Child Law Uk Essay, Research Paper

In this essay, I refer to the words Power and Duty. The word power in legal terms is the ability to do or act, which implies a choice. Duty is an obligation; something that law binds me to do. This essay is written in answer to a case study, which examines a situation, which focuses on the Children Act of 1989. This act was composed to protect the welfare of all children, whatever their circumstances and backgrounds.

“An Act to reform the law relating to children; to provide for local authority services for children in need and others; to amend the law with respect to children’s homes, community homes, voluntary homes and voluntary organisations; to make provision with respect to fostering, child minding and day care for young children and adoption; and for connected purposes.”

In this essay I am assuming the role of the social worker. In this case Peter and Jane have a baby son called David, who is about four months old. It says in section 2 (1), that where the child’s parents have been married before the conception of the child, they shall each have parental responsibility for the child, the meaning of parental responsibility is discussed in section 3. In this case, both Peter and Jane were married at David’s birth. Jane bought David in to hospital with a severe head injury. Upon examination by the hospital staff he is found to also have suffered previous injury to some of his ribs. This has caused grave concern and given rise to the hospital notifying the police. They in turn have gone on to notify the local authority, which has appointed me as David’s social worker. Under section 47 I have a duty to investigate the allegations and also a duty to contact all other agencies who might be involved with Peter, Jane and David, in accordance with section 47 (9 to 11) Since the information given is still only allegations (a hunch), I have to collect some evidence, not necessarily to use to prosecute Peter and Jane, but to promote David’s standard of living. However I should not let Parent / social worker communications compromise or hinder the health or welfare of David and when reading section 1, for the word ‘court’ I should subsidise the word ‘social worker’, or any other agency who has dealings with the child. My first question would be, is David a child in need, section 17, or at risk of significant harm due to the quality of parental care, this would encourage me to raise a supervision order [section 31 (2,9&10)]. The supervision order can last initially for one year, but can be extended in length for up to a total of three years [schedule 3 (6)]. If he were a child in need, then I would have to be of schedule 2 (1), which directs me to arrange the provision of services to the family and identifies a child in need. If there has been a break down in his care, as there seems to be in this case, then under section 17 (1), the local authority have a duty to promote the welfare and the safeguarding of the child. Also as a representative of the local authorities I would have a general duty to prevent the suffering of the child from neglect, by the provision of necessary services, this could include advice to the parents, Peter and Jane. If the child, David is at risk of significant harm and there is a sense of emergency about the situation, then the child can be placed under an EPO (Emergency protection order)[section 44]. This removes the child from the family home and is active for eight days. It can be extended for another seven days. At this point, although the child has been taken away from the aggressor and the person who applied for the EPO has certain parental responsibilities, the parents have not lost all their rights to parental responsibility. The power of the EPO is only available if the child is at risk and not for a child who is within a safe environment. If on the other hand the case presents itself as a non-emergency case, then the next action depends upon the cooperation of the parents, Peter and Jane. If they do cooperate then it is a simple case of continuing the investigation [section 47]. However, if the parents are obstructive, then a CAO (Child Assessment Order) [section 43] needs to be obtained. This is an inquiry into the development and health of the child and may also give rise to the enforcement of an EPO. This has immediate effect and lasts for a period of up to seven days, it cannot be renewed for six months unless the court agrees section 43 (5). In accordance with section 43 (6)(a and b), David would then have to be produced to me to assess as I think fit, to comply with the court order. Section 43 (4) says that I cannot apply for a CAO if David is in an emergency situation. If the parents still continue to be obstructive, I would have to obtain police assistance [section 46] to secure David’s safety and subsequently be able to carry out my investigation without hindrance. Section 17 of PACE (police and criminal act) of 1984 gives the police the power to enter buildings if they believe that someone is at risk. A policeman, under section 46 of PACE, can also remove a child if he has reasonable cause to believe that the child is at risk of significant harm and take it to such a place where it is safe. This has a life span of seventy-two hours, after which an EPO can be obtained. In accordance with section 43 (9), I can only keep the child away from home if it necessary for the purposes of assessment. As another option, David could also be placed in the care of his grandparents, because under section 17 (1)(b), it is advised that I accommodate him with members of his family [section 23], also section 17 (3) provides the services necessary to care for David in that environment. If this is not possible due to some form of prevention, in section 20 (1) the local authority has a duty to accommodate David in a caring society, which is close to his home. Also the local authority have to give due consideration to the David’s religion, race, cultural background and linguistic nurturing. If a care order is taken out, the parental responsibility is given to the local authorities, meaning that a supervisor or responsible adult, under section 5, would be enrolled to befriend the child. Under section 2 (5 and 6), this does not remove the rights of the Peter and Jane with regards to parental responsibility; it just means that the local authority has the deciding vote. Although this might be the case, under section 34 and section 8, the local authority must allow David reasonable contact with his parents or guardian. The only variation to this ruling is that the local authority has the right to deny contact for seven days, under section 34 (6), if they believe that the child is at risk and if it would challenge David’s welfare. If a care order were raised, under section 33, the local authority would have to receive David into their care and keep him there whilst the order was in place. Should David go in to foster care, the local authorities have to be aware of schedule 2 (2), which lays out the regulations about where the child, David, can be placed. They would also have to be aware of section 22, which lays out the duty of the local authority, in relation to the children that they are looking after. This would last until David was eighteen years old unless under section 91 (12), it is bought to an earlier end.

At the end of all this, if Peter and Jane feel that they have been unjustly represented, under section 94, they can appeal to the High Court. Obviously this does not mean that the whole case will be reverted, but they may have conclusive evidence that has been over looked. As the child’s social worker, I would hope that at the end of the proceedings that there was a happy ending for all of the people concerned, but it would still have to be David’s interests that would come first.

(1485 words)

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