedings? (n=85)



The majority of children's social care respondents (77%) stated, in their opinion, that a child should not have a new social worker when a supervision order was made.

Respondents were asked about the status of children who returned home under a supervision order. The majority of respondents (80%) regarded children as a child in need if in England, or a child on a care and support plan if in Wales. A smaller number (20%) stated they regarded children either as a child in need or a child subject to a protection plan, depending on the circumstances.

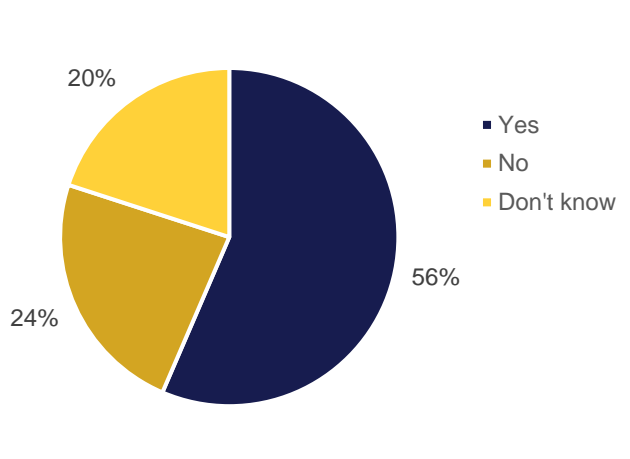
Figure 9: When a child returns home at the end of care proceedings under a supervision order is the child regarded as? (n=85)



3.3 How do local authorities identify and monitor children under a supervision order?

Just over half of children’s social care respondents (56%) had some sort of data system in place that allowed them to identify children who were under a supervision order in their local area. Nearly one quarter did not, and one fifth stated they did not know whether any such data system existed.

Figure 10: Do you have data systems in place that allow you to easily identify children who are under a supervision order in your local area? (n=85)



Previous research has suggested that the quality of recording of children’s social care data and analytical practice across local authorities is variable (Holmes 2019), with some local authorities struggling to do more than collate figures for statutory submissions. This too was reflected in the responses to this survey. As expected, respondents reported considerable variation in the data systems for tracking and monitoring children under such orders. Several respondents working in children’s social care highlighted that while supervision order is often recorded as a child’s legal status, it is often missed and hard to report on.

Others reported that children under supervision orders were identified only as children in need, making it particularly difficult to monitor the order, as well as the legal status of the child.

I am an IRO with specific responsibility for overseeing supervision order cases. I have been advocating for these cases to have a separate icon on the data base so that they are more readily recognisable—it hasn't happened. Supervision orders get lost within the umbrella of child in need and I feel given the differential in threshold they belong in permanency planning rather than child in need. The professional interpretation of the threshold is adversely influenced by cases being managed within child in need procedures (IRO).

Our system (or policy and practice) does not distinguish between children on supervision orders and others on CIN plans (Social worker).

People misuse the database and do not tend to accurately report when an SO is in place (Social worker).

We do need a system to more robustly monitor and track SO orders, often they expire without a decision and review to ensure that the situation is good enough and the SO does not warrant renewal (Social work manager).

A smaller number of children's social care respondents highlighted that significant effort had been made to improve data infrastructure and systems to allow professionals to both mark children as being under a supervision order, track overall numbers, and set alerts when a supervision order is nearing expiration.

The data system requires the social worker to input when the supervision order was granted and when it is ended in order for this to be recorded (Social worker).

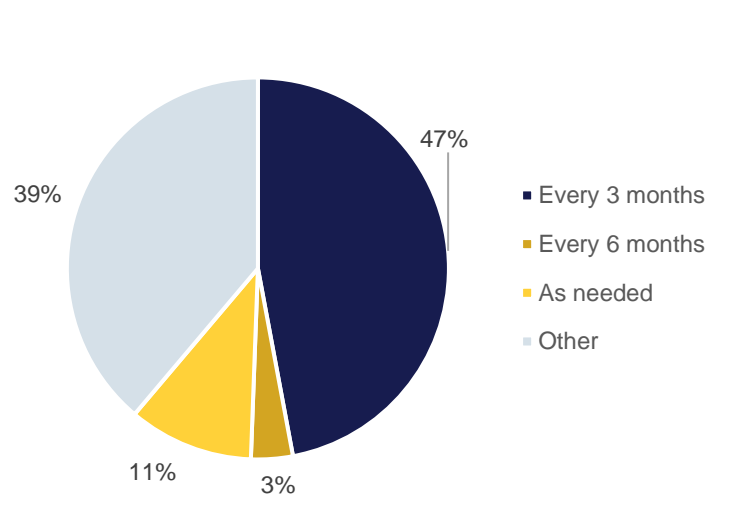
Children subject to SOs are identified with a marker in the data base. Also care proceedings that conclude with a SO can be identified from the system. Regular audits of the children subject to these orders are undertaken by senior managers and the children are subject to a CIN review at three, six and nine months into the order and the nine-month review must clearly state whether the SO will be allowed to expire or whether an extension should be applied for (Social work manager).

3.4 What is the review process for supervision orders?

Children's social care respondents were asked a number of questions about how they conduct the review process for supervision orders. When asked how often they review the order, just under half (47%) of respondents stated every three months, with a smaller proportion (3%) stating they reviewed the order every six months.

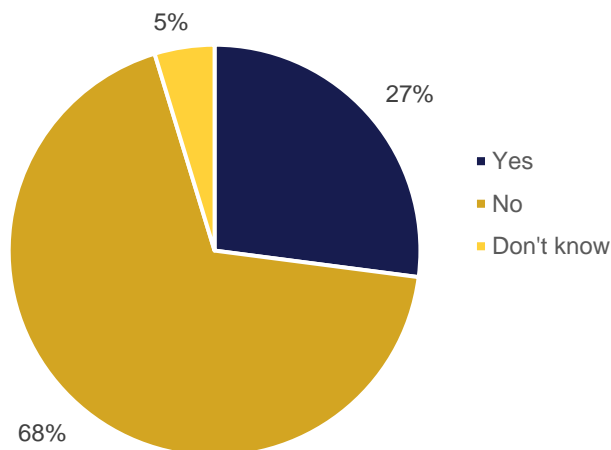
In relation to the 39% of respondents who replied with 'other', the majority highlighted that they reviewed the order every six weeks, in line with the schedule of their child in need review meetings.

Figure 11: How frequently is the plan for a child under a supervision order reviewed in your area? (n=85)



In most cases the review process (68%) was the same as for children in need and conducted as a child in need review meeting.

Figure 12: Is the review process for children under a supervision order separate from review processes for children in need or child protection cases? (n=85)



The survey also asked children’s social care respondents about the nature of the review process, specifically who carried out the review and whether it involved parents and children. Their responses indicated that the review meeting tended to involve the family, social worker, and other relevant professionals.

Currently the child protection chair carries out face-to-face meeting with parents and the child at the three-month and nine-month point. At the nine-month point child and family assessment is shared prior to meeting and recommends next proposed steps in terms of order lapsing or not. This process is currently under review and may change (Social worker).

The review meeting usually includes parents, social worker, professionals such as DSL [designated safeguarding lead] from the school or nursery (if at school age), health visitor or school nurse (Social worker).

There were, however, some differences in the review process. In some areas no IRO was appointed. In others, additional reviews were held for supervision order cases alongside the standard child in need review process, usually towards the end of the order.

There is a separate process which adds to the CIN process, i.e. more review and team manager oversight (Social worker).

At the conclusion of proceedings we review whether the children should have CIN or CP plans. In addition to the CP and CIN review processes we also routinely review SOs at eight to nine months to consider whether to apply to court for an extension (Social work manager).

The nine-month review is a one-off separate meeting. All other meetings are part of the existing CIN plan (Social worker).

There was a strong sense from local authority respondents that the review process—if planned well and involved parents from the outset—was an effective, robust way of ensuring no ongoing or new risks to the child.

The review process is slightly more effective than the general CIN plan due to it being court-ordered and parents are more willing to engage (Social worker).

In my experience this has always been very effective and clear and marks final decision for the supervision order coming to an end of there are no continuing concerns (Social worker).

This is a robust process that supports decision making and allowing the need for a lapse or renewal in a timely manner. There is also trajectory for the 12-month duration and the review keeps this on track (Social worker).

Others noted that the inclusion of the IRO provided an extra layer of assessment and support, which in turn ensured the plan was appropriate and that cases were not closed prematurely.

The CIN review process appears effective for monitoring progress of the plan and amending the plan to accommodate emerging needs. The independent IRO-conducted review serves a specific purpose for the authority and ensures cases are not closed when there is continuing risk or need. The IRO also undertakes a quality assurance process at the beginning of each order to ensure that the plan is robust and fit for purpose. This has served to drive up practice standards in these cases (Social work manager).

3.5 Parents' experiences

Parents were asked how long the supervision orders had lasted. Seven of the ten reported that the order lasted for one year, two said it lasted for six months, and one that it lasted over two years. Parents were also asked whether they received the support and help they needed under the order, and eight of the ten said they had not. One parent said they had received the support needed, which they described as:

Regular visits and support. Thankfully no counselling was required but I was aware of that and more support was available if it was required.

Another parent in response to that question had replied 'somewhat', and when asked what the support was, they responded 'CIN plan'.

The two parents who had received support, or some support, reported that they had been visited by the social worker every couple of weeks. Among the remaining eight parents, two parents reported that they had no visits at all during the duration of the order, one said they had been visited once but that the social worker had then gone on long-term leave. One parent who felt they had had no support was visited weekly, one every two weeks, one was visited monthly, one 'on quite a few occasions', and one was visited once. Parents were also asked whether they knew what the status of their children was while the order was in force. Three of the parents said their children were children in need, three that their children were subject to a child protection plan, and the remaining four parents did not know what status their children had been given by the local authority.

3.6 Comparison with child in need and child protection procedures

Respondents frequently made comparisons between supervision orders and child protection procedures. There was some disagreement about whether supervision orders offered anything in addition to these existing processes.

Among those that felt that supervision orders were useful in addition to child in need or child protection plans, there was a sense that supervision orders had more 'clout' in communicating the seriousness of the concerns to parents.

Helpful as provide a reminder to parents that the LA is still involved and seem to have more teeth than a CIN plan as an order made by the court (Judge).

As noted previously, others felt that a supervision order would ensure the provision of more timely support and resources from the local authority.

Cases where the parents have made great progress but a higher level of continuing assistance is required than a 'child in need' would yield. In times of shortage of money and time, a supervision order can 'bump up' a child for the attention of children's services (Barrister).

Other respondents however were of the opinion that supervision orders provided little extra value, making them 'futile' or 'obsolete'. This opinion was shared by both family justice and children's social care respondents.

I think they are helpful and have their purpose. However I have had cases whereby the support to be provided under a SO (either interim or final) would not be anything over and above that which would be provided under a child protection plan. I have not been convinced that the order was strictly necessary (although not sufficient to appeal the decision) in cases where the same level of support was provided, or would be provided under a child protection plan. I have had cases where the order was used to 'reflect the seriousness of the situation', i.e. that the proceedings have progressed to the court arena, or as a reflection that the threshold criteria are met, which I have not considered, in isolation, to be a proper use of the order (Barrister).

Often too generic in terms of what may be on offer, and do not offer much more in terms of specific services that might be available, for example, under child in need plans (Judge).

I believe their foundations and framework are weaker and less defined than working under CIN and CP, yet threshold is said to be met... (Social work manager).

Some children's social care respondents compared supervision orders unfavourably to working with families under a child protection plan. In their view child protection plans provided clearer lines of responsibility especially in relation to multi-agency working.

They are a bit pointless. Little power attached to them. I'd rather have CP plan so police info is shared. Other agencies don't understand them and just see child as CIN (Social work manager).

In my experience an SO hasn't added anything extra to working with a family to what a CIN plan was already doing. Also we have children open as CIN when on an SO and this can then lead to children being visited less frequently compared with those on CP plan (Social worker).

Supervision orders are without teeth and provide limited structure for the provision of support, monitoring or intervention. CP plans and the framework is of greater value and benefit due to the roles and responsibilities of the multi-agency network and the way in which these plans gain good multi-agency participation in their implementation and revision (Social work manager).

Some respondents felt that the effectiveness of a supervision order was linked to whether or not the order was seen as a priority by the local authority.

I had cases returned and it was clear that none of the support plan had been implemented. Frequently SO are left with family workers to manage and not seen as important (Cafcass).

If used properly, supervision orders can be effective. Some LAs have a very clear process for supervision orders that run similar to child protection processes (Wiltshire). Those that don't can mean that supervision orders are ineffective (Cafcass).

I think they can be helpful and have experience of them being very helpful when working in England, where there was clear guidance around expectations of the LA

and the carers and there was a clear review process. In the LAs I work with in Wales, it has usually been clear that SOs are not prioritised. I have worked with lots of social workers who are not clear what a SO is. I think guardians may have more confidence in recommending SOs if there was a statutory review process (Cafcass Cymru).

Properly planned and resourced, enormously helpful. Where the approach from the LA and/ or family is 'not worth the paper they are written on' and 'they don't add anything to a child protection plan' then they are a waste of resource (Solicitor, private practice).

They should be helpful. Families need support and if it's provided they make all the difference, and don't have the huge burden of a care order or the stigma or pressure of shared PR, with few local authorities prepared to have that with a home/family placement. But they should be enforceable. We spend a lot of time and resources identifying in care plans what a child needs, and then set that all out in an order, and support it with an SO and within months the LA, (usually a different team) decide none of it is needed and it doesn't happen and then two/three years and it all breaks down, there should be a better way of ensuring the support is there, the SO should be able to do that. It is of course resource-driven decision making that undermines the value of the SO once outside the court arena (Solicitor, private practice).

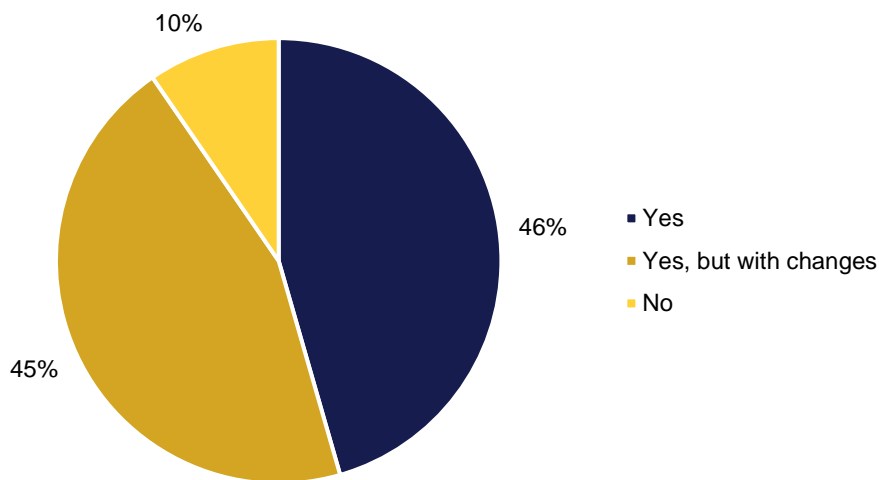
The problem is resources and that unless the local authority is made to set out in detail what is to be provided, the requirement to 'advise, assist and befriend the supervised child' is meaningless and sadly nothing or very little is done. I fear that many judges are not persistent and just make the order, with the result that the family receives no support (Judge).

4 The future of supervision orders

Respondents were asked if they felt that supervision orders should be retained as an option at the end of care proceedings. In general, respondents were positive about supervision orders, with the vast majority indicating that they should be retained, or retained with some changes (90%).

There were slight differences in responses to this question according to professional role, with children's social care professionals holding a slightly more negative view. 18% of children's social care professionals felt that supervision orders should be removed, compared to just 6% of family justice professionals.

Figure 13: Do you think supervision orders should be retained as an option in care proceedings? (n=197)



Among those respondents that felt that supervision orders were an important option to retain at the end of care proceedings, the majority of comments focused on supervision orders as a proportionate order, and the need to maintain an order that was between a care order and no order.

I do feel that it is important that we have a supervision order as an option. There are times you do not want to remove a child from the family, and having a supervision order I have found has been able to prevent from draconian action being taken on many occasions. I feel that it would be difficult with certain families if this option is not available. I feel that we need to give all families the right to a family life whenever and wherever possible. It also can help a family take the support and service more seriously as there is a court order, and this can really help to improve children's lives. I would worry if this option was no longer available (Social worker).

Supervision orders are a really useful tool that bridge the gap between CAOs [child arrangements orders] and COs [care orders]. Without them judges would be faced with too big a gap between giving the LA parental responsibility and required monitoring or nothing of that. In family law more tools at the judge's disposal are better than fewer (Barrister).

A supervision order sits in the place between the constant threat of removal and telling the parent/s that everything is ok now. That can be a useful place for parents that have engaged and made good progress (Barrister).

Among those that felt that supervision orders should be removed, respondents were of the view that supervision orders provided no additional value above what could be achieved on a child protection plan or child in need.

In my 20 years' experience, I consider it to be the most ineffectual order. It does not give the LA any powers other than to assist and befriend the child, which should be achieved through a good working relationship with the carers. The means of returning the matter back to court to discharge an SO is lengthy and protracted and not at all helpful for the families and can take months. In my view its purpose is to serve to help professionals such as Cafcass manage their own anxieties and on many occasions Cafcass have used an SO as an excuse to say they do not trust the LA not to close the case. The LA has its own processes, resources and checks in place, and criteria regarding managing cases, and needs to be able to manage this (Social work manager).

They provided such limited powers it doesn't seem realistic to keep them if we review. Plus they can give a false sense of security to other partners when in reality they have little real power (Director of Children's Services).

The CP procedure is usually how an SO is implemented in my experience and therefore the SO is superfluous in those situations. Unless there is a requirement for the parents to comply with additional conditions under an SO, it is unclear why one is necessary (Barrister).

One respondent commented that, in their experience, supervision orders were confusing for families.

I do not feel that they hold any value or purpose and are confusing for families. I am aware of a case where a father was granted a CAO and supervision order and he misconstrued this as needing to supervise the child at all times. If a case has gone to court because of the level of concern, then it is unlikely that a supervision order might change the level of risk. The example above evidences that supervision orders can quickly return to the child protection route. I feel it would be preferable to have no order and return to the child protection route as an alternative to supervision ord[ers] (Social worker).

4.1 Limited powers

For some respondents, the reason that supervision orders were perceived as unhelpful was that they did not give the local authority sufficient powers to enforce visits or family cooperation. This was felt to be out of context with the level of risk that was associated with the making of a supervision order, and recognition that the threshold for making an order under s.31 Children Act 1989 has been established.

Unhelpful as there is a limit on what a local authority is able to do if the parents do not allow visits and are not prepared to cooperate with the local authority. A child protection plan requires a higher level of cooperation and probably offers more protection of the safety of a child than a supervision order does (Local Authority lawyer).

However, while the SO is made on basis of significant harm the powers to intervene are very limited, and if we then have parental non-engagement following a period in court SW [social workers] feel despondent that they can't then do anything more to effect change or to support to maintain the status quo managed in the proceedings (Social work manager).

All expectations are made clear but cannot be legally imposed, e.g. if engagement is an expectation but the parent/s disengage then the SO does not trigger a return to Court—the LA have to again evidence risk of significant harm Sec 31 threshold (Cafcass guardian).

For other respondents the limitations were in relation to the lack of any means of challenge if the local authority does not provide the level of support needed.

There is often a whole range of expectations and obligations most of which are legally unenforceable under terms of a supervision order (Judge).

I used to excitedly draft them when I was in practice, but came to realise that everyone just saw 'supervision order - expires X' and read no further (Judge).

Sadly, I have experience of cases which have returned to court before the expiration of the SO, with LA seeking removal. Some of these occasions, it is because risks have re-occurred. Troublingly, some occasions it is because the LA have not fulfilled their duties as advised in a care plan and an entirely avoidable 2nd set of proceedings occurs (Cafcass).

4.2 Parents' views

Two parents thought that a supervision order would be 'very helpful' for other families in a similar position to themselves,

It gives regular visits where further help and support can be gained if required, questions can be answered and plans for longer sustainable approaches can be discussed.

All the other parents described supervision orders as very unhelpful.

You live on eggshells, you dread your door knocking and this caused me [to] suffer from post-natal depression. I felt scared and a young mum under the spotlight with social workers waiting for a fuck up and take it further.

The social workers only comes in to monitor parents instead of educating them on any concern they think about.

4.3 Suggested changes

Suggestions for changes to supervision orders were predominantly associated with ensuring that the order was more 'robust'—that specific, mandatory obligations were clearly set out for parents and the local authority, with clear consequences if these were not met over the duration of the order.

The order needs to be strengthened so that the judiciary and Cafcass officers have commitment from the local authorities to provide a well thought through, child-specific plan to meet any ongoing safeguarding issues and meet the child's individual needs, and is monitored regularly by somebody independent of line management responsibility for the case, with a final review two months before the order is due to expire to consider if this needs to be brought back to the court's attention (Cafcass Cymru).

They are a useful order if used correctly, with specified goals and reviewed on a regular basis. I have experience of supervision orders being reviewed by IROs which tend to have an element of independence and thus more focus on the outcome for the child.

If supervision orders had more 'teeth', for example compelling an LA to fulfil their care plan (for example, funding therapy if already agreed, progressing a reunification plan for children who remain in care at conclusion) they would be much more useful (Cafcass guardian).

Several respondents commented that the language 'to advise, assist and befriend' was too vague and needed to be reviewed, to set clearer expectations about the purpose of a supervision order:

I think the statute ought to set out far more clearly what a supervision order requires a local authority to do. Often 'advise, assist and befriend' can be a very vague concept and mean different things to different people (Barrister).

'Advise, assist, befriend' is too nebulous. Perhaps some indication to parents as to that 'sanctions' or steps would be taken if concerns remain or expectations are not met (Judge).

Supervision order legislation needs to be fully reviewed. The definition: 'to advise, assist and befriend' is outdated and too vague. Powers and duties within the legislative framework need to be strengthened. The local authority require the right of access to a child if their welfare is to be monitored. Clear guidance and direction in cases where there is non-compliance. Adding duties rather than powers would serve to hone the professional's practice in these cases. Greater clarity and direction in respect of the differential interpretation of threshold between care orders and supervision orders would help enormously, and ensure that these cases are accorded greater priority nationally (IRO).

Associated with this, several respondents felt that there was a need for additional guidance to be issued about the type of situations where a supervision order would be appropriate, especially for social workers.

4.3.1 Need for a written plan setting out goals and obligations

Many respondents commented on the need for supervision orders to be accompanied by a clear, written plan, with specific and measurable goals relative to each case.

I feel there should be more framework around them, i.e. there must be an SO support plan, a written agreement, a clear road map of what is expected within the lifetime of the order, and not just left vague as is so often the case (Barrister).

[Need for] a plan with very clear goals, requirements and consequences has been agreed between the parents and the LA, approved by the court (Magistrate).

I would like to see a clear record of obligations/expectations (on both sides) made a mandatory part of SOs (Judge).

I think all SOs should be accompanied by well drafted support plans/contracts of expectations so that there is clarity about what is expected of the parents and the LA to ensure that the needs of the child are met now and for the duration of the SO (Local authority lawyer).

SO plans are too formulaic. They should be shorter and have planned, measurable outcomes e.g. engagement with X parenting programme, complete refresher on domestic abuse work, complete relapse prevention work by Y date (Solicitor, private practice).

Comparisons were made to the statutory expectations associated with other orders and the child protection process.

With the statutory equivalent of a 'care plan' c.f. care orders. So that it can be clear in a document on the record approved by the court, what the order is intended to achieve and practically what actions the local authority is committed to taking to do so. An amendment to Sched 3 CA in the same way that s.31A was added for care orders (Legal adviser (magistrates court)).

Supervision orders should have the same statutory expectations as child protection plans with clear guidance about visiting requirements and review processes that indicate the level of risk associated (Cafcass).

Supervision orders need to have the same expectations of an SGO—having a clear, agreed support plan and expectations (Cafcass Cymru).

4.3.2 Need to be more enforceable

Several respondents commented that there needed to be a clearer process for returning the case to court if obligations were not met, or safeguarding concerns persisted.

I would like to see orders 'with teeth'. The support and expectations are set out, with an option for the matter to be turned to court if there is significant non-compliance that impacts on the likely positive outcome of the plan (Barrister).

In their present form I think a supervision order means as much or as little as the parties want it to and it often becomes somewhat 'toothless'. If they are to remain, they need proper monitoring with accountability. Whilst there would be resource implications having a report back to court at the end of the order or report to Cafcass at end of order setting out what was supposed to happen and what has or had not—dates of reviews, was the support effective, was the support changed and why—with Cafcass returning the matter to court if an extension to the SO or potential CO was needed at that time (Barrister).

The SO must have more robust SW involvement. The LA should return the case to court if there are breaches of a written agreement/ significant incidents/continuing concerns. There seems to be a belief system that the threshold for court application needs to be re-started during the life of the SO or just after the SO expires which I believe is not correct as the final original threshold for the SO should still be relevant (Cafcass).

I believe they need to be more robust and in particular, to allow for a swift return to court without the LA re-issuing proceedings and effectively starting the process (Social worker).

Some respondents also commented that there was a need for more robust review of the local authority to ensure that they were providing the required support.

SOs to allow for specific obligations to be imposed on the parents and on the LA—the specific terms to be made on a case-by-case basis—with the understanding that the parents or the LA will return to court if the terms are breached to consider whether the SO should be discharged or replaced by a CO (Social work manager).

They do need to be more enforceable with a mechanism for a return to court if the agreed steps are not followed through. The LA can bring it back on the same threshold during the order, but if the LA do not live up to their side of the agreement the parents can do nothing, that is a weakness (Solicitor, private practice).

There should be a more robust mechanism which could monitor LAs to ensure that the LAs are providing support and services under the supervision order. It is unclear what LAs do after a supervision order is met. There does not appear to be consistency between the different boroughs in respect of level of support and monitoring under SOs (Solicitor, charity).

4.3.3 Need for independent oversight and review

Many respondents pointed to the need for supervision orders to be independently reviewed, either within the local authority (i.e. by an IRO) or by returning or reporting back to the court before the order expired. Some commented that there should be a role for the Cafcass guardian in reporting back to the court and determining if the order should be extended.

For courts to have confidence in supervision orders they must be much more robust with proper reviews to ensure that what was promised actually happens. As things

stand there is little confidence that anything will actually be done as local authority resources are so stretched. Proper oversight may well make a difference (Judge).

The cases should be reviewed by IROs and there should be a report filed at the end of the SO providing an update as to whether the order was successful or needs to be extended. This would give greater official overview to ensure cases do not drift which is often the case with supervision orders. They should have the same level of scrutiny as care orders or children on the CPR [child protection register]. The threshold is the same and therefore level of risk warrants more formal oversight and scrutiny (Cafcass Cymru).

I would like to see LA write report to the court/ Cafcass before SO expires to summarise progress and to justify why they aren't applying to renew. This would focus LAs' minds more (Cafcass).

4.3.4 Other suggestions

A handful of respondents made other suggestions related to the need for more funding to accompany supervision orders (i.e. to provide therapy for parents, for example) and to ensure the same social worker remained with the family for the duration of the order.

There were several comments calling for greater flexibility with regard to timescales for supervision orders—several judges and legal professionals felt that supervision orders should be issued for a longer time period at the outset. However, a handful of children's social care respondents felt that supervision orders were often too long, and families did not always need local authority involvement for the full duration of the order.

5 Conclusion

The responses to this survey confirm the concerns identified about supervision orders in Harwin et al. (2019) and the Public Law Working Group (2021). A clear majority of respondents are in favour of retaining these orders, but many respondents are clear that the orders could be made more effective and robust. The suggestions set out above for changes to improve the effectiveness of supervision orders will provide a helpful contribution to the current review being carried out by the sub-group of the Public Law Working Group.

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