

Legal Roundup - January 2022

Recovery Orders, DoLs applications and 'specified proceedings'

Recovery order applications are automatically 'specified proceedings' and as a result the subject child is automatically a party to an application, and upon issue the court is required to make directions for the appointment of a children's guardian for the subject child unless it is satisfied that it is not necessary to do so to safeguard the interests of the child.

What else comes under the description of specified proceedings? Section 41(6) CA 1989 provides a definition as follows:

- Any application for a care order or supervision order, or variation/discharge of those orders
- Proceedings in which the court has directed that a local authority prepare a report under s37(1) AND has made, or is considering whether to make, an interim care order.
- Any application to substitute a supervision order in place of an existing care order
- Applications for contact with a child in care
- Applications for child assessment orders, emergency protection orders and recovery orders
- Appeals of care and supervision order decisions (making/refusal to make them, decisions on variation and substitution of a supervision order in place of a care order)
- Applications for making or revoking placement orders.

The court will appoint a guardian automatically upon receiving most of the applications set out above.

Notably, stand-alone applications for orders under the inherent jurisdiction of the High Court, including applications for Deprivation of Liberty orders, do not fall within the definition of specified proceedings, which means that the child is not a party in a DoLs application and no children's guardian is appointed until the court has made an order addressing joinder and appointment of a guardian.

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