This first chapter will help you to understand what contact is and why it happens. It includes a brief overview of the legal framework and explanations of some commonly used terms. ‘Contact’ is used to refer to a whole variety of ways in which young people can maintain significant relationships when they are looked after by the local authority.

WHAT IS CORPORATE PARENTING?

Agencies often talk about ‘corporate parenting’. This term has no formal legal definition and was introduced following the launch of the Quality Protects programme (Department of Health 1998) which aimed to improve the outcomes for children and young people who were in need, particularly those who were looked after by local authorities.

The concept acknowledges that children’s services do not have sole responsibility for looked after children and encourages all members and officers of the council to be concerned about each looked-after child as if they were their own. However, in practice, it is the legal responsibility of the social worker for the young person to act as the corporate parent on day-to-day matters. This includes setting up and managing the contact arrangements.
CONTACT ARRANGEMENTS IN PRIVATE AND PUBLIC LAW

Contact arrangements for children can be dealt with as a matter of either ‘private’ and/or ‘public’ law. The majority of contact arrangements for young people are made between individuals in ‘private law matters’ and will not involve social workers. For example, divorcing parents who cannot agree about arrangements for their children may make an application for a contact order in private law. In contrast, ‘public law’ provides a mechanism for the state to protect children by intervening in a family’s life. This usually involves social workers. For example, if a local authority has concerns about the safety of a child, it may make an application for a care order or a contact order in public law. It is worth remembering that, contact arrangements that start as ‘private law matters’ can end up as ‘public law matters’. For example, if a court dealing with a contact dispute in private law has concerns about one of the parents, it can decide to involve the local authority, who may go on to make an application for a care order under public law.

THE IMPACT OF PRIMARY, SECONDARY LEGISLATION AND CASE LAW

The Children Act 1989 and the Children and Young Persons Act 2008 are the key pieces of primary legislation that outline the duties that
local authorities have in relation to the contact arrangements for young people who are looked after. A key principle of the 1989 Act is that children are best looked after within their families. For children who are looked after outside their families, the legislation encourages parents to continue to play a part in their child’s life wherever possible. The Children Act 1989 identifies contact as a right of the child (in other words, parents, relatives and others do not have a ‘right’ to contact). However, local authorities have a legal duty to provide and promote contact, unless it is not in the best interests of the child.

Regulations, known as ‘secondary legislation’, also impact upon contact arrangements. Secondary legislation, such as the Care Planning, Placement and Case Review (England) Regulations 2010 are made under specific powers under a piece of legislation. They contain legal requirements and have the same status as legislation.

The different interpretations of legislation relating to contact arrangements in both public law and private law can be found in case law. Case law can set legal precedent, but it can also be overturned.

**Point of Law: Parental Responsibility**

Parental responsibility (often known as ‘PR’) is defined as ‘all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to a child and his/her property’ (Children Act 1989, Section 3(1)).

In other words, those with parental responsibility have the power to make decisions relating to the everyday upbringing of the child in relation to things like medical treatment, where the child will live, which school they attend and who they have contact with.
Managing Contact for Young People

Making a care order gives parental responsibility to the local authority but it does not totally remove parental responsibility from the parents. When negotiating contact arrangements it is important to acknowledge both the rights and responsibilities of birth parents. However, when you are setting up the arrangements it is important to remember that contact is the right of the child, not the parent.

‘IN CARE’ AND ‘LOOKED AFTER’

This book focuses upon contact arrangements in public law. It relates specifically to young people who are ‘in care’ or ‘looked after children’ (sometimes this is abbreviated to ‘LAC’). It does not look specifically at contact arrangements for young people who are (or about to be) adopted.

The terms ‘in care’ and ‘looked after’ are often used interchangeably though they are different. The only way for a child to be ‘in care’ is by a court granting a care order. So, if there is no care order, then the child is not ‘in care’. Young people are ‘in care’ if they are subject to the following:

- care orders;
- interim care orders.

Point of Law: The No Order Principle

The court will only make an order (such as a care order or contact order) when it considers it would be better for the child to do so rather than making no order at all. This is known as the ‘no order principle’.
The term ‘looked after’ is much broader than the term ‘in care’. It includes young people who are subject to care orders and interim care orders and also those who are subject to the following restrictions:

- under Emergency Protection Orders;
- ‘accommodated’ under Section 20 of the Children Act 1989;
- placed (or authorized to be placed) for adoption;
- subject to court order with a residence requirement, such as young people on secure remand to local authority accommodation.

**CONTACT ORDERS**

Put simply, a contact order spells out who will have contact with a young person. It says how often the contact will be and how long it will be for. Some of the young people you are working with will be subject to contact orders, others will not. You may be involved in making an application for a contact order. For example, when a special guardianship order is granted, it is expected that the young person will maintain links with their parents so the court will also consider the need to make a contact order.

**THE PARAMOUNCY PRINCIPLE AND THE WELFARE CHECKLIST**

There is no standard ‘pro forma’ for contact orders, however, in making any decision in relation to looked after children, including decisions about contact, the welfare of the child is the court’s paramount consideration. This is known as the paramouncy principle.

The court will also consider the ‘welfare checklist’ when making decisions. This is defined in Section 1(3) of the Children Act 1989.
Managing Contact for Young People

Contact orders commonly determine the contact arrangements between parents and their children. They may also apply to arrangements for contact between siblings or the child and other family members. Orders last until the child is 16 years old, although the court can make contact orders in relation to children aged over 16 in exceptional circumstances. Some orders are very specific, for example, they can apply to particular periods of time or give directions relating to supervision, while other orders are more open to allow the parties to agree the details. A contact order made by the courts is legally binding. This means that the people with whom the child lives must allow that child to have contact with the people named in the order, and failure to comply with these arrangements can result in the court making further orders. However, granting a contact order does not necessarily result in people working together collaboratively. In practice, people are more likely to ‘buy into’ contact arrangements that are reached through negotiation than those imposed by the court.

Good Practice Checklist: The Welfare Checklist

The welfare checklist includes:

✓ the wishes and feelings of the child;
✓ the child’s physical, emotional and educational needs;
✓ the likely effect on the child of any change in circumstances;
✓ the child’s age, sex, background and any other characteristics which the court considers relevant;
✓ any harm which the child has suffered or is at risk of suffering;
✓ how capable each parent, or any other relevant person, is of meeting the child’s needs.
LEGAL STATUS AND CONTACT ARRANGEMENTS

It is important to determine the legal status of the young person as this will impact upon the contact arrangements. Table 1.1 shows the contact arrangements for young people who are subject to care orders because of their different circumstances.

Point of Law: Placement with Parents (PWP)

In some cases, young people subject to a care order or an interim care order can be placed at home with their parent(s) (PWP) in accordance with specific regulations (known as the Care Planning, Placement and Case Review (England) Regulations 2010).

In 2011, 6 per cent of the young people looked after in England were placed with their parents. In most cases, the parents have the day-to-day responsibility for the care of the child and will make their own contact arrangements although a social worker may be involved in some situations, for example, if the parents are living separately.

These regulations are also used when a young person subject to a care order is planning to spend a period of more than 24 hours in the care of a parent.

Types of Contact

In practice, you will come across various plans for contact. These show how much arrangements have changed over the years. Findings from research, emerging theories of child development and the introduction of new guidance and legislation have all impacted upon the attitudes, practices and language relating to contact.
Table 1.1 Contact arrangements for young people subject to care orders

The majority of contact arrangements are made in relation to young people who are subject to care orders.

Care orders are only granted by the court where it has been demonstrated that a child is at risk of significant harm.

The effect of care orders, interim care orders and emergency care orders is to give the local authority effective parental responsibility for a child. This means that the local authority can make decisions about the child ‘in loco parentis’ (in the place of the parent).

The factors that lead to the care proceedings will impact upon the contact arrangements for that child and family. This may affect type of contact and levels of supervision.

Contact arrangements for young people who are ‘accommodated’

Unlike a care order, accommodation is a voluntary arrangement between those with parental responsibility and the local authority.

Parents of young people who are accommodated under Section 20 of the Children Act 1989 retain parental responsibility for their child.

Accommodated young people are ‘looked after’ but there is no care order, so they are not ‘in care’.

Those with parental responsibility can withdraw their consent and have contact with their child at any time.

If contact arrangements cannot be successfully negotiated, then you may consider making an application for a contact order.

Contact arrangements for young people under police protection

In very exceptional cases, you may be involved in contact arrangements for young people under police protection.

This is not an order granted by a court. Therefore, it should not be referred to as a police protection order.
When a child is placed in police protection, the police do not acquire parental responsibility but the designated officer for that child is responsible for allowing whatever contact is felt to be in the child’s best interest.

If a child under police protection is removed to accommodation provided by the local authority, then the local authority is responsible for managing the contact arrangements.

**Contact arrangements for young people in secure accommodation**

A very small number of young people are subject to a secure accommodation order.

These young people are considered to be ‘looked after’ if the local authority is funding the cost of the secure placement.

Young people are not considered to be ‘looked after’ if they are sentenced to reside in secure accommodation due to their offending behaviour and the cost of the placement is funded by the Home Office.

**Contact arrangements for young people who are adopted**

The effect of an adoption order is to grant parental responsibility to the adoptive parents.

Adoptive parents have the same legal position as birth parents and assume responsibility for arranging contact for their child.

In practice, you may still be involved in arrangements with adopted children, for example, if you are working with a looked-after sibling of an adopted child.

**Contact arrangements for young people under Special Guardianship Orders (SGO)**

A Special Guardianship Order (known as an SGO) is a private law order which appoints an individual to be a young person’s special guardian.

SGOs are relatively new. They are used in cases where young people cannot live with their parents but need a secure placement.

(Continued overleaf)
Managing Contact for Young People

Table 1.1 (Continued)

A SGO is more secure than a residence order but less permanent than placing a child for adoption. A SGO does not end the legal relationship between the child and the birth parents, who retain limited PR. However, it does confer PR on the special guardian. This means that the special guardians can make day-to-day decisions relating to the care and upbringing of the child.

Young people subject to SGOs can live outside the UK for up to three months. This may have implications for contact arrangements. Generally, children who are subject to SGOs remain in contact with their family as long as it is in their best interest to do so.

Legislation also gives the local authority powers to support special guardianship arrangements. Therefore look at the terms of the order to see if anything has been agreed in relation to contact arrangements.

Table 1.2 explains some of the various types of contact and the terms that are commonly used to describe them.

WHY IS CONTACT NECESSARY?

Now we have looked at the background and some of the key terms, we can go on to look at the reasons for contact.

Complying with Statutory Responsibilities

As we have seen, local authorities assume the role of corporate parents in relation to young people who are looked after. Their key responsibilities in relation to contact are outlined in primary and secondary legislation.
Table 1.2  Various types of contact

<table>
<thead>
<tr>
<th>Type of contact</th>
<th>Explanation</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct</td>
<td>Face-to-face meetings where people are physically in the same place</td>
<td>A birthday party at the parent’s house. Young person sharing a meal with their siblings in a residential unit.</td>
</tr>
<tr>
<td>Indirect</td>
<td>Communication is not face-to-face but uses another medium</td>
<td>A telephone call or text or email. A school report or newsletter. A DVD or audiotape.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Indirect contact can be one-way, for example, where the child contacts the parent, or two-way, where child and parent contact each other. Indirect contact can supplement direct contact.</td>
</tr>
<tr>
<td>Supervised</td>
<td>Where there are concerns that a child may be at risk during the contact session, it may be supervised by a third party. There are different levels of supervision. From constant observation through to less active participation or intermittent supervision.</td>
<td>Mum has contact with child at contact centre. Contact worker provides constant supervision and stays within hearing distance at all times. Social worker reads birthday cards and opens presents from family before passing them on to the young person.</td>
</tr>
</tbody>
</table>

(Continued overleaf)
Managing Contact for Young People

Table 1.2 (Continued)

<table>
<thead>
<tr>
<th>Type of contact</th>
<th>Explanation</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct and indirect</td>
<td>Supervised</td>
<td>Siblings have contact with Dad at Aunt’s home. Aunt goes into room to check everything is OK every ten minutes</td>
</tr>
<tr>
<td>Supervisors can include</td>
<td>social workers, contact staff, residential workers, foster carers and extended family</td>
<td></td>
</tr>
<tr>
<td>Assessed</td>
<td>The contact session is observed and recorded within a structured assessment format</td>
<td>Guardian ad Litem completes parenting assessment of a couple and their baby in preparation for care proceedings</td>
</tr>
<tr>
<td>Unsupervised</td>
<td>Contact which is not supervised by a third party</td>
<td>Young person arranges to go to cinema with mum and step-dad</td>
</tr>
<tr>
<td></td>
<td>Unsupervised contact may still need to be co-ordinated by third party</td>
<td>Social worker organizes shopping trip for teenager and her Aunt</td>
</tr>
<tr>
<td>Supported/facilitated</td>
<td>Contact that is supported or facilitated by third person to ensure that the needs of the children are met</td>
<td>Large family contact between mother and five young children is held at home of maternal grandmother who helps Mum to play with children</td>
</tr>
</tbody>
</table>
Support should be only necessary to ensure the child’s well-being. Contact worker assists social worker at start and end of contact session.

Support can be in relation to specific tasks, for example, transport, interpreting.

**Phased**

Contact arrangements that are planned to increase or decrease in frequency or length.

Young person goes to the house of prospective foster carers before a placement starts. The first visit is for an hour, the second and third visits are for three hours at mealtimes, the fourth visit is all day, the fifth visit is overnight.

**Direct intervention**

Contact sessions are used to engage with family in order to directly influence behaviour.

Mum and toddlers go to parenting programme at children’s centre.

Where the intervention is also being assessed, these two functions must remain distinct.

**Structured**

Contact that has a specific aim.

Child completes a life story book with his Dad.

**Activity-based**

Contact that is centred around a specific activity.

Foster carers supervise monthly sibling contact at swimming pool.

(Continued overleaf)
### Table 1.2 (Continued)

<table>
<thead>
<tr>
<th>Type of contact</th>
<th>Explanation</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final/ goodbye/ farewell/ wishing you well</td>
<td>Last contact that takes place before child moves to adoptive family</td>
<td>Supervised meal at family centre</td>
</tr>
<tr>
<td>Holiday</td>
<td>Contact that occurs during school holidays or to celebrate religious festival</td>
<td>All-day contact at family home to celebrate Eid Weekend visit to siblings living in another foster placement</td>
</tr>
<tr>
<td>Letterbox</td>
<td>Contact service that co-ordinates the exchange of materials, for example, letters, photographs, via a third party. Usually used after adoption In cases where there is currently no contact, ‘non-operational’ letterboxes can be set up which may be activated later</td>
<td>An adopted child sends a card to the letterbox co-ordinator which is read and then forwarded to his birth mother</td>
</tr>
<tr>
<td>Extended</td>
<td>Contact that can be for long periods of time</td>
<td>Overnight home visits in preparation for accommodated young person to return to live with parents</td>
</tr>
</tbody>
</table>
**Point of Law: The Presumption of Reasonable Contact**

Section 34 of the Children Act 1989 says that local authorities must allow a young person to have *reasonable contact* unless the court gives the local authority permission to refuse it. This is known as the ‘presumption of reasonable contact’. It relates to contact with parents, a guardian and/or special guardian, anyone with a residence order made immediately before the care order and step-parents who have parental responsibility.

There is no statutory definition of what constitutes ‘reasonable’ contact but it is clear that local authorities have a duty to promote reasonable contact *unless* it is detrimental to the child’s welfare.

The local authority has a duty to promote reasonable contact as long as the child remains looked after except in exceptional cases, for example, where the local authority is granted authority to place a child for adoption. In this case, there is no presumption either for or against contact.

**Point of Law: Promoting Contact**

Schedule 2, paragraph 15(1) of the Children Act 1989 says that the local authority must endeavour to promote *contact* unless it is not reasonably practicable or not consistent with the young person’s welfare. This relates to contact with parents, any person who has parental responsibility, any relative, friend or other person connected with the young person.

Put simply, the law says that arrangements should be made to promote reasonable contact unless it is not in the interests of the young person to do so.
Contact arrangements should also comply with statutory regulations and standards.

**Good Practice Checklist:**

*The Care Planning, Placement and Case Review (England) Regulations 2010*

- The Care Planning, Placement and Case Review (England) 2010 Regulations came into force in April 2011 and consolidate the existing regulations and guidance about care planning and review into one framework.
- The Regulations include detailed information in relation to contact. They consider who should be included in contact and look at different types of contact arrangements such as sibling contact.
- The underlying aim of contact is outlined in the accompanying 2010 care planning guidance (DCSF 2010). This guidance is part of a suite of statutory guidance which, together with the 2010 Regulations, sets out how local authorities should carry out the full range of responsibilities in relation to care planning, placement and review for looked-after children.
- This guidance states that contact arrangements should maintain the continuity of relationships and sustain significant attachments for looked-after children. It notes that parents should be expected and enabled to retain their parental responsibilities when their child cannot live at home either temporarily or permanently.
- Note: The 2010 Regulations do not apply in relation to any child who is looked after by a local authority and who has been placed for adoption under the Adoption and Children Act 2002.
As many looked-after children are placed in foster care, workers should also be aware of the standards relating to fostering services, i.e. the National Minimum Standards for Fostering Services and the UK National Standards for Foster Care.

**Good Practice Checklist: National Minimum Standards for Fostering Services**

- The National Minimum Standards for Fostering Services apply to all local authority fostering services, independent fostering agencies, and voluntary organizations providing fostering services.
- The regulations are mandatory and the standards are ‘minimum’ standards, rather than ‘best possible’ practice.
- Standard 10 is concerned with promoting contact for looked-after children.

**Good Practice Checklist: The UK National Standards for Foster Care**

- The UK National Standards for Foster Care were produced in 1999, along with the Code of Practices relating to foster carers.
- The National Standards cover all aspects of the life of the foster child, not just the services provided by fostering services.
- Unlike the National Minimum Standards, the National Standards have no formal legal status.
- The UK National Standards represent best practice and continue to be applicable to fostering services.