

iGuide: Inherent Jurisdiction

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What is the court's Inherent jurisdiction?

The Court's inherent jurisdiction in relation to children and Wardship are powerful tools in the field of international Child Law.

Waite LJ in *Re M & N (Minors)* [1990] 1 ALL ER 205 at 537 said "the prerogative jurisdiction has shown striking versatility throughout its long history in adapting its powers to the protective needs of children, encompassing all kinds of different situations. Although the jurisdiction is theoretically boundless, the courts have, nevertheless, found it necessary to set self-imposed limits upon its exercise, for the sake of clarity and consistency and of avoiding conflict between child welfare and other public advantages."

When is it used?

- The surrender of passports (even foreign passports)
- Medical treatment
- Tracing missing children
- The Local Authority wishes to assume some level of responsibility over a child who has attained the age of 17

What is Wardship?

When the Children Act came into being wardship was specifically retained. It is the Court's exercise of its inherent *Parentis Patriae* jurisdiction in respect of children (or '*minors*' as they are described within wardship proceedings).

When a child is made a ward of Court a special relationship is created between the child and the Crown (represented by judges) whereby the Court assumes responsibility, like a parent, for significant decisions in the child's life.

When a child is a ward of Court many steps cannot be taken without the Court's express permission

- Marriage
- Leaving jurisdiction
- Changes in education
- Changes in residence, religion or nationality
- Medical treatment
- Undergoing blood tests

Any application for wardship will need to detail specifically why wardship is being used as a vehicle (as opposed to Children Act orders). There is an increasing tendency for judges to be questioning the use of wardship over Children Act orders, if the latter orders can provide the same substantive relief.

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