

LSCP factsheet: Private Law & Safeguarding

What is Private Law and when might social workers be involved? Private law refers to family court proceedings between individuals, usually parents, regarding arrangements for children. Common applications include:

- Child Arrangements Orders (CAO) - which set out who a child lives with, spends time with, or otherwise has contact with
- Specific Issue Orders - which decide a specific question about a child's life, like where they go to school
- Prohibited Steps Orders - which prevent a person from taking specific action, like taking a child abroad

Unlike public law proceedings, local authorities are not usually applicants. Social workers may become involved through:

- Section 7 requests – where the court asks for a welfare assessment
- Section 37 directions – where the court is worried for the child's safety and asks for a safeguarding assessment
- Section 47 enquiries – where significant harm concerns need investigating
- Requests for safeguarding information – where the court asks for information about child and family background

Private law does not mean low risk. Significant safeguarding concerns can exist within disputes about child arrangements.

Why is safeguarding in private law important? Safeguarding reviews continue to identify cases where children experience significant harm during private law proceedings. Common themes include:

- Domestic abuse being minimised
- Professional optimism
- Excessive focus on court processes rather than risk
- Children becoming less visible during proceedings
- Assumptions that another professional holds the safeguarding overview

Children can be seriously harmed when safeguarding concerns are overshadowed by adult disputes.

What might stop effective safeguarding practice? Common barriers include:

- Becoming task-focused rather than child-focused
- Professional deference to Guardians or other professionals
- Assuming the court has the full safeguarding picture
- Over-reliance on parental self-reporting
- Viewing the case primarily as a contact dispute
- Professional optimism when parents engage with proceedings

Practitioners should remain curious, analytical, evidence-led and confident to challenge.

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What is the role of professionals?

Cafcass

- Conducts safeguarding checks
- Screens risk
- May complete Section 7 reports and Section 16A risk assessments

Local Authority - May become involved through:

- Section 7 requests
- Section 37 directions
- Section 47 enquiries

Where safeguarding concerns are identified, practitioners should consider whether a Section 37 assessment is more appropriate than a Section 7 response. The court order requested should not determine the safeguarding response.

Multi-agency practitioners

- Respond to local authority information checks
- Contribute to assessments by sharing information, professional analysis and opinion

What are the key safeguarding risks identified from private law proceedings?

- Domestic Abuse – often minimised or contested, with children experiencing direct or indirect harm
- Disguised Compliance – parents may present positively in court while significant risks remain
- Child's Voice – children may feel conflicted, loyal to a parent, or unable to express worries openly
- Professional Optimism – engagement with professionals or court processes can create false reassurance
- Risk is often hidden behind cooperation, engagement and apparent progress

How can I manage professional disagreement? Social worker analysis can sometimes be given less weight than Guardian recommendations. Practitioners should:

- Clearly articulate their analysis
- Base recommendations on evidence
- Record disagreements openly
- Use supervision and escalation processes
- Challenge recommendations that do not reflect risk

Safeguarding decisions should be driven by evidence and professional judgement, not hierarchy or pressure.

Reflective questions to support social workers and practitioners involved in private law proceedings:

- What are we worried about for the child?
- What is the impact of domestic abuse?
- Are we being over-reassured by parental presentation?
- What does the history tell us over time?

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- Is the child becoming less visible during proceedings?
- Are we responding to the court request or the child's needs?
- Does the evidence support our recommendation?

Key Takeaways:

1. Private law cases can involve significant safeguarding concerns
2. Children's safety must remain the central focus
3. Social workers must retain professional autonomy
4. Do not become task-focused or court-led
5. Be prepared to challenge decisions, recommendations and processes where they do not reflect risk
6. Safeguarding responsibility does not change because a case sits within private law proceedings
7. Multi-agency practitioners must support and contribute to reports and assessments when requested
8. Hidden Harm – risk is often hidden behind cooperation, engagement and apparent progress

Further reading:

- [Surrey Local Child Safeguarding Practice Review: for Sara Sharif \(Nov 2025\)](#)
- [Family Justice Council Guidance on Responding to Domestic Abuse in Private Law Children Cases \(Dec 2024\)](#)
- [Working Together to Safeguard Children \(Mar 2026\)](#)

Further resources:

- Discuss safeguarding concerns and professional disagreement through supervision.
- Use local escalation and professional challenge procedures where risks are not fully recognised.
- Seek advice from safeguarding leads and legal services where appropriate.
- Refer to LSCP safeguarding procedures for escalation, information sharing and assessment guidance.
- Access Cafcass guidance and Family Justice resources to support understanding of private law processes.
- Consider multi-agency consultation where there are complex safeguarding concerns or differing professional views.