

# Care Order Decisions—in the Domain of Social Work or the Courts? Social Workers' Frontline Views

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## Abstract

This article examines social workers' views on care order decisions in Finnish child welfare where the decision-making procedure takes place in either the social work or court domain depending on the parties' consent or objection to the care order proposal. Exploring this parallel decision-making system provides insights into the less studied characteristics of non-adversarial decision-making compared with those of adversarial decision-making. Based on the interviews of twenty-nine social workers, the findings present a binary view of social workers: the court domain is mainly seen as being an arena for the legal safety for families whereas the social work domain is a psychosocial, fluent and smooth arena for making care order decisions important to family members. The study points out potential misuse of the social work domain. Additional safeguards are suggested to complement the existing legal, professional and ethical safeguards as well as the re-evaluation of the role and nature of consent as a divider of the decision-making procedures.

**Keywords:** care orders, consensual child welfare, decision-making, social workers' views

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## Introduction

In a cross-country analysis of child welfare, the Finnish system, where some care order decisions are made only in the social work domain and are called consent-based, seems to be an anomaly. Decisions to remove children into public care, similar to the Finnish care orders, are in many countries made by courts or court-like bodies whilst voluntary removals can be decided by social workers (Burns *et al.*, 2017; Hultman *et al.*, 2020). The difference between voluntary removals and care orders is broadly that the former do not restrict parental rights whereas the latter do. Since the first Finnish Child Welfare Act of 1936, the parents'—and more recently children's—consent or objection to the proposal of a care order determines the route of decision-making. If they consent, the care order is decided by social workers in the municipality without any court involvement (i.e. social work domain). These care orders have the same criteria for the threshold and preparatory process and the same legal implications for parents, custodians and children as those decided by the courts in the case of objection (i.e. court domain) (Pösö and Huhtanen, 2017). The majority of care orders (three-fourth) are based on consent and are made in the social work domain (*ibid*). As approximately 1 per cent of children under the age of 18 years are in care through a care order decision, the decisions made in the social work domain are not a marginal phenomenon in Finnish society (*ibid*).

The parallel decision-making system involving either the social work or court domain includes the assumption that a child (of a certain age) and a parent can consent to the restriction of their human and fundamental rights and that social workers are trusted to gain that consent and make related decisions. Consensual child welfare and the complex nature of consent have not been studied much in child welfare literature (O'Mahony *et al.*, 2020). Existing studies often underline the 'grey area' of voluntariness in child welfare, as the option of implementing coercive measures against parents' and/or children's wishes exists simultaneously (Gambrill, 2008; Pelton, 2016; Lynch and Boddy, 2017; Lewis, 2022). On the other hand, procedural fairness that builds on cooperation, trust and voluntariness is suggested to be an important element of any child welfare decision-making (Venables and Healy, 2019). Nevertheless, there is much less research about the characteristics of non-adversarial decision-making in child welfare (e.g. Finland) than those of adversarial decision-making (e.g. the UK and USA) (Porter *et al.*, 2019; Venables and Healy, 2019; Brennan *et al.* 2021).

Therefore, whilst being an anomaly, Finnish care order decision-making provides an opportunity to explore the strengths and weaknesses of making decisions about care orders in the social work domain, that is in 'the context of non-court' (cf. Porter *et al.*, 2019). Our aim is to

explore the characteristics and eventually the strengths and shortcomings of the social work domain and, to some extent, the court domain, when making decisions about taking children into care. We approach this topic from the point of view of social workers in charge of care order preparations: how do they see the characteristics of the social work and court domain from their frontline perspective? Social workers are the key actors initiating and carrying out the care order preparations in most jurisdictions (Berrick *et al.*, 2015) and their views provide access to the 'real-life work' in child welfare (Buckley, 2003). Before presenting the findings from the interviews, we will describe the notion of the social work domain for decision-making in more detail and the safeguards which exist to guide care order decision-making.

## Social work and court domains for making care order decisions

Care order preparations are influenced by the institutions of law and social work, and practised in interaction with children and families (Dingwall *et al.*, 2014). In service-oriented child welfare systems, such as in Finland, care orders are the last resort amongst services provided to children and families, either as part of universal or more targeted services (Gilbert *et al.*, 2011). When social workers start preparing a care order, the process is regulated by a variety of norms set by legislation. The Child Welfare Act (417/2007, Section 40) sets three criteria for a care order in Finland: in short, the serious endangerment of the child's health and development, the insufficiency of in-home services and the assumption of substitute care being in the best interest of the child (in more detail: Pösö and Huhtanen, 2017). The Act also specifies that care order preparations should be carried out by two social workers who may consult a multidisciplinary team; the social workers should meet with the children, parents, other people close to them and professionals involved in the case to make plans for the future and to find out whether the child could be accommodated with other relatives. Children of any age and parents, whether custodians or not, should be included in the care order preparations.

As part of the preparations, the social workers are obliged to organise a hearing. A child 12 years of age or older is heard separately and in parallel with his/her parents (custodians) by social workers (over half of new care orders concern children over 12, THL, 2021, Figure 5). The parties may invite support persons or legal representatives to the hearing. The hearing is of administrative—not judicial—nature and its outcome is a document that states whether the party objects to the proposal of a care order and/or the proposed substitute home. The opinion is expressed in a binary form—yes or no—and documented similarly. This means that children who are 12 or older and the parents (custodians)

are entitled to influence in a legally binding way whether the procedure to be followed is an administrative procedure in the social work domain or legal proceedings (a trial) by the administrative court. If no party objects, the care order decision will be made by a social worker in a managerial position in the municipality in the social work domain; if any party expresses objection to the proposal, the social workers are obliged to submit a care order application to the administrative court, which will make its independent decision (the court domain). The administrative court, comprised of two legal judges and one expert member, will approach the care order application in a non-adversarial manner, meaning that the municipality is a procedural party, instead of a proper opposing party, and is not considered to have its own rights to defend but must act in a detached and impartial manner in the proceedings (Mäenpää, 2012). The court will also hear the parties either in oral hearings or through written statements. The majority of court decisions follow the care order application of the municipality (De Godzinsky, 2014).

Before the decision is made by managerial social workers, many consent-based care order decisions are prepared between frontline social workers and relevant family members without any involvement of legal advocates or other representatives of the legal profession (Välikoski *et al.*, 2020; Huhtanen, 2021). This is, indeed, ‘a context of non-court’ (Porter *et al.*, 2019) in which the likely ‘hazards’ of the court context and even legal professionals—often highlighted as the features of court-centred adversarial decision-making systems (e.g. Broadhurst and Mason, 2017; Berrick *et al.* 2018)—are at their lowest. Regardless of the domain in which the decision is made, the parents are entitled to decide their child’s name, religion and citizenship on their own after the care order decision has been made, whilst other matters concerning the child are to be decided by the local authority in cooperation, whenever possible, with the child, parents and custodians. The decision is valid ‘for the time being’ and its relevance should be assessed at least once a year in the social work domain.

## Safeguards of sound decision-making of care orders

Making decisions—either of coercive or consensual nature—in child welfare is bound to be prone to errors and therefore a variety of legal, professional and ethical safeguards for the quality of decision-making exist (Biesel *et al.*, 2020). When social workers prepare a care order, they should implement these safeguards in a case-based manner, that is, to put them ‘into action’ (Dingwall *et al.*, 2014).

Firstly, one essential safeguard is country-specific legislation. In Finnish legislation, the main imperatives for good quality decision-making regarding care orders consist of procedural safeguards, on the one hand, and imperatives determining and guiding the content of the

decision, on the other hand. These safeguards are applied equally in decision-making on the municipal level and in the administrative courts. The most important procedural safeguards are the right to be heard, the right to receive a reasoned decision and the right to appeal the decision. They are included in the Constitution of Finland (1999) and in many human rights conventions ratified by Finland, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Convention on the Rights of the Child, and embedded, in more detail, in the Administrative Procedure Act (2003), the Administrative Judicial Procedure Act (2019) and the Child Welfare Act (2007). The substantial imperatives are mainly composed of general principles of administrative law, that is, equality, impartiality, proportionality, the prohibition of abuse of power and the protection of legitimate expectations. With regard to care orders, there are more specific regulations about objection than about consenting, which, in general, is approached as 'the lack of objection' (Huhtanen, 2020).

Secondly, safeguards for the quality of decision-making are related to the social work profession. The requirements for professional qualifications for social workers involved in care order preparations suggest that professional knowledge, skills and values are important safeguards. 'Sound decision-making' is a topic in professional literature for social workers (e.g. O'Sullivan, 2011; Lonne *et al.*, 2016; Diaz, 2020), with a focus on how social workers gather, test, share and document information and how they involve children, parents and other relevant parties in the decision-making process. The inclusion of children, in particular, and the recognition of the child's best interest are currently seen as critical points in making sound decisions in child welfare (Falch-Eriksen and Backe-Hansen, 2018; Sormunen, 2021). In Finland, a five-year degree, resulting in an MA Degree in Social Work is required to become a qualified social worker.

Thirdly, decision-making is safeguarded by ethics for practice. In Finland, the national professional body Talentia has set the overall ethical guidelines for social workers, reflecting the ethical code of the International Federation of Social Work, with the emphasis on human dignity and the right to self-determination amongst other values. In addition, there are specific quality recommendations for child welfare, set by the Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities (Malja *et al.*, 2019). These also include ethical principles, regarding, for example, participation safety, transparency and legitimacy.

Whilst there are many safeguards defining social workers' practice, there are also some safeguards concerning children and parents, such as the possibility to appeal decisions (e.g. care order decisions) or make complaints about the quality of services, and there are public agencies which oversee the legality of child welfare (Pösö and Huhtanen, 2017). Existing studies of the safeguards or shortcomings of child welfare

suggest, however, that the particular point of care order preparations addressed in our study has not featured in public debate, policy reviews, research or in the advocacy campaigns of service-user associations, indicating that social work and court domains are seen as unproblematic forms of decision-making (Huhtanen, 2020).

## Data and method

Our aim is to explore the characteristics of the social work and court domains with respect to making care order decisions as seen by social workers carrying out care order preparations. The data-set consists of interviews with twenty-nine social workers in three Finnish municipalities. The data were collected as part of a wider research project ‘Consent and objection in child welfare decision-making: A socio-legal analysis.’ The research plan was ethically pre-assessed and approved by Tampere University and the research permissions were obtained from the three municipalities involved in the research project.

Social workers in the municipalities were informed about the study, and as a result, twenty-nine social workers volunteered to be interviewed. They were very experienced in child welfare: sixteen of them had worked in child welfare for more than five years and had been involved in more than ten care order preparation processes. Thirteen social workers had less than five years’ experience. The interviews lasted from 30 to 75 min, and were audiotaped and transcribed. The interviews consisted of two parts. In the first part, the social workers were asked ‘to tell a story’ of one care order preparation process and in the second part, about the characteristics and possible differences between the two care order types. In the latter part, we were interested in their general views about care orders rather than the particular case shared in the first part. The second part of the data was separated from the data corpus as the focus of the present analysis. In the ‘Discussion’ section, we will also reflect on the findings from the full interviews and overall data gathered, including recorded or observed hearings as well as group interviews with parents and young people reported elsewhere.

The data were inductively and thematically analysed (Braun and Clarke, 2006; Mayan, 2009). First, we paid attention to thematic descriptive patterns employed by the social workers when talking about the two types of care orders, and marked these thematic categories with initial codes. This phase of the analysis was done by the authors individually. The categories were then compared and discussed together. Despite some different emphases, the thematic categories were shared. The social workers’ descriptions of the characteristics of the care order types fall into four categories: those which focus on the timeline of the decision-making process; those highlighting the differences of the tone

of doing their work or the differences in the care order threshold and those which describe the system from the point of view of legal safety and inter-family communication. After this categorisation, we marked the descriptions in which the social workers described either type of care order in positive or negative terms and noted them as strengths and weaknesses. As a typical example of this part of the analysis, a description of a quick and fluent process was seen as a positive account and strength, whereas a description about a slow process with a long waiting time was seen as a negative and weakness.

## Limitations

In empirical terms, this study is small scale and selective considering the number of social workers and municipalities in Finland. As the municipalities and social workers volunteered to join the study, we gained access to research-minded informants. The profile of child welfare (e.g. the number of children in care) in these urban municipalities is typical for the municipalities (approximately 300 at the moment of the study) in general. The interviews were influenced by the local cultures of their teams, agencies and municipalities which, overall, vary within the country. Due to the emphasis on frontline practice, our data excluded social workers in managerial positions who make the final decision in consent-based care orders. There is anecdotal evidence suggesting that social work managers generally follow the proposals made by frontline workers. It is therefore evident that care order preparations carried out by frontline workers have an impact on the final decisions and their views are of interest when studying the two domains of care orders. The frontline views provide, however, only limited information about the court domain as social workers most often contact the court only by writing care order applications to the court.

There are many layers of contextual, social and historical factors—for example, trust in public administration—which shape any decision-making system in child welfare and the practices therein (Warren, 2015; Burns *et al.*, 2017; Falconer and Shardlow, 2018). Short articles such as ours are likely to fail to present them in full, especially when the emphasis is on describing the frontline views as is the case here.

## Findings

### The timeline of the decision-making process

In the social workers' views, one divider between the social work and court domains is the amount of time involved in the decision-making

process: it is either quick and fluent (social work domain) or slow and unpredictable (court domain). In the social work domain, the care order decisions are made and become valid very quickly: it is a matter of days for a social worker in a managerial position to make the decision based on the care order proposal presented by the social worker. In addition to speed, consent-based decisions allow the social workers to plan the timeline of the process, including the actual day of the placement as described in the extract below, making it fluent to all parties involved.

Of course, as a process ... a consent-based care order, well, we agreed on the date together with all the parties. We opened our diaries and agreed that on that day I and my manager, we will make a decision about the care order, and from that day on you are taken into care. It was fine for all the parties. (SW17)

If the application is sent to the court in the case of one or more parties objecting, the process could last for several months. Even if the court issues an interlocutory order, waiting for the court's final decision is a long period for the child (and the family) and the measures to support the child's safety are still needed. One typical description of the long timeline in the court domain is this

It is so tough as it takes such a long time. Let me think, my last application was sent in March, and we got the case to court surprisingly quickly as it was in November. But it was a long period to wait as everything was in limbo. The child was in limbo and it is a long time for the child. And we had meetings to discuss the client plans during that period, we had to work with the family all the time. And during the last couple of weeks before the court session one starts becoming tense, because it is such a tense event, and even stressful. And when it is over, one starts waiting for their decision. (SW30)

The social worker above highlights that the long timeline is difficult for both children and parents as well as for social workers. There are emotions involved—being tense and stressed—and uncertainty. The decision-making timeline is not spoken about only in terms of time but the unpredictable experiential impact it has on the people involved in the process.

### Different tones of doing social work

On the one hand, the social workers say that the parents' and children's opinion of consent or objection does not influence the care order preparations at all; they would work in a similar way regardless. On the other hand, the descriptions include different tones attached to the work and whether it is easy, cooperative, good or bad in the social work or court domain. Social work in care order preparations may, firstly, be easier if



the decision is made in the social work domain as, in the social workers' view, the documents do not need to be so detailed and comprehensive. In contrast, detailed justifications are needed for decisions in the court domain. Writing detailed justifications is time-consuming as described by the social worker in the following extract:

If we know that they will object and their disagreement is solid, we spend much more time making our own reasoning flawless ... and we aim to make our reasons clearly visible. (SW16)

Secondly, consensual processes are described as cooperative if social workers, parents and children share an understanding of the family's situation. A shared understanding helps the child to settle in the substitute home and supports the contact between the child, parents and practitioners taking care of the child, as well as possible family reunification. At its best, cooperation means partnership in the child's matters. In contrast, some of the preparations resulting in the expression of objection are shaped by conflicts, disagreement and even the lack of contact as described in the next extract.

Well, in general, if you think of a consent-based process, it is normally definitely easier, of course, because you can make agreements about things and you share the same aims. And the non-consensual process can in its worst form be such that you can't even talk with each other, those situations can be so rough. That it does not help whatever you do. Sometimes they just can't understand the reasons although you do your best to explain them and you can't discuss anything further. (SW9)

Thirdly, the qualities of 'good' and 'poor' social work emerge as tones of practice when social workers speak about the two types of care orders. Consent-based care order preparations are viewed in many interviews as a result of good professional practice and skills as agreement has been achieved. The descriptions of the nature of social work in non-consensual processes are, however, more varied. Some say that 'some social workers' may see it as a lack of social work skills. For others, the parents' and children's right to oppose the care order proposal is not associated with the quality of doing social work. Nevertheless, the tones of 'good' and 'poor' skills are there.

### Similar or different threshold and criteria

Similarly to the nature of social work in the care order preparations, the views about the threshold and criteria for a care order are divided: one view emphasises that the threshold is similar regardless of the opinion of the parties, whilst the other view states that the threshold is higher in the case of objection.

When expressing the former view, the social workers emphasise that the proposal for a care order is based on their professional assessment of the child's situation and would not be influenced in any way by the parents' or children's consensual or non-consensual views. This is apparent in the extract below.

... our reasons, regardless of consent or objection, need to be clear and evident, so that it is clear why this is done ... because it is such a major interference in people's life, you can't just do it without a good reason, you need to have real reasons. It is the right of each of us that we have reasons for the interference. (SW8)

On the other hand, when expressing the second view, the social workers say that objection leads to considering the criteria for a care order with the utmost care and preparing the case with special diligence. They might take more time to assess the child's and family's situation which, in some contested cases, can be difficult due to the lack of cooperation and contact. They may also consider in-home services more carefully as, according to the Child Welfare Act, a care order should be considered only if in-home services are not relevant or appropriate. The social workers say that the court might examine carefully whether all possible in-home services have been explored. This view is described by a social worker below who states that for the court's hearing, it is essential to demonstrate that all in-home services have been exhausted.

When it becomes clear that you will send a care order application to the administrative court, you try to take care that all possible and relevant supportive measures have been tried out and you have not left any stone unturned and justify your work with the family thoroughly in that way. (SW25)

The interviewee's description of their way of working to 'leave no stone unturned' in connection to the administrative court, is, in our reading, an indirect statement about a higher threshold for an objection-based care order.

## Legal safety and inter-family communication for families

Many social workers say that the key element of the parallel decision-making system is that parents can have their case examined by the court if they do not agree with their social workers. In other words, the court domain is there for the legal safety of children and families. The relevance of the court domain for legal safety is not doubted at all in these interviews.

However, legal safety is not the only reason why some family members express their objection to the care order proposal and take their case to the court domain. The social workers speak a lot about the

intimate meaning of consent and objection in the communication between family members. A parent may object to the care order proposal as s/he wants the child to know that s/he is not willing to give the child away—although the parent ‘in her/his heart’ agrees with the justification for the removal.

I think the mother herself said that she was troubled by her daughter's reaction when she finds out about her agreement to the proposal. That was the topic which troubled her the most. And we have had cases in which the parent expresses objection just so that the child could not read in the documents sometime in the future that the parent agreed to sending the child away from home. (SW18)

In this extract, the meaning of objecting is linked to inter-family relations and how the relations are communicated. More important than the court domain itself is the message embedded in the documented objection about the parent's unwillingness to give the child away.

### Strengths and weaknesses of the social work and court domain

All the characteristics which the social workers attach to the social work domain are described in positive terms. The social work domain is approached from the point of view of strengths: it is fluent and quick for children, parents and social workers; it provides them with a forum for partnership, cooperation and shared understanding and for ‘good’ quality of social work; it means a lighter workload and a less argumentative practice for social workers as well as a less strict interpretation of the criteria for the care order than the court domain.

In contrast, the court domain is seen in a more mixed light. It is slow to respond to the needs of the child and leaves the family and social workers in limbo and means more work for social workers, including more detailed justifications. Whilst the negative elements are seen from the point of view of practice, the strengths of the court domain are approached from the point of view of the legal safety of parents and children. In addition, the division of care orders regarding consent or objection provides an option for family members to express their unwillingness to be separated, which is important for their inter-family relations.

### Discussion

The findings present a binary view: the court domain is mainly a legal arena whereas the social work domain is a psychosocial arena for making care order decisions important to family members. This includes, problematically, a view that objection-based care orders are of a more legal nature than those based on consent. The social work domain is

described as being the arena for fluency, partnership, cooperation and a shared understanding of the needs of the child. The court domain receives less attention in these interviews; when it is talked about, legal safety is the key topic. The involvement of children and parents in the decision-making process, one of the ethical, legal and professional safeguards, is the overwhelming theme for describing the social work domain in particular. This emphasis on involvement is also manifested in the hearings, observed in our study, which, despite their administrative role, are carried out in a way that includes features from close communication relationships and that ensures children's and parents' participation in a variety of ways (Välikoski *et al.*, 2020, 2021).

The involvement of children and parents is approached by social workers from the point of view of partnership—equality between those involved in the care order preparations—which goes far beyond the procedural safeguards set out in the legislation about participation. Whilst in the literature there are doubts about the true nature of partnership in child welfare due to the power imbalance (e.g. Gambrell, 2008), these social workers emphasise the virtues of partnership in decision-making: they talk about shared decisions to separate the child from his/her parents and how a consensus is beneficial to the child. They also speak about the social work domain in terms of procedural fairness for families as it gives room to acknowledge the family's emotions, wishes and tensions related to the issue at hand (Enroos and Pösö, 2021b). According to Venables and Healy (2019), a part of procedural fairness in child welfare decision-making is that interpersonal relations are treated with respect; this is well represented in our data, also with respect to the communicative behaviour in the hearings (Välikoski *et al.*, 2020).

However, the descriptions of the social work domain as an arena for procedural fairness and partnership virtues are challenged by the descriptions of that domain meaning less work for social workers than the court domain. 'Less work' means less detailed documentation and justification and eventually, the likelihood of a lower threshold for the care order proposal on some occasions. It can also mean fewer services for consenting families as social workers say that in the likelihood of objection in-home services are provided in the sense of 'no stone being left unturned'. It could be in the interest of social workers that all parties consent, and this self-interest could lead to attempts to influence the family members so that consent is given. The interactional patterns observed in the hearings did not include any clear forms of pressure or undue influence (Välikoski *et al.*, 2020). However, when we interviewed parents in the focus groups whose children had been taken into care, we came across views that social workers may give the impression to families that it is better to consent as it makes the procedures easier for everyone (Enroos *et al.*, 2021a). Similarly, the care experienced young people in their focus groups spoke of the likelihood of teenagers

consenting in order to please their social workers as children are dependent on, and loyal to, their social workers (Pösö, 2022). Nevertheless, both groups of stakeholders acknowledged that the social work domain is relevant to parents and children in some situations. Sometimes parents, as they said, cannot cope on their own with the behaviour of their teenager or are too unwell due to mental health issues to take care of their younger children—in these instances, it is important to have someone else to take care of the child and there is no reason to object to the care order proposal. Young people in particular favoured social workers over judges to make decisions about their private matters as they wanted to know the person making the decisions about their lives (Pösö, 2022).

Nevertheless, even the smallest likelihood of the social work domain being influenced by the social workers' interest to keep the decision-making in the social work domain for their own sake leads us to elaborate on the concept of 'toxic duo', which, as defined by Horwath (2016), refers to the combination of the legal and organisational context and the practice of individual practitioners with parents and children in vulnerable positions; that combination becomes toxic if practitioners are not well supported to do their work properly. The Finnish social work domain becomes toxic if the practitioners prioritise their own workload over the rights of children and families. There could be 'good' reasons to do that (e.g. smooth process for families) but it is nevertheless toxic as it does not recognise the care order decisions as decisions interfering in the basic rights of the persons concerned or the power imbalance embedded in these decisions.

Whilst the existing legal safeguards guide discretionary administrative power (Mäenpää, 2012), even the smallest hints at a toxic social work domain pose some challenges to the existing safeguards for care orders. The safeguards should also address the organisational imperatives, those related to resources in particular, so that there is no need to take short-cuts for the sake of avoiding delays in the decision-making process or higher workloads for social workers (see also Skivenes and Tonheim, 2016) or to cut the number of in-home services. Organisational resources have an impact, of course, on both domains. During the COVID-19 pandemic, for example, the decisions made in the court domain have decreased by 25 per cent, compared with only 2 per cent in the social work domain (THL, 2021). The reason for the decline of the decisions in the court domain is speculated to be related to the court workloads (ibid.). This suggests that the social work domain has been more flexible in adapting to the pandemic. What this means for the safeguards for the quality of care order preparations and the nature of consent given by the parties during the pandemic is left for future studies to explore.

An even more challenging matter is to evaluate whether the existing safeguards for the interaction between social workers and family

members are sufficient. Such situations are stressful and even traumatic for families (e.g. [Lewis, 2022](#)). In the interviews, the parents spoke in favour of having more integrated peer-support in the care order preparations from parents who have been through the same processes, young people spoke in favour of having a long-lasting relationship with a devoted social worker and social workers spoke about having more time to work with the families. Interestingly enough, these are all suggestions that aim to improve the conditions for interaction itself instead of introducing legal professionals into the social work domain.

## Conclusions

We started this article by saying that the Finnish parallel use of the social work and court domains for making decisions of care orders is an anomaly in the cross-country context of decision-making systems. We finish this article by saying that it is not only an anomaly but also an enigma. Social workers aim to enable a smooth separation for the children and parents by acknowledging the psychosocial nature of the decision, and that is why the social work domain, based on the consent given by the parties, is seen as being fair and sensitive to the emotions and family relations ([Broadhurst and Mason, 2017](#); [Enroos and Pösö, 2021b](#)). We did, however, come across some potential misuse of the discretionary space given to social workers which, even as a small likelihood, is a threat to the legitimacy of the parallel decision-making system. The recognition of the potential misuse calls for new safeguards for organisations and interaction alike, and, eventually, a re-evaluation of the role and nature of consent in care order decisions.

Other, more unitary, court-based decision-making systems face their own challenges (e.g. [Dickens and Masson, 2016](#); [Porter et al., 2019](#); [Brennan et al., 2021](#)). As no decision-making system is flawless, the balancing of the system strengths and weaknesses may be relevant only to the particular socio-historical, legal and cultural context in which these complex decisions are made. A true challenge for every system is, however, to find practices in which social work and the courts interact well to acknowledge children's and parents' right for a fair and smooth decision-making procedure in a very difficult phase in their lives.

## Ethics statement

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