

However, the scope of what type of 'assessment' falls under s.38(8) has been disputed in a number of cases with the court having to determine whether 'treatment' falls within the term of 'assessment' under s.38(6).

The debate has centred around parenting assessments which are provided to assess the parent's ability to care for the child, meeting the child's needs and identifying risk factors. It is usual practice with young children for these type of parenting assessments to be undertaken in a specialist mother and baby unit. Here the mother and child will live in the unit and the assessment will be carried out by staff also in the unit. Alternatively, parenting assessment can be carried out in the community – where the parents are assessed in the home or at a family centre. The central issue revolves around the purpose of **s.38(6)** – is it to provide services for the family – and or 'treatment' during the assessment, or is the main purpose to obtain information to assist the final decision?

We will examine two cases which have considered this issue. The first is **Re C (Interim Care Order: Residential Assessment) [1997] 1 FLR.**

In this case the court accepted that an assessment between a parent and child could properly be the subject of an assessment under **s.38(6)** and the court could direct such an assessment. Here the court was very clear that an assessment under **s.38(6)** didn't just have to involve the child, but those caring for the child as well, and their capabilities as parents. It is clear from this case and others that what the court sees as an 'assessment' process may well have the effect of providing treatment or therapy for the family. What is important is to look at the primary aim of the assessment.

The main judgment in the case was given by Lord Browne-Wilkinson in the House of Lords and the decision gave a broader interpretation on what could be directed as an assessment under s.38(6) overrode the local authority's decision that a residential assessment was not appropriate.

Task 13

Locate the case of **Re C (Interim Care Order: Residential Assessment) [1997] 1 FLR 1 H/L** and read the case. Summarise the key facts in this case and the reason why the local authority refused to agree to the residential assessment.

The case of **Re C** provides practitioners with important guidance on the issue of assessment:

- The power to direct an assessment is not limited to the assessment of the child alone but can extend to an assessment of the capabilities of the parent to care for the child.
- The purpose of an assessment is to enable the court to obtain