

**LEGAL SERVICES OFFICE**

**AND**

**SOCIAL CARE AND HEALTH**

**JOINT WORKING PROTOCOL**

**PART 1**

**RELATIONSHIP AND SERVICE ISSUES**

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PART 1 – RELATIONSHIP AND SERVICE ISSUES**

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**1. Introduction**

- This Joint Working Protocol is split into two parts.
- Part 1 deals with the specific relationship between the Legal Services Office (LSO) and the Directorate of Social Care and Health (The Directorate) and service matters. This part has taken the Law Society Good Practice Guide for Solicitors acting in Public Law cases into consideration.
- Part 2 is a specific case planning and management protocol aimed at achieving compliance with the National Judicial Case Management Protocol and, in line with that protocol, reducing delay in Public Law Children Act cases.

**2. Matters Outside this Part**

- The LSO aims to achieve the Law Society's Lexcel Quality Standard and ISO9001. The LSO has developed a comprehensive Quality Manual. This Protocol builds on the manual and is not intended to repeat matters in it.
- Matters in the Service Level Agreement (SLA) developed between the LSO and the Directorate are not fully repeated in this protocol.

**3. Goals and Aims**

- The LSO and Directorate are committed to delivering corporate policies and the corporate priority of improving performance.
- It is essential to:
  - Give an efficient and effective service to users and courts,
  - Improve performance on key tasks/areas,
  - Use legal and Social Care & Health resources in the best way.
- Through the provision of proactive, timely and accurate legal advice and skilled representation in Court, the LSO will assist the Directorate in key areas -
  - Compliance with national standards on assessment,
  - Care planning,
  - Adoption,
  - The Judicial Case Management Protocol (JCMP).
- To succeed, this protocol will require a commitment to joint training and development, and in particular:
  - Organisation and time management for social workers in order to successfully project manage cases,

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- Training and initiatives in order to fully implement the Framework for Assessment of Children in Need,
- Care planning,
- Court skills,
- The JCMP and Joint Working Protocol,
- Other targets, e.g. in adoption,
- Issues relating to community care and adults.

#### **4. Roles and Responsibilities of LSO and Directorate**

- Decisions about the welfare and protection of children and adults should be taken within the Directorate. This is where the necessary expertise to evaluate risk and to carry out assessments is to be found.
- Social workers and managers should have knowledge and skills in:
  - Issues of harm,
  - Assessment and planning,
  - Analysis,
  - Judgement and decision-making.All of these skills are needed in order to properly plan for children.
- Lawyers have a valuable contribution to make and can add value through their ability to advise on the law and procedure, evidence and propriety and can generally bring their experience and local knowledge into play.
- In children's cases, there are specific areas where legal advice is essential:
  - Whether in the circumstances of the case and having regard to the Section 1(3) checklist in the Children Act the Court is likely to be satisfied that the Section 31(2) Children Act criteria are satisfied and that an order should be made under the Section 1(5) test - the "no order" principle.
  - The implications of another party to the proceedings opposing the application and applying for a different order.
  - Whether the application falls within the criteria for transfer of cases to a higher court and whether representations about this should be made.
  - Whether the court should be asked to make an interim care or supervision order, the desired length of the initial interim order and what directions should be sought.
  - The matters to be provided for in the local authority's advance statement of case (case plan), including the planning of witness statements, discovery and disclosure and the authority's plans for the child.
  - Notice and procedural requirements and matters likely to be considered at directions appointments.
  - Whether the Court is likely to consider that in all the circumstances a guardian does not need to be appointed.

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- Alternatives to and combinations of care orders and other orders sought by the local authority.
- The implications of case law, legislation and guidance for the plans of the Directorate.
- Case planning and management to meet the demands of the JCMP including evidence, expert evidence and permanence planning.

In all of these areas, legal advice is given and cases are considered in partnership with the social worker.

- The social worker's role – what the social worker should contribute:
  - Assessment skills.
  - Case planning and project planning skills.
  - Analysis of information.
  - Making judgements and decisions following assessments and analysis.
  - Making judgements on the need for experts.
  - Communicating issues in the case and keeping lawyers instructed without having to be asked.
  - Turning up at Court on time before the hearing with their diary and the appropriate file.
  - Having clear ideas on objectives and outcomes.
  - Having knowledge of resources to meet the needs of children and families.
  - Being able to represent the Directorate in Court with skill, and understand the legal process.
  - Providing statements on time, in order, signed and dated.

## **5. Relationships between Social Workers and Others Involved in the Legal Process**

### The Court

To succeed and build a good relationship with the Court, social workers will need to be proficient in the following areas -

- The provision of evidence:
  - Evidence must be factually accurate. Court guidance has repeatedly stated there must be a running chronology on social work files.
  - All relevant information must be disclosed whether or not this supports the application of the local authority. This is linked to the need to take into account the strengths of parents and others being assessed as well as any weaknesses.
  - Good assessment skills are needed.
  - Judgements and decisions should be based on evidence and research and cover all the issues.
  - Social workers must be skilled in care planning and permanence procedures.
  
- Procedural issues:

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- Statements must be provided in time to be filed and served in the time directed by the Court.
- Social work steps must be forward planned to ensure that the court timetable is met, with a personal timetable in place running alongside that of the Court.
- Understanding of court roles, procedures and requirements, including:
  - The case management role of the court and timetabling;
  - The decision-making role of the court;
  - The role of the social worker in giving evidence - See "Reporting to Court under the Children Act, a Handbook for Social Services", (Department of Health 1996).

Social workers are entitled to be treated with dignity and respect by the court. However, the Court will unflinchingly comment on deficiencies in social work practice. Where such practice causes delay or the adjournment of hearings or prejudice to a party, the court is empowered to award costs against the local authority.

#### Children's guardians

- The children's guardian is appointed in specified proceedings, which include care proceedings.
- A children's guardian is an officer of CAFCASS, which has adopted national practice standards. The guardian has a duty to safeguard the interests of children, to attend all directions appointments and hearings in proceedings and to advise on specific matters.
- The guardian is advised to obtain such professional assistance as he thinks appropriate or which the Court directs him obtain.
- The guardian has a duty to investigate the case and inspect appropriate records.
- The guardian has the right at all reasonable times to examine and take copies of local authority records and to bring them to the attention of the Court and, unless the Court so directs, the other parties to the proceedings. This right must not be inhibited by unreasonable restrictions
- The guardian is entitled to inspect Social Care and Health Directorate files in respect of children, but certain information, in particular documents which attract legal professional privilege, ought not to be disclosed without legal advice.
- The local authority may be entitled to refuse to allow a children's guardian to examine documents which attract legal professional privilege: any claim to such privilege should be made only upon legal advice and, in general, the existence (but not the content) of such documents should be disclosed to the child's guardian who may refer the matter to court.

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- The guardian is required to appoint a solicitor to act for the child, unless already appointed by the Court, and should instruct the solicitor on all matters relevant to the interests of the child.
- Co-operation between guardians and social workers is key to avoiding duplication of effort.
- Early disclosure of documents such as chronologies can avoid duplication.
- Notifying one another of appointments is also helpful in avoiding scheduling clashes.
- Further information can be found on the CAFCASS website or in the Department of Health publication "Reporting to Court under the Children Act – A Handbook for Social Services" (Department of Health 1996).

Parties' Solicitors

The Law Society has published good practice guidance for solicitors acting for parties in public law Children Act cases. Parties include the children. This provides the following points among other things:

- Representatives should keep a focus on the interests of the child even when acting for another party.
- Representatives should be non-adversarial, i.e. should not behave in an unduly adversarial, aggressive or confrontational manner, and should work in a spirit of professional co-operation.
- Parties and their legal representatives are entitled to be treated with respect.
- Social workers are entitled to be treated with courtesy and professionalism by solicitors for parties.
- The parties' solicitors are expected not to give personal opinions and comments.
- Non-local authority parties' representatives should not contact members of Social Services Departments direct without the consent of the relevant Local Authority Legal Department.
- Solicitors for children visiting a child should follow good practice and inform the Local Authority's Legal Department, and as a matter of courtesy liaise with the social worker so that arrangements can be made with the foster carer or children's home to facilitate the visit.

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**6. LSO Lawyers**

- There is a dedicated Social Care and Health Legal Team within the LSO.
- The team will be led at all times by a lead solicitor who:
  - Has at least 7 years post-qualification experience,
  - Can demonstrate an in-depth understanding and knowledge of local authority law but is a social services specialist,
  - Is an experienced family practitioner and advocate,
  - Is a member of the Law Society's Children's Panel or in the case of public service practitioners, has specialised in family law for in excess of 3 years.
- In support of the lead solicitor, there will always be deputies available with appropriate post-qualification experience who:
  - Can demonstrate an understanding and knowledge of local authority law and are social services specialists;
  - Are members of the Law Society's Children's Panel, or in the case of public service practitioners have specialised in family law for at least 3 years;
  - Are experienced family practitioners / advocates.

**7. Allocated Lawyers in Legal Cases, Roles and Responsibilities**

- Each case before the Courts will have an allocated lawyer for the case who will take primary responsibility for the litigation process and oversee the conduct of the case through the Court.
- Every effort will be made to ensure continuity of representation. Allocated lawyers will bring their diaries to court and seek to ensure, as far as is practicable, that hearings and meetings are scheduled taking into account their availability.
- Although continuity of representation in cases is important, it may be necessary in delivering the service for the case to be handled by different members of staff with appropriate knowledge of child care law and practice from time to time. Social workers and the team manager will be informed of changes and of the reason for the change, in advance where possible.
- The allocated lawyer is responsible for ensuring the integrity of the local authority's case before the Court. All relevant information will be shared with the Court and other parties. Lawyers will seek to approach cases in a non-adversarial manner and to promote the interests of children.
- The LSO is not just a service provider but has corporate and propriety responsibility to safeguard and protect Birmingham City Council. Where

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this proves necessary, corporate and propriety aspects will sometimes outweigh the service provision considerations of the Directorate.

- The allocated lawyers' legal duty is to the Court and this will sometimes mean taking action which may not accord with the instructions of the Directorate. When this happens the LSO Team Leader and Directorate Operations Manager should be advised. Also the social worker and team manager will be informed in advance if possible.
- All proceedings shall be dealt with as expeditiously and correctly as possible and it is the legal duty of lawyers and social workers to comply with directions made by the Court, particularly with regard to the timetable of cases.
- The Directorate will be advised of any change in the allocated lawyer within 5 days of the change occurring. Consideration will be given to a handover meeting taking place, involving the outgoing and incoming lawyer together with the social worker and/or team manager.

**8. Allocation of Cases and Supervision – LSO and Directorate**

- The LSO Social Care and Health Division is split into three teams with each team headed by a Principal Solicitor to reflect the organisation of the Directorate as far as possible.
- The LSO has also retained a number of firms in private practice on a call-off basis to deal with peaks in legal work.
- As cases arise, they are allocated to the appropriate team for the area and at an appropriate level, based on the complexity of the case and the caseload of the lawyers in the team.
- An allocation database is maintained by the LSO.
- If at any stage there is no capacity within the team for the area, cases will be allocated to a call-off firm.
- The Directorate will ensure that cases before the Court have an allocated social worker at all times, and that the social worker is suitably qualified and experienced.
- The LSO and the Directorate will ensure that lawyers and social workers receive regular and effective supervision in line with the LSO quality manual and Social Care and Health procedures.

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**9. Efficiency and Effectiveness**

- The LSO will maintain a “precedent pack” for use by LSO lawyers which will underpin the case planning process.
- The precedent pack will be regularly reviewed to ensure that it is up-to-date.
- The precedent pack will be available to all LSO lawyers through IT systems.
- The LSO will also maintain a “divisional directory” containing useful contact information which will be regularly reviewed.
- The LSO and Directorate will regularly share good practice and initiatives aimed at efficiency and effectiveness.

**10. LSO Duty System**

The LSO will ensure that:

- A solicitor of sufficient experience is available to be contacted at all times during usual office hours in each working day, i.e. 8.45 am to 5.15 pm.
- There is a telephone number available at which a solicitor of sufficient experience may be contacted in emergencies outside usual office hours. The solicitor will be contactable through a published emergency duty system.

**11. General Legal Advice**

- General advice can be obtained from the LSO on legal procedural and propriety issues. Before requests are made, you should check the Social Care and Health procedures manual then speak to their team manager and if necessary their Operations Manager who will often be able to provide guidance. The Social Care and Health procedure writers are also a valuable contact.
- The LSO will operate the following general advice system:

Non-urgent advice

- Requests should, if possible, be in writing with full documentation attached.
- The LSO aims to provide the advice within 28 days.

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Urgent advice

- Contact may be made by fax or telephone. If e-mail is used, this should be agreed with the duty lawyer.
- The LSO aims to provide advice in such circumstances within 24 hours or to meet the needs of the situation.
- Requests for advice should have the permission of the Operations Manager. The lawyer will ask if this has been obtained before giving advice, as the Directorate will be charged for the service.

**12. Information and Communication**

Information

- The LSO will maintain an information pack which will be updated and made available to the Council and Directorate. The pack identifies the areas of work carried out by the LSO, key personnel and divisional structures.
- The LSO will keep the Directorate informed of changes in personnel and team structure.
- The LSO will, from time to time, publish core packs of legal information on relevant legal issues which will be available to lawyers and managers, social workers and other professionals in the Directorate.
- The LSO will publish a bi-annual legal news bulletin which will cover personnel, organisational and legal issues.
- The Directorate will keep the LSO informed of:
  - The structure and decision-making processes of the Directorate;
  - Directorate contact information;
  - Important information affecting the Directorate including changes in procedures.

Communication General

- The LSO and Directorate will establish and maintain communications with one another at all levels to achieve the following key outcomes:
  - To ensure joint accountability for service improvements;
  - To ensure early identification and response to problems and developments;
  - To control costs;
  - To reduce delays;
  - To improve external perceptions of Birmingham City Council.

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Communications Meetings

- The LSO Assistant Director / Social Care and Health will meet quarterly with the Director and Directorate strategic staff.
- LSO Team leaders within the Social Care and Health Division will meet quarterly with Area Directors and Heads of Service.
- Senior solicitors from each team will meet quarterly with Operations Managers and team managers within the area.
- Meetings will have an established agenda and will be maintained on a quarterly basis.
- Feedback from meetings will be communicated and disseminated in LSO planning meetings, management meetings and team meetings and in Directorate management and team meetings.
- The venue of meetings will generally be at Directorate offices but may be at LSO offices if required.

IT and E-Mail

- The LSO and Directorate will develop the effective use of IT which will be regularly discussed at communications meetings and be a standing item on each agenda.
- The LSO and Directorate, with other stakeholders, will develop guidance for lawyers and Directorate staff on the use of e-mail.

Communication - Correspondence

- It is important that corporate targets for answering correspondence are met.
- Non-routine or external correspondence should be acknowledged, and instructions and advice sought from the Directorate or LSO as appropriate.
- Urgent correspondence will be dealt with by fax and telephone.
- The LSO will forward non-urgent correspondence received to the Directorate for instructions to be provided in 14 days.
- If no response is received, a further letter will be sent to the Operations Manager seeking instructions. This letter will set out the failure to respond, a maximum 7-day further period for a response and the consequences if no response is received by the allocated lawyer.

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- If there is no response within a further 7 days, a letter will be sent to the external individual or agency stating that it has not been possible for the LSO to obtain instructions. A copy of that letter will be forwarded to the Head of Service and Area Director pointing out the lack of response.

Communication - Progress of Case

- After each hearing, a memorandum and file note will be provided setting out what has occurred, future expectations, the directions of the court and, where appropriate, providing feedback on social work performance.
- The allocated lawyer will at all times keep the Directorate informed of changes in the case or in the law affecting the case.
- The Directorate will in turn keep the allocated lawyer informed of developments in the case. Cases should be kept under review by the social worker and team manager to ensure progress and that timescales are met. If there are changes, the allocated lawyer should be told, with proposals for a revised timetable.

Communication - Client Care

- On instruction in a case the allocated lawyer will send a client care letter which gives information on the future conduct of the case and client lawyer relationships.

**13. Complaints/Praise**

- Where matters are not raised formally as complaints or there is evidence that issues of concern have arisen in correspondence or through informal contact, the LSO and Directorate will proactively investigate to ensure that the appropriate action is taken and things are put right. If the matter turns out to be a more serious issue, it will be dealt with under the complaints procedures.
- All communications from the LSO to social workers will normally be copied to the appropriate social work team manager to assist in the proper supervision of cases.
- Matters of concern and good performance will be regularly reported to managers.
- LSO lawyers will report such issues to the team manager and Assistant Director / Social Care and Health Legal Team. Reports will be copied to the Area Director, appropriate Head of Service and Operations Manager.

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- Social workers and other professionals in the Directorate will report concerns and complaints in respect of LSO staff to their team manager. The team manager will in turn discuss with the LSO Team Leader. Each will notify their line manager of the outcome. If not resolved, these managers will address the issues.
- The LSO operates a complaints system under its quality manual to handle complaints.

**14. Risk Management and Case Review (Problem Solving)**

- See Sections 10 and 11 of Part 2 of this Protocol. Risk management applies to all cases and matters, not just children's cases.

**15. Counsel**

- See Paragraph 8.4 of Part 2 of this Protocol. Rules on the use of counsel apply to all cases, not just children's cases.

**16. Training**

- The LSO and Directorate will meet regularly at senior manager level to identify and develop a joint training programme.
- The LSO will have regular input into the following areas of training:
  - Induction for social workers;
  - Court skills;
  - The Inter-Department Protocol on case planning and management;
  - New areas of law.

The LSO and Directorate will together develop training on new areas of law as and when these arise.

**17. LSO Attendance at Committee/Panel**

- The LSO will ensure that a named lawyer is available to support relevant cabinet members, scrutiny committees and constituency committees.
- The LSO will also ensure that a named senior lawyer is available to attend the following meetings:
  - Family Court Business Committee (FCBC);
  - Area Child Protection Committee (ACPC);
  - Adoption and fostering panels as appropriate;
  - Such other important committees as may be established.

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- The Directorate will ensure that a senior officer is available to attend FCBC.

**18. Monitoring and Statistics**

- The LSO will ensure that the following statistics are available to the client:
  - Court hearing statistics (monthly);
  - Statistics on late statements (monthly);
  - Information on work type totals (quarterly);
  - Other statistical information as agreed with the Directorate and developed through the work on the case planning and management part of this protocol.

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***CHILD CARE CASE PLANNING  
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**1. INTRODUCTION**

Part 2 of this protocol is aimed at public law Children Act care cases.

The objective is to reduce delay and to achieve compliance with the national Judicial Case Management Protocol (JCMP) in order to bring about an improved service to children and families. This protocol aims to do this by achieving the following goals:

- Improving the conduct of children's legal casework through effective case planning;
- Improving the quality and focus of evidence;
- Improving communication and co-ordinating interdepartmental action.

This part sets out innovation and guidance with cross-references to appendices, which are a mixture of good practice examples and guidance notes. Important features are the early involvement of LSO lawyers, structured legal planning meetings and standard case planning procedures. The outcomes we are looking for are a clear focus on the issues and evidence, clear time-bound plans, reduced delay and costs and enhancing the confidence of staff involved in the legal process.

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**2. EFFECTIVE CASE PLANNING AND MANAGEMENT**

***Why do we need to do it?***

- Delay and drift are major issues. Section 1(2) Children Act 1989 requires the Court to:
  - “Have regard to the general principle that any delay in determining any question is likely to prejudice the welfare of the child.”
- The lack of effective case management of public law Children Act cases has been identified as a major contributor to delay.
- The National Judicial Case Management Protocol (JCMP) comes into force on 1 November 2003. All new care cases and cases transferred from the Family Proceedings Court (FPC) after that date are to be completed in less than 40 weeks unless there are exceptional and unforeseen circumstances.
- The JCMP sets targets at each stage, e.g.
  - On issue of application the social worker must provide a chronology, statement and other supporting documents by day 3;
  - By the case management conference (as early as day 15), the Local Authority must be able to identify all ‘the social work and legal steps which will take the case to conclusion at the final hearing.’
- Target times are the ‘maximum permissible times’ allowed for each step.
- Target timescales in the National Adoption Standards must be met.
- Twin-tracking to permanence: there is clear guidance from the Court that sequential decision making for children in care cases is not acceptable.

**Unless there is detailed forward planning of cases, it is unlikely that standards and targets will be met.**

***How do we case plan?***

- Due to their complexity, care cases require project planning skills.
- This protocol and the appendices aim to give practical guidance on the process linked to social work procedures on the one hand and the JCMP on the other.

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- The legal case planning meeting set out at Part 6 is the point at which the detailed planning of the litigation takes place. The agenda of the meeting, along with the case planning tool at Appendix 2.5 and 2.5a and the task allocation document at Appendix 2.2, are all designed to ensure that there is a clear project plan with achievable tasks and milestones.

***What are the essential elements of project planning?***

- Set the aim – what is the project meant to achieve? What is the desired outcome?

The straightforward answer in all care cases is ‘permanence’ for children.

The Department of Health Adoption and Fostering Taskforce definition of permanence is that -

“Permanence is a framework of emotional, physical and legal conditions that gives a child a sense of security, continuity, commitment and identity. It is about the first of the government’s objectives for children’s social services - to ensure that children are securely attached to carers capable of providing safe and effective care for the duration of childhood.”

Permanence can be achieved through placement with parents, family and friends, or if necessary, through adoption or long-term fostering.

- Define the objectives – what are the key stages in achieving the aim? These must be specific, observable, measurable and time-bound.
- Set work plans - there should be clear work plans for each piece of work setting out key tasks, duration, critical tasks and dependent tasks which can be carried out simultaneously. Substantial tasks should be sub-divided into smaller pieces. Adequate time needs to be in place for the preparation of reports.
- Timetable in a reporting stage / signing off mechanism – the reporting stage needs to be planned in so that there is a target date for the completion of the work plan and the submission of reports. These should be signed off by a meeting or an individual with the authority to make decisions.

A pre-requisite of project planning is that there is early identification of resources and access to, and knowledge of, processes. In care cases you need to be familiar with the Framework for the Assessment of Children In Need (FACIN), Form F1 and 2 assessment procedures in respect of family and friends carers, and internal and external referral procedures such as child protection resources, family and friends referrals and adoption referrals.

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***Which areas require project planning in care cases?***

- The assessment work to be project planned can be broadly divided into three areas:
  - Child and parent assessment (FACIN). This may include expert assessment, intensive residential or community based assessments. These assessments need to be timetabled for consideration by a child protection conference or statutory review which will make recommendations for decision by the appropriate manager.
  - Family and friends (kinship) assessment (outline assessment and/or Form F Part 2 assessment). On completion, these assessments should be considered at a child protection conference or statutory review and, if necessary, by a fostering panel which would make recommendations for approval by the appropriate manager.
  - Adoption/long-term fostering. Plans are confirmed by child protection conference or statutory review. Considered by the appropriate panel and confirmed by the local authority decision-maker.
  
- Given the 40-week maximum timescale and judicial guidance on twin-track planning, tasks need to be planned and executed simultaneously. Forward planning and pre-booking of meetings is essential. A clear knowledge of adoption and permanence issues and local procedures is also essential.
  
- While these are broad areas, it is important not to be too simplistic. Issues constantly arise in care cases which may require assessment and evidence, and which may impact on the timetable. Examples are:
  - Sudden denials of paternity with subsequent need for DNA testing.
    - The sudden discovery of relatives willing to care for a child late in the proceedings.
  
- Even with early and detailed planning, the unexpected can arise. Early planning will, however, give the opportunity of considering all the issues and 'spotting' the relevance or importance of an issue which might otherwise have been overlooked. In project planning, there are key issues:
  - Each piece of work needs to be identified.
  - Resources must be in place to carry out work.
  - The proficiency and knowledge of the individual carrying out the work needs to be checked – they need to know how to do it.
  - Work plans with milestones need to be drafted.
  - When pieces of work involve or will involve others, the work plans should be sent to them so that they know what is expected of them and when.
  - Reporting dates should be set.

**How does this protocol work?**

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NB The JCMP is binding in law.

- This protocol is aimed primarily at non-emergency cases. The objective is to have the following tasks completed by the time proceedings are issued:
  - The core assessment;
  - The planning needed for the commissioning of any further assessments with resources and timescales in place;
  - A case plan with a clear timetable for further assessment plans, referrals and meetings on the case;
  - The documents required by day 3 of the JCMP.
- The protocol allows a period of up to 12 weeks for the completion of tasks prior to issue of the care application.
- The protocol takes a step by step approach to proceedings from emergency action through case planning in non-emergency cases and then through the JCMP.
- The major new initiative in this protocol is the detailed early case planning and associated guidance set out both in the protocol and in the appendices. These are designed to ensure that we get it right as much as possible and that the LSO is adding value where it matters most - at the start of the process - but also continuing throughout the process.

**What happens in applications other than care applications?**

- The LSO provides a legal service in respect of many other applications involving children. The discharge of care orders, secure accommodation, contact and injunctive applications to name a few. In every case, a case planning meeting is advisable before commencing litigation.
- The LSO is developing core packs of guidance which will assist in setting an agenda and providing more information on law and procedure in many areas. Updates will be provided through the communication strategy mentioned in Part 1 of this protocol and through the Legal News Bulletin.

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**3. EMERGENCY PROCEEDINGS**

***How do I get advice?***

- The Legal Services Office (LSO) operates a 24-hour duty lawyer system.
- During office hours contact the LSO on 464 3096 and ask to speak to the duty lawyer.
- Between 5.15 pm and 8.45 am on weekdays and at weekends from 4.15 pm on Friday to 8.45 am Monday, there is a lawyer on call.
- Contact 08700 555500. Quote pager number 875958. Leave a message including contact details. You will then be contacted by the duty lawyer.

**It is a recommendation of the Laming Report following the Climbié Inquiry that legal advice must be sought before any emergency action is taken.**

***What to do when police protection of children takes place***

- A constable has powers to take children “into police protection” for up to 72 hours if he has reasonable cause to believe that a child would be likely to suffer significant harm if he did not remove the child to suitable accommodation, or take steps to prevent removal from a hospital or other place where the child is being accommodated.
- When a child is kept in police protection, parental responsibility remains with parents and there is no sharing of that responsibility. The police must do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child’s welfare, having regard to the length of the period during which the child would be in police protection.
- Police protection should only be used in a true emergency. It is an administrative measure with no external scrutiny and allows for limited intervention during that period.
- The alternative is to seek an emergency protection order, and consideration should always be given to whether the child’s best interests would be better protected by such an order. On the making of an emergency protection order parental responsibility is shared with the parents by the applicant; the scrutiny of the Court assists in ensuring that the human rights of children and parents are protected.
- Where police protection is in place, the LSO must be notified as soon as possible.

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- When such action takes place at the weekend or during the evening, inform the out of hours lawyer. We need to know so that we can make an emergency protection application as early as possible.

NOTE: Since the coming into force of the Human Rights Act 1998, the Court has tended to the view that emergency protection order hearings following police protection should be on notice, with all parties present as the child is, by that stage, in a place of safety, and the 72 hour period of police protection should give sufficient time for the organisation of a hearing with all present.

***How do I go about making an emergency protection application?***

- The LSO will design and maintain a core pack setting out the law, procedure and local practice, which will be available to social workers. Social Care and Health procedures should also be followed.
- Legal advice must always be sought whether during or out of office hours.
- You should provide draft forms C1, C11, social work chronology and a short statement on the precipitating incident along with relevant reports if available.
- **All relevant information, whether this tends to support the local authority case or not, should be provided.**
- The LSO lawyer will give advice, consider draft applications and redraft as necessary.
- During office hours, the lawyer will then make the necessary arrangements for the hearing with the Court, and provide representation.
- Out of office hours advice must still be sought from an LSO lawyer, but the arrangements for the hearing will be made directly by you with the FPC duty clerk.

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**What happens after emergency action?**

- Where planning to take care proceedings is already ongoing, the legal planning meeting will reconvene as quickly as possible to review tasks and consider timescales.
- Where there were no previous plans to initiate proceedings, but following the emergency action further proceedings are likely, a child protection conference or statutory review should be convened within 5 working days or as soon as practicable.
- Delays in convening the meeting should not prevent care applications to the Court should this be necessary.
- Once a decision has been made to initiate proceedings, a legal pre-action planning meeting should be convened within 5 days in order to plan the litigation.

***When should I issue proceedings following emergency action?***

- We will need time to consider the position at meetings and prepare all the documentation required by Step 1.5 of the JCMP.
- It may be necessary to seek an extension to the emergency protection order in order to plan properly and meet timescales for issue and service of documents.

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**4. SECTION 37 DIRECTIONS (JCMP Appendix 9)**

**What happens when an order is made?**

- Within **24 hours** of receipt of the court order and the court papers the LSO will:
  - Allocate a lawyer to deal with the file;
  - Notify the Social Care and Health team manager or duty manager of the Court's request and send the team manager the court order and papers;
  - Inform the Court and the parties of the name of the team manager, area social worker and area office.

**NB** If the Court sends the order and the papers directly to Social Care and Health, you should contact the LSO immediately. The LSO will ensure the steps in the paragraph above are carried out.

**What should the Directorate do?**

- On receipt of the papers, the team manager will:
  - Allocate a social worker and record the referral;
  - Ensure that any assessments (including the core assessment) are completed within 36 days of the service of the court order requesting the Section 37 report.

If there are exceptional circumstances which are likely to lead to any delay in the completion of the report, these must be raised with the allocated lawyer immediately.

- Within **2 days** after completion of the assessments, the social worker will:
  - Consult with the family, child and all relevant parties and agencies about the plan for the child. The social worker will record each response.
  - Decide whether to apply for a care or supervision order.
- The social worker should provide the LSO with the Section 37 report **5 days** before the report is due to be filed at Court. Appendix 2.18 gives guidance on the content of the S37 report. Social Care and Health procedures at Section 6L also contain guidance.

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**What happens when the report has been completed?**

- When the report is received, the LSO will:
  - Check the report to ensure that it is Section 37 compliant;
  - File the report at Court and serve it on the parties on or before the date in the order.

The social worker must be available to attend the private law hearing if required. Legal representation is not normally provided by the LSO in private law matters.

If the report recommends a care or supervision order, then a legal planning meeting and a child protection conference should be called as quickly as possible.

**The Court will not simply make an order based on the report. An application must be made and the JCMP steps must be followed.**

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**5. THE DECISION TO TAKE CARE PROCEEDINGS**

- If at any stage you and your team manager have assessed that it may be necessary to initiate care proceedings, take legal advice and discuss the situation with the responsible Operations Manager. Always take advice before deciding.
- If the decision is to initiate care proceedings, or to do so if specified conditions are not met, Social Care and Health will encourage the parents to seek legal advice, provide them with lists of children panel solicitors and assist them in accessing appropriate legal representation
- The child protection conference (CPC), or statutory review (SR) where the child is accommodated, will consider all proposals to take proceedings.
- The LSO lawyer will be invited to all CPCs/SRs when an existing care plan is in place to initiate care proceedings or where the CPC/SR is likely to recommend that proceedings are initiated. Where children are present, the lawyer will normally not attend.
- If possible, contact the LSO 4 weeks in advance of the CPC/SR, providing copies of previous minutes, a synopsis of current concerns and the threshold matrix. This timescale will be shorter following Section 47 enquiries, where procedures require child protection conferences to be called within 14 days or, in exceptional cases, 21 days of the enquiry being initiated.
- The final decision as to whether the Directorate initiates care proceedings will be taken by the responsible Operations Manager.
- When you are considering taking proceedings, an up-to-date core assessment of the child's needs should be available.
- The decision to initiate proceedings is a Directorate responsibility. The Operations Manager needs to be satisfied that:
  - The decision is based on a robust, comprehensive and balanced assessment.
  - Appropriate consideration has been given to the threshold criteria.
  - The response is proportionate to the assessed risks, and that this risk cannot be appropriately managed without the powers an order provides.
  - Alternatives have been properly investigated and considered.
  - There is a clear and rational plan likely to safeguard and promote the child's welfare.
- Where your lawyer is advising that the threshold criteria are not met and proceedings should not be taken, the Operations Manager must be informed of this.

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- **Following any decision to take proceedings, a legal pre-action planning meeting should always be convened. The main purpose of this meeting is to oversee the preparation for Court. It will also be used as a final check that taking proceedings is appropriate.**
  
- If a CPC/SR recommends proceedings, then legal advice should be sought, preferably at the pre-action planning meeting. The conference should make further plans based on legal advice regarding the need for additional assessment to support the Local Authority position. In the absence of legal advice, the conference or review will give guidance on the parameters of the advice to be sought. Issues of particular relevance might include:
  - Use of experts;
  - Residential assessment;
  - Drug and alcohol assessments.

One of the central functions of the pre-action planning meeting is to ensure that any such assessments are properly and rigorously scrutinised before detailed plans are made.

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**6. PRE-ACTION PLANNING MEETING**

**When should meetings take place?**

- This pre-action planning meeting applies to all cases in which the child protection concerns are not an emergency.
- The meeting should occur to allow a maximum timescale of 12 weeks between the meeting and the proposed issue of any proceedings or, if applicable, the birth of the child. This will allow time for the completion of core assessments if not already completed and for the planning of resources and drafting complex social work documents in good time for the proposed date of issue. The emphasis must be on commencing proceedings as quickly as possible to ensure that there is no breach of the human rights of the child or others.
- Legal advice should be sought when a social worker is considering commencing legal proceedings. The social worker and manager will consider if the planning meeting should take place before or after the next child protection conference.
- In normal circumstances, these meetings will take place at Legal Services meeting rooms but they may also take place at Social Care and Health offices or other agreed venues.
- The purpose of the meeting is to properly plan the Local Authority's actions to comply with all current guidance.

**Preparation**

- Prior to any such meeting, the following documents will be identified and made available to the other members of the meeting.
  - The minutes of any previous review or child protection conference;
  - Any previous expert or social work assessments;
  - The current core assessment;
  - The draft chronology;
  - The draft social work statement;
  - Any previous legal proceedings or note of judgement;
  - A list of all professionals and potential witnesses involved with the family.

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***Participants***

- The lawyer with conduct of the case.
- The allocated social worker who will be taking proceedings. When cases are to be transferred, the receiving social worker or team manager, or a senior practitioner of the receiving team should always be present.
- The team manager of the allocated social worker, or a senior practitioner.
- Any other officer with a direct interest in the proceedings, such as a mental health social worker or children and disability team social worker, as agreed with Legal Services.
- An officer with the function of allocating resources and approving funding for the case plan, or a nominated deputy with a direct line to such an officer.
- A member of the family finding team, to inform the discussion on parallel plans and permanence plans away from parents.
- The meeting will be chaired by a team manager or senior practitioner within Social Care and Health.

NB It is recognised that not all will be able to attend. Those unable to attend should, as far as possible, be available to be contacted at the time of the meeting.

**The Agenda**

- The meeting should follow the agenda at Appendix 2.1 and use the checklist at Appendix 2.3 and threshold matrix at Appendix 2.4

**Meeting Outcome**

- Immediately after the meeting, the team manager and the lawyer will:
  - Draw up a case plan using the case planning template (Appendix 2.5),
  - Assign tasks to specific officers using the task template (Appendix 2.2),
  - Agree a method by which information will be communicated as to progress, any need for re-timetabling or any occurrence that may cause a delay within the proceedings.
- For future reference, the social worker must contact the allocated lawyer one week prior to the renewal of an interim care order to certify progress at each renewal. This is a JCMP requirement.
- Legal Services and Social Care and Health will produce the plan of action following the meeting. The action plan will give specific tasks to specified

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officers with timescales. The tasks will be aimed at ensuring that the case plan milestones are met.

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**7. THE PLANNING MEETING EXPLAINED**

**What is the aim of the meeting?**

- To obtain early legal advice on thresholds and the appropriate level of intervention.
- The carrying out of detailed planning of litigation including the detailed planning of social work steps.

**What are the objectives of the meeting?**

- The clear identification of the threshold issues in the case.
- Once the issues have been properly and fully identified, the identification of any further assessments.
- The production of the case plan based around those assessments.
- The production of an interim care plan.
- The planning for the production of the detailed documentation required for court proceedings.
- The allocation of specific tasks to specific individuals with each task properly project planned using the task template at Appendix 2.2.
- Early consideration of questions which will need to be answered at the beginning of proceedings, namely who the parties should be, the complexity of the case, transfer and the disclosure of documents.

**Why is it necessary to have the participants on the list?**

- In project planning the case it is important that as much information, expertise and advice as possible is available, so that all streams of work can be put in place.
- The team manager should usually be there, given the work that is likely to come from these meetings and the need to allocate resources.
- Other linked social workers with separate expertise should be there to provide information and assist in planning and taking on work.
- The meeting should have access to information and, if necessary, decisions on resources, so that clear time-bound plans can be made.

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- Where forms of permanence outside the family are contemplated, a member of the family finding service should be available to provide advice and assist in planning.
- Transfer of cases from duty and assessment teams to care management teams is a possible cause of delay and drift in cases. The receiving team should be represented to ensure ownership of the case plan and that the resources will be available to carry it through.

**What are the documents for the meeting?**

- The list of documents identified should be provided at least a week before the meeting, in order to allow reading time.
- Draft chronologies and draft social work statements are dealt with below.
- If there were previous legal proceedings, and there are notes of judgements, these will usually be provided by the LSO but time should be allowed to obtain files from archive.
- Previous expert or social work assessments will relate to previous proceedings. Expert assessments should not normally be carried out prior to the legal planning meeting (See “What assessments will be considered including use of experts” below).
- If a judgement has been given evaluating previous expert reports, this should be the starting point. Care should be taken not to rely on expert reports which may have been discredited or only accepted in part by the Court.
- Child’s birth certificate (may affect party status/presumption of legitimacy).

***Are there particular issues in relation to the core assessment?***

- Where the core assessment has been completed by the time of the meeting, then it is likely that proceedings can be issued before the 12 weeks envisaged by the example case plan.
- The core assessment will take 35 days, but may identify the need for further assessment.
- The core assessment and those further assessments will form the basis for the judgements and decisions about the children at a later date.
- Initial and core assessments will be important in court proceedings -

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- In preparing for Court, please note Appendix D of FACIN which sets out the format and 'rules' for an assessment report.
- The core assessment itself will be liable to disclosure under the Disclosure Rules.
- The document filed in proceedings will generally be a report summarising evidence from the assessment, and setting out key assessment issues rather than the full record.
- Where the assessment has not been completed by the pre-action meeting, it will often be necessary to reconvene the meeting on completion of the assessment.

**How will the significant harm threshold be considered?**

- The threshold matrix at Appendix 2.4 should be used.
- Legal advice on evidential issues is essential.
  - Once the threshold issues have been clearly identified, future actions will focus on those issues.
  - The lawyer will also be able to give advice on any further or more detailed evidence required on threshold issues.

***What assessments will be considered, including the use of experts?***

- The JCMP is aimed at rigorous control of the use of experts.
- Legal advice should always be taken before commissioning experts in care cases:
- Without legal advice, the instructions given to experts may not be focussed on all relevant issues.
- Experts are currently often used to carry out tasks and give opinions in areas within the competence of the social worker and guardian.
- The Local Authority should not routinely call for and fund expert assessments of parents, e.g. drug, alcohol, psychological assessments. While these may assist the Local Authority this should be a matter for commissioning by parents and their lawyers, under joint instruction, with

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the costs of expert assessment in these areas available from the Community Legal Fund.

- **In considering expert assessment, regard should always be had to the case planning check list at Appendix 2.3 and guidance at Appendix 2.13**
- Where experts are commissioned prior to proceedings, there should always be a letter of instruction, usually drafted by the LSO. The social worker should always seek advice in this task.

**Family and friends assessment**

- Family and friends (kinship) assessment is a crucial area.
- Assessments in this area have a major impact on court timetables and can cause delay, particularly for the following reasons:
  - Inadequate screening and consideration of options.
  - Efforts not made to identify possible family and friends placements at the outset.
  - Late planning for assessment.
  - Insufficient rigour/over-zealous standard setting at initial and Form F assessment stage.
  - Lack of knowledge of both initial and Form F assessment procedures.
- Consider the JCMP timetable -
  - Once proceedings have commenced, there is a 40-week maximum timescale to final hearing.
  - The Local Authority's final plans must be settled at a CPC or SR around week 28.
  - Initial assessment can take 6 weeks.
  - At present, full Form F Part 2 assessments take 12 weeks, with an additional two week period at the outset for acceptance of referral and allocation of assessment.

Therefore, if the JCMP timetable is to be met in the proceedings, decisions need to be made on commissioning kinship assessments by week 6 at the latest.

**Adoption and fostering and twin-track planning**

- At the time of the pre-action planning meeting, prognosis for success or otherwise should be clear.
- In cases where there is at best a mixed prognosis, early planning for permanence is essential. It is important to begin permanence planning at the first statutory review.
- The model that Birmingham would put forward is:
  - Early referral to panel to book a medical and panel date.

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- Panel date timetabled to fall three weeks after the pre-final hearing statutory review, which will consider all assessments. When the maximum 40-week timescale is necessary, panel would be booked to take place at about week 30-31 in the proceedings.
- Form F assessments will need to be completed by the pre-final hearing statutory review.
- Timetable of statutory review, panel and family finding to be brought forward where assessments end prematurely.
- If all is timetabled at the outset, there is no need to schedule a panel for a contingent recommendation.

**What is the purpose of the case plan?**

- The case plan (Appendix 2.5) will set out all the social work and legal steps in the case, with timescales for each step.
- The case plan will be completed by the LSO lawyer in partnership with the social worker and team manager.
- The case plan will be provided to the Court, the other parties and all those taking part in assessment and permanency tasks.
- The case plan should be kept in a prominent place on both LSO and Social Care and Health files and will be a crucial supervisory tool in ensuring that the case is on track.
- The case plan will be subject to amendment as developments occur in the case.

**What about the interim care plan?**

- The interim care plan (Appendix 2.8), case planning tool (Appendix 2.5) and task allocation template (Appendix 2.2) are crucial tools in the forward planning of the case.
- The interim care plan is the detailed social work plan for the child based on a core assessment (see the guidance on interim care planning at Appendix 2.8).
- The interim care plan will contain the detail of further assessments to be carried out.

**Where will I find advice on the court documents to be completed?**

- Initial social work statement - see guidance at Appendix 2.6.
- Initial social work chronology - see guidance at Appendix 2.7.
- Core assessment. See above and Appendix D of FACIN.

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- Experts' reports – FACIN Part 3 provides:
  - Assessments cannot normally be withheld in full or in part because aspects may be unfavourable to one of the parties.
  - Where assessments have been commissioned before proceedings, the assessor should be advised that their contributions may be used in family proceedings. Care should be taken to ensure that permission is obtained for the filing of the particular report from the professional concerned.
- Interim care plan (Appendix 2.8).
- Previously existing Section 7 and 37 reports - See Appendix 2.18.
- Draft threshold document (Appendix 2.10) and case synopsis (Appendix 2.9).
  - These documents will normally be prepared by LSO.
  - Although these documents are not formally required by the JCMP until proceedings have commenced, it is felt that they should be prepared and available at the first hearing in the Family Proceedings Court, given the short timescales allowed for preparation.
  - Synopsis on transfer (day 8).
  - Findings of fact threshold document (5 days before case management conference (CMC)).

**Draft letter of instruction to experts**

- Given the lack of availability of experts, if experts are to be commissioned this should take place as close to issue as possible.
- If possible the Local Authority should attend Court for the first hearing with a draft letter of instruction and with the identity of the expert available along with information as to the exact work required, start dates, reporting dates and availability for hearings.
- Other parties will have views on the choices made by the Local Authority. Pre-issue discussions may assist in the early clarification of any issues which may arise.

**Early consideration of parties, transfer and disclosure**

- The meeting will consider the issues taking into account the relevant guidance in the appendices.
- It is important that there is a clear position on these issues as part of the planning process as they will be rigorously examined by the Court at the initial hearings.

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**8. GUIDANCE ON PRELIMINARY ISSUES**

**8.1 Statements**

See guidance at Appendix 2.6. Also see 'Reporting to Court under the Children Act' (Department of Health 1996).

**How will I know a statement is needed?**

- For initial statements, these will usually form part of the case plan and task assignment following the pre-action planning meeting.
- For subsequent statements, when you attend Court you should make a note of any directions in relation to the filing of your statement and what your statement should contain. Make sure this is in your diary with a date for filing and the date the statement should be sent to your lawyer for checking.
- The LSO will provide you with a memo and file note of the hearing setting out the dates the statement should be filed at Court and the date it should be sent to the LSO.

NB Where the Court has directed statements to be filed from others as part of the local authority evidence, please provide the lawyer with the individuals' details from the case files as soon as possible, to enable the lawyer to write to those individuals requesting their statements. Any delay in providing this information to the lawyer could result in the statements being filed late and could impact on the court timetable.

**When should I send in my statement?**

- Aim to send your statement to the LSO **5 working days** before the statement is due to be filed at Court (unless an alternative date has been specified in the memo to you).
- Your lawyer will check your statement and discuss any issues with you prior to filing the statement at Court. If you do not get your statement to the lawyer in time and there are problems, this can lead to a delay in filing and serving the statement.

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**What shall I do if I have difficulty meeting the timetable?**

- Where you anticipate difficulty in keeping to the deadline, you should contact the LSO lawyer immediately to inform the lawyer of the difficulty and confirm when the statement will be made available. Requests for extensions of time must be agreed by the team manager and Operations Manager.
- If the statement does not arrive at the LSO by the due date, the lawyer will make one contact with the social worker, requesting the statement. Following this contact, should the statement not be provided by the agreed date and time, the procedure set out in Chapter 10 below (Risk Management and Problem Solving) will be followed.
- When a statement has not been filed on time, seriously impacting on the court timetable and/or incurring additional cost, the LSO lawyer will send a memo of concern to the team manager and Operations Manager. If the LSO is responsible, the team manager should be informed. The LSO will in any case keep information on the filing of statements to be fed back to the Directorate for management purposes.
- If statements are not ready on time, the lawyer will need to make the appropriate application to Court for:
  - Leave to extend the time for the filing of the statement.
  - Leave to file the statement out of time.
  - Leave to re-timetable court proceedings.
- In the event that a care plan or assessment plan is likely to be filed late, this should be escalated by the team manager and lawyer to the Operations Manager without delay. If the problem cannot be resolved, the LSO lawyer will make an immediate application to Court for directions.

**NOTE: Non-compliance with court orders is a serious matter and is likely to lead to costs being incurred by the Council, which can be substantial.**

**8.2 Witnesses**

What do I have to do?

- You will have clearly identified the witnesses in the case in your chronology.
- You should keep a separate list of all the witnesses with full contact details. This should include:
  - Full postal address including postcode;
  - Telephone and fax numbers;
  - E-mail addresses

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- The list should be provided to your allocated lawyer at the pre-action planning meeting.

**What will the LSO do?**

- The lawyer will write to the witnesses as required seeking their statements.
- We will warn witnesses about court dates and changes to court dates. We will summons the witness to attend Court if necessary.
- We will make sure expert witnesses receive full disclosure of documents.
- We will contact witnesses and tell them of the outcome of the case.
- We will arrange for the payment of expert witnesses in consultation with you.

**Problem solving**

- Witnesses will normally be sent one letter requesting a statement by the allocated lawyer.
- If a statement has not arrived by the due date, there will be one chasing telephone call, fax or letter.
- If this has not resolved the issue, a letter will be sent to the manager of the agency concerned.
- If the issue is still not resolved, then appropriate directions will be sought from the Court.
- Where a witness statement has been provided, a copy will always be sent to the social worker and the maker of the statement once it has been filed at Court.

**New rules under the JCMP**

- The Local Authority must now produce a witness non-availability form which must be made available to the Court and the parties on the day of the court case management conference. This will be prepared by the LSO.
- If we are to complete the list properly, the following steps must be undertaken:
  - After the allocation hearing, all the potential local authority witnesses must be confirmed to the allocated lawyer

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- 21 days before the case management conference the allocated lawyer will write to the witnesses sending a copy of the witness non-availability form so that these forms are returned to the LSO within 14 days.
- The social worker and lawyer will consider the witness list at a meeting 7 days prior to the case management conference. It should then be possible to work out the final hearing date around the witness availability.

**You are reminded that it is your responsibility to provide a list of all the professionals involved with the children who may be potential witnesses. At the very latest this information should be available by the time of issue of proceedings but preferably at the pre-action planning meeting.**

### 8.3 Attendance at Court

#### What time should I be there?

- You should attend the correct Court at least **30 minutes** before the time of the hearing and where an advocates meeting is to take place, **45 minutes** prior to the meeting. There is always the need to allow time for discussion and to deal with unexpected issues which may arise. If you are late, the team manager, the Court and the LSO should be notified at the earliest opportunity.

#### Who will be there?

- Your lawyer or a barrister (counsel) will represent you. If a barrister is representing you, we will provide a legal assistant in the County Court but not in the Family Proceedings Court.
- For first hearings, allocation hearings and PHRs, you may attend without the team manager. Team managers should attend the pre-case management conference advocates meeting, the case management conference and the final hearing, unless it has been agreed that this is unnecessary. Social workers should therefore attend Court with team manager's availability.
- Where you cannot attend, the team manager should make alternative arrangements for Social Care and Health representation.
- Where you are to give first hand evidence of matters within your knowledge, the attendance of the team manager is unlikely to be sufficient. You must attend Court.
- It is not appropriate for a social work assistant to attend Court unaccompanied, nor for a social worker who has no knowledge of a case.

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**How should I prepare for Court?**

- Before every hearing, you should read the evidence and the Social Care and Health case notes.
- Where possible, the file(s) should be brought to Court. Exceptionally, where this is not possible, the most relevant and up-to-date information should be selected. In a case where the matter has been listed for a contested hearing, and you are due to give evidence, all the case files must be brought to Court. For directions appointments, it may be appropriate only to bring the most recent case file.
- When giving evidence, it may be that questions will be asked requiring a detailed knowledge of dates and the sequence of events in a case. The allocated lawyer may be able to give advice in advance of the hearing as to the areas to which most attention should be given.
- In order to ensure that matters are properly prepared for the hearing, the social worker should contact the LSO not less than **5 working days** prior to the hearing date to update the allocated lawyer on recent events.
- Read "Reporting to Court under the Children Act" which gives advice and guidance in this area.

**8.4 Use of Counsel**

- Counsel are independent, self-employed advocates who are brought in on a case by case basis. Their expertise is in running a case for Court, advising on the law and court advocacy. In common with local authority solicitors, they have to give objective advice, however unwelcome.
- Counsel do not take social work decisions; they take instructions from the client (the Local Authority) and conduct the case in Court in accordance with them, subject to their overriding duty to the Court. Close working and exchange of information is essential so that the team can work effectively.
- Prior to instructing counsel, the lawyer should obtain the consent of the team manager or Operations Manager. Where the team manager and Operations Manager are unavailable, the lawyer will inform you of the decision to use counsel.
- The LSO rules on instruction of counsel are: -
  - Where the allocated lawyer has no rights of audience (e.g. Crown Court, Court of Appeal).
  - The case is complex and requires counsel's advocacy skills.
  - The case is listed for hearing with a time estimate of 3 days or more.
  - The case is a High Court case.

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- The allocated lawyer has looked for cover within the LSO but there is no other LSO lawyer available to cover the hearing.
- In the instruction of counsel, the lawyer will:
  - Try to engage counsel with the appropriate skill and knowledge as required by the case;
  - Agree a fee which is proportionate to the work involved;
  - After the hearing which counsel has attended, provide you with a memo and file note of the hearing.You are encouraged to provide the LSO with feedback on counsel's performance.
- Where counsel has been instructed, social workers should not hesitate to seek a conference with counsel and the LSO lawyer prior to a hearing, to ensure that counsel is fully aware of all the issues in the case and is clear on the instructions of the Directorate.

#### **8.5 Legal/Court Process Professionals Meetings**

- Professionals meetings do not take the place of the appropriate decision making processes of the Local Authority.
- Important issues or changes to existing care plans or child protection plans must be considered by a child protection conference or statutory review, with decisions being made by the manager with responsibility. This should be made clear by the chair of the meeting at the outset.
- You should convene a child protection conference or statutory review if you are putting forward changes to the plans for a child following the professionals' meeting.
- Professionals meetings are often called or ordered by the Court during care cases. This is often at the request of the guardian or solicitor for the child but may also be at the request of the Local Authority or another party.
- If, as a social worker, you feel that a meeting would be useful, it is open to you to suggest this.

(These meetings are not to be confused with professionals' meetings or strategy meetings in relation to children where child protection concerns have arisen outside the court process, which may include other agencies such as health services and police.)

- The purpose of a professionals meeting is to -

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- Share understanding;
  - Identify problems;
  - Clarify issues and resolve disputes in the course of the proceedings;
  - Identify areas of agreement and disagreement.
- Professionals meetings will usually include:
    - Lawyers;
    - The guardian;
    - Social worker and team manager;
    - Parents;
    - Experts (as appropriate).Other professionals such as family finders may also be invited to attend as and when necessary;
  - The person responsible for convening the professionals meeting should provide:
    - A clear agenda;
    - Administrative support in taking the minutes.(If there is no administrative support, minute taking should be a shared task to allow all present to take a full part in the discussion.)
  - The meeting should usually be chaired by the guardian or solicitor for the child.
  - An agreed minute of the meeting should be produced after the meeting.

#### **8.6 Criminal Injuries Compensation Claims**

- The Judicial Case Management Protocol makes specific provision for disclosure of documents at Step 6: The Final Hearing.
- One of the issues that must be addressed at this stage will be the disclosure of documents for the purposes of any claim being made to the Criminal Injuries Compensation Authority.
- In order for the Court to be fully appraised of any potential claims, and to be able to consider the merits of disclosure or otherwise, you should decide on any criminal injuries compensation claim prior to the case management conference. This will occur between Week 2 and Week 12.
- You should have specific regard to the threshold criteria, as agreed with the LSO, and you should seek legal advice on this issue if you are unclear.
- The Criminal Injuries Compensation Authority publish a guide for making applications together with supporting leaflets such as "Child Abuse and the Criminal Injuries Compensation Scheme". This is available on the CICA website.

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- Detailed information is available in the guide, but in general to qualify the following criteria will be considered:
  - Be the subject of, or a dependant or relative of the victim of violence.
  - A crime of violence or injury in a way covered by the scheme.
  - The injury is physical or mental.
  - Reported to the Police.
  - Occurred in England, Wales or Scotland.
  - Qualify for compensation of at least £1,000.00.
  - CLAIM MADE WITHIN TWO YEARS.

**It remains the allocated social worker's responsibility to initiate the CICA claim. The current procedure is at Section 7J of the Child Care Procedures.**

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**9. THE STEPS IN CARE PROCEEDINGS**

**9.1 Issue and Service**

- You must prepare the following documents and send them to the allocated lawyer by the date agreed at the case planning meeting.
  - Form C1 Application for an Order and Form C13 Supplement for an Application for a Care Order or Supervision Order.
  - Initial statement.
  - Interim care plan.
  - Chronology.
  - Initial assessment and core assessment.
  - Any other reports which will be relied upon as evidence.
- The lawyer will check the documentation and prepare the application form and supplement. The lawyer will issue the documents at Court and ensure that there are sufficient copies for service.
- When the Court returns the application endorsed with the date and time of the hearing, together with the notices of hearing, the lawyer will either:
  - Contact you to arrange for their collection, or
  - Send the documents to you by fax.
- The lawyer will also send you Form C9 Statement of Service to complete.
- You will usually personally serve the documents on the parties at the commencement of the case.

**See the guidance at Appendix 2.11 on parties and service and also at Section 6A-B of the Child Care Procedures.**

**9.2 The First Hearing FPC**

The first hearing equates to Step 2 of the JCMP. The first hearing should occur on or before day 6 (day 1 being the day on which proceedings are issued). The Local Authority should have completed all steps set out in the case plan for completion by week +1.

**Who are the parties?**

- The Court will consider who should be made a party to these proceedings. See Appendix 2.11.
- You will be required to confirm that all those who are entitled to be parties have been served. You should attend Court with a completed Form C9 Statement of Service. You should also be in a position to indicate your view on an unmarried father or other family member who had care of the

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child being made a party to the proceedings. This will have been covered at the legal planning meeting

- For the purposes of your attendance at Court, you should treat this hearing as a contested hearing. If the matter is contested, the Court may hear the interim care order application on that day or may adjourn it for a hearing prior to the case management conference.

**Will the case be transferred?**

- The Family Proceedings Court will further give consideration to transfer of the case to another Court. See Appendix 2.12. This will have been covered at the legal planning meeting.
- If the case is transferred, the local care centre plan will have agreed some limited arrangements for directions by the Family Proceedings Court. The next hearing will be the allocation hearing in the County Court.
- If the matter remains in the Family Proceedings Court, the Court will undertake case management. This is virtually identical to the case management undertaken at the allocation hearing in the County Court.

**What will happen? - case management checklist**

The legal planning meeting should have considered the relevant issues in the case planning checklist in non-urgent cases. By this stage, the local authority case management documents and initial evidence should have been filed at Court.

- Date fixing
  - Dates for all future hearings including a case management conference, PHR and final hearing will be fixed at this stage, with proceedings timescaled to end not later than 40 weeks post-issue.
- The case management conference and case management directions for the conference
  - The case management conference is the crucial hearing in each case; it will determine the timetable to final hearing.
  - One of the major purposes of the first hearing is to ensure that all parties are ready for the case management conference. Directions will be made to ensure this is effective.

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- Evidence in response
  - The Court will order all the parties to file evidence in response to the Local Authority. In this way the issues between the parties will be narrowed and areas of agreement and disagreement made clear.
  - Through this means, and the case management documentation to be prepared and filed **5 days** prior to the case management conference, the Court will be enabled to clearly identify issues in dispute and to avoid ordering unnecessary evidence to be filed in the proceedings.
  
- The case management questionnaire
  - The Court will issue a case management questionnaire to the parties. This must be filed by the Local Authority **5 days** prior to the case management conference. The questionnaire includes the following headings:
    - Complexity/urgency;
    - Preliminary hearings;
    - Evidence, further assessments and expert evidence;
    - Legal and social work timetable.
  - **All steps, including steps in the permanency plan such as dates of statutory reviews and adoption or fostering panels, must be known by the time the case management questionnaire is to be filed at Court.** The case plan produced at the legal case planning meeting will be the crucial tool in ensuring that the timetable is set and that tasks are appropriately allocated.
  
- Disclosure
  - Full and frank disclosure of local authority information will be ordered at this point if this has not already taken place, see Appendix 2.14. Disclosure will have been considered at the legal case planning meeting. The social worker and lawyer should jointly consider this issue. Disclosure must take place by day 26.
  
- Core assessment
  - If this has not yet been completed, the Court will order an assessment. The Local Authority will need to be clear at the allocation hearing who will carry out the assessment, when it will be completed, the date of the statutory review to consider the assessment, and any other proposed legal and social work steps to assist the Court in timetabling the matter to the case management conference.
  - The core assessment should normally be completed prior to issue, as it will be extremely difficult to meet the court timetable when assessments are commissioned during proceedings.
  - On completion of the core assessment, the legal planning meeting should be reconvened prior to the one-month statutory review, with particular emphasis on the forward timetabling of the case. This will need to take place prior to the court advocates' meeting and CMC due to the need to identify all future legal and social work steps by that point.

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- Advocates' Meeting Pre-CMC
  - The Court will order an advocates meeting to take place prior to the case management conference. This must take place no later than one hour before the time fixed for the CMC. This may include the parties and/or their lawyers. The social worker and team manager should be prepared to attend this meeting. Social workers and lawyers should always attend Court with their diaries so that hearings can be timetabled taking into account their availability.
- Bundles, case management documents and standard directions form
  - The Court will give orders for the preparation of a bundle of documents and index which will be prepared by the Legal Services Office along with any further case management documents from the list in the standard directions form.
  - The completed standard directions form will be served on each party by the court officer within one day of the allocation hearing. The purpose is to bring all parties to the issues in the case at an early stage. The LSO will ensure that a copy of the standard directions form is provided to the social worker and team manager.

### 9.3 ***Interim Care Orders***

- When the Local Authority seeks to renew an interim care order, it will be necessary to certify that at the date the renewal is requested, the Local Authority has complied with all steps as agreed in the case plan.
- **It will therefore be necessary for the social worker to diarise the renewal date of the interim care order and inform Legal Services 5 days prior to renewal date that all steps have been complied with. Failure to do this will result in no interim care order being applied for or an application not containing the certificate.**
- In these circumstances, no interim care order would be granted by the Court and the continuing retention of the child may be unlawful.

### 9.4 **The Allocation Hearing – County Court**

- By day 11, 3 to 5 days from first hearing FPC. Step 3.4 JCMP.
- The allocation hearing covers all of the matters which will be covered at the first hearing FPC. These are not repeated here.

Important further issues are:

- The allocation hearing must consider transfer of case back to Family Proceedings Court or transfer to High Court.
- Allocation of judges to manage and hear case.

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**9.5 Case Management Questionnaire – last chance**

- The JCMP at Appendix A2 provides for a case management questionnaire that must be completed by the parties. This document consists of 5 pages, and must be completed prior to the case management conference.
- The Local Authority is required to file and serve together with draft directions, a copy of the questionnaire and other case management documents **5 days** prior to the case management conference.
- It will, therefore, be necessary to complete the case management questionnaire at a meeting that will occur between the allocated lawyer and the social worker seven days prior to the case management conference.
- This form provides for information as to the following:
  - Complexity,
  - Preliminary hearing,
  - Evidence and assessment,
  - **Legal and social work timetable.**
- This is the last occasion at which it will be possible to influence the overall Court timetable. At this stage, all uncertainties and any vagueness in the Local Authority's plans must have been resolved.
- No assessment may be planned unless funding and availability has already been agreed.

**9.6 Before the Case Management Conference**

- Prior to the case management conference the Court has laid down a series of steps that must be undertaken by the Local Authority. In order to achieve this it will be necessary for the social worker and the allocated lawyer to have a meeting not less than seven working days prior to the date fixed for the case management conference. This date should be diarised at the allocation hearing, together with the time and date of the advocates' meeting.
- Preparation for the case management conference includes Legal Services filing an indexed and paginated bundle of all relevant documents. This bundle will include the following:
  - Case management questionnaire,
  - The findings of fact (the threshold document),
  - The interim care plan,
  - The summary of background,
  - Advocates' chronology (where necessary).

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- The parents' position statement will also be available for the case management conference, but will not be included in the bundle of documents.
- The purpose of the meeting between Legal Services and the allocated social worker will be to -
  - Confirm the content of the case management questionnaire (this document can be found in appendix A.2 of the judicial case management protocol);
  - Arrange for this document to be filed and served on the other parties no later than 5 days prior to the case management conference.
- At the meeting between the allocated social worker and the legal advisor, the social worker must be in a position to identify:
  - The assessment process and any further expert evidence that is required;
  - A clear understanding of the social work timetable (this social work timetable should ensure that all social work steps will be completed in time for the CPC/SR (pre-final hearing)).
- It will be necessary at this meeting to confirm the interim care plan, the identity of any witnesses upon which you intend to rely and your timetable.
- Immediately after this meeting these documents will be served upon the other parties and the Court in accordance with the case management protocol, which provides for five days notice before the case management hearing.
- The parents will not file their response until two days prior to the case management conference. It is therefore unlikely that you will see these documents prior to the advocates' meeting.
- It is imperative that you attend the case management conference.

**9.7 Advocates' Meeting and Case Management Conference – (a court hearing)**

- The case management conference is step four in the JCMP.
- The window for the case management conference is between day 15 and 60 to allow time for the completion of a core assessment and local authority planning, where a core assessment has not been completed prior to issue.
- The case management conference takes place after the Local Authority has filed
  - The case management questionnaire,
  - The findings of fact (threshold document),
  - The interim care plan,

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- The summary of background,  
And after the parents have filed their position statement in response.
- An advocates' meeting will already have taken place no more than 2 days and not less than one hour prior to the case management conference hearing aimed at narrowing the issues.
- It is likely that the advocates' meeting will be held on the day of the case management hearing. You must be present at least 45 minutes prior to the agreed time for that meeting. Your role is to give instructions and represent the Social Care and Health Directorate's position.
- NB Authority from the signatory (Operations Manager), or a specified substitute, is needed before any change is made to the care plan.
- The allocated lawyer will usually represent you at the advocates meeting and CMC (this may be counsel, if then instructed).
- At the hearing the Court will carry out a case management exercise which will set out directions to timetable **all** remaining legal and social work steps.
- This will include the following:
  - Confirming or fixing the final hearing date;
  - Confirming or fixing the pre hearing review;
  - Confirming the time estimate for each hearing;
  - Giving consideration to video link evidence or other electronic means;
  - Ensuring that all assessment processes are timetabled and that any further expert evidence will be in time for the statutory review before the final hearing.
- This hearing will also consider whether a maximum of one further directions appointment may be required.
- If the Local Authority is unable to comply with the court timetable at this stage they will be facing, at the very least, orders for costs to pay all of the other parties' fees. This may amount to several thousands of pounds.

***It cannot be over stated that by this hearing the complete assessment process and decision making must be timetabled to the day. For example if you do not have a fixed date for the statutory review the Court will impose a timetable that may result in the review being held when no one is available.***

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**What happens if things go wrong?**

- Once the timetable and case plan is in place, if things are not done on time, this will have an impact on the whole process, as everything is dependent on the Local Authority's actions.

Example:

A case has been timetabled to final hearing. A crucial step is the holding of a statutory review to consider the outcome of assessments. The statutory review is cancelled and the administrator, who does not know its importance, re-schedules it for a date after the date for the filing of the local authority evidence. The social worker does not realise the importance of the timing of the review and takes no action to inform anybody. In these circumstances, the care plan cannot be filed on time and it is necessary to hold another hearing. The Local Authority has to pay costs.

If the social worker had referred to her case plan, she would have realised the importance of the review and, if necessary, involved senior managers to ensure that the review was re-scheduled as soon as possible to ensure that the timetable was met.

- Sometimes things cannot be done for unavoidable reasons. If this happens, either in respect of a social work step or legal step, the steps set out at Part 10 should be taken. The worst thing to do is to do nothing!
- If a case management step is delayed, or has not been taken, or there has been a significant change in circumstances, the allocated lawyer will do the following:
  - Consider whether a further directions hearing will be required.
  - Consider whether the difficulty affects the timetable.
  - Inform the Court and other parties of the difficulties.

**9.8 Assessments**

- The early planning of assessment is vital if the Local Authority is to comply with the case management protocol.
- The initial planning process for assessments should occur as early as the pre-issue legal planning meeting.
- The social worker should gather information which is likely to be required for any subsequent applications, e.g. Schedule 2 reports or kinship assessments, if appropriate.

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- The progress of those assessments must be monitored by the social worker and any delays reported to the allocated lawyer so that remedial action can be taken if necessary.
- No matter what assessments are being undertaken by the Local Authority, there is a definitive cut off date, after which there is little or no point in continuing with further assessment.
- A final hearing date will be listed within the maximum timetable of week 40. In the normal course of events all assessments will have to be completed no later than **week 27** of the case so that a statutory review may occur recommending the final care plan.
- If an assessment is not completed by the date of the statutory review, it cannot be considered by the Local Authority.
- In order to achieve a clear care plan, assessments must be planned at an early stage, that is from the pre-issue legal planning meeting, to be completed in good time for the statutory review prior to the final hearing.
- Any change in the assessment process must take into account court timetables and the proposed date for the statutory review.

**9.9 Pre-Final Hearing Child Protection Conference /Statutory Review**

- In accordance with good working practice, all assessments should be completed in good time for the final child protection conference (CPC) or statutory review (SR).
- The results of the assessment and other court papers may be disclosed to the review chair, other agencies present are not party to proceedings and are not entitled to disclosure without an order of the Court. It is likely that the parents will already have had sight of these documents.
- **All these documents should be available to be filed and served on the other parties in good time so that there is sufficient time for consideration and reflection prior to the CPC/SR. Failure to do this may result in a breach of the parents' human rights.**
- **It is equally important to ensure that all parties are invited and have had good notice of the review, and that last minute changes of time and venue are avoided.**
- Whenever possible, the social worker should provide a written recommendation to the pre-final hearing statutory review, a copy of which is also made available to Legal Services.

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- It should be borne in mind that the statutory review may be followed by an adoption or fostering panel. It is therefore imperative that the review minutes are provided forthwith as a priority.
- Statutory review minutes will be disclosed to the parents. It is important that they reflect the balances considered by the Local Authority and that human rights issues are clearly addressed.
- Legal advice should always be taken prior to the CPC/SR on the Local Authority's plan and the orders to be recommended.

**9.10 The Care Plan**

- The care plan is a crucial document. It pulls together everything that is known about the child and sets out the Local Authority's plans for the child's future.
- Once the Adoption and Children Act is in force, the care plan will be known as a "Section 31A plan". The new Act provides that no care order may be made with respect to a child until the Court has considered a Section 31A plan.
- Care plans must always be in the prescribed format. LSO guidance is set out at Appendix 2.15. Guidance will also be found in the Appendix to Section 6E of the Social Care and Health Directorate's Child Care Procedures Manual.
- Care plans take time to prepare and need the endorsement of an Operations Manager. Adequate time needs to be scheduled in for the care plan to be checked within the team and by the LSO lawyer and then read and considered by the Operations Manager before filing with the Court. Care plans should always be forwarded to the allocated lawyer for checking **5 full working days** prior to the date for filing following signature by the Operations Manager, **who must authorise any subsequent change**.
- When applying for a supervision order, it is advisable, and it is current practice, to use the care plan format.

**9.11 Adoption and Fostering,**

**Where the plan is for permanency away from parents in proceedings, what are the objectives at this point?**

- To ensure that a freeing application is filed if so advised, preferably at the same time as the local authority care plan.
- In adoption and long-term fostering cases away from the family, to ensure a 10-12 week period for family finding prior to final hearing.

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- In family and friends placement cases, to ensure that there is clarity of planning, and that important decisions will have been made by the time the care plan is in place.

**What should have happened by now?**

- First statutory review identified permanency as an option.
- Form Es on children completed prior to statutory review if the social worker is recommending permanence by adoption or fostering.
- Kinship assessments completed in family and friends cases.
- Panel and permanence medical booked shortly after the first statutory review through the usual referral process. That panel timetabled to take place three weeks after the pre-final hearing CPC/SR.
- In kinship assessments Form F1 and 2 assessments completed. CRB and medical checks done. Assessor ready to attend fostering panel should the local authority plan be for long-term fostering.
- Legal advice sought 28 days prior to the date for panel papers to go out to panel members.
- Date diarised for papers to go panel team.
- In the court proceedings the case management conference is likely to have timetabled the following case management steps in anticipation of the local authority freeing application:
  - Appointment of guardian on issue of the application
  - Appointment of solicitor for the child on issue of the application.
  - The child being made a party on issue of application.
  - Statement from family finder on family finding steps and prognosis for placement.

**What Happens Next?**

- If rehabilitation to parents is recommended by the review and accepted by the Local Authority, then the adoption or fostering panel will need to be cancelled. Proceed to care plan on that basis.
- If the plan is for adoption or long-term fostering, then proceed to the pre-booked adoption, fostering or officer panel.
- Family finding must commence as early as possible - at the latest on the date of the recommendation by panel.

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Further information can be found in the adoption and permanency briefing notes issued from time to time by the LSO and Directorate.

**9.12 Freeing Application**

(This will change when the Adoption and Children Act comes into force.)

- The documents required to issue a contested freeing application are as follows:
  - Application form,
  - Certified copy of the full birth certificate (this should be obtained as soon as the child is placed under an interim care order),
  - Schedule 2 report,
  - Statement of facts.

(In consent cases, the statement of facts is not required but the other documents remain required.)

- It is not necessary for a medical report to be filed at this time, although they are often considered to be helpful.
- The power to prepare the application form has been delegated to the Assistant Director/Social Care and Health in Legal Services, and the application form will be completed by the allocated lawyer.

**(This is not currently the case but is a suggestion made in this protocol.)**

- The social worker will send the copy of the birth certificate to the allocated lawyer.
- The social worker drafts the Schedule 2 report, which will follow the headings as set out in Schedule 2 of the Adoption Rules 1984. This will then be sent to Legal Services.
- The statement of facts is a composite document that will be drafted by the allocated lawyer.
- It is only upon receipt of all documentation that the application may be issued by the lawyer, and the failure to provide any one of these documents means that the application cannot be issued.
- In the normal course of events, a statement from the allocated family finder giving a prognosis for placement should also be filed at Court.

**9.13 Pre-Hearing Review Advocates' Meeting**

**Who should be there?**

- The parties and advocates with conduct of the final hearing.

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**When will this take place?**

- The meeting needs to take place at least two clear days before the pre-hearing review.

**What will they consider?**

- The purpose is to identify and narrow the issues and consider the pre-hearing review checklist. That checklist is very much aimed at ensuring that the final hearing is effective and efficient. The advocates must consider legal and procedural issues such as
  - The witnesses to be called;
  - The length of time each witness will be examined in chief and cross-examined;
  - The completion of a witness template;
  - Whether all steps required by the JCMP or practice directions have been complied with.

***What is the outcome of the meeting?***

- Following the meeting:
  - A schedule of issues document will be filed at Court two days before the hearing and will be available to the allocated social worker.
  - The advocates may also certify that the case is ready for hearing, all steps have been taken, and the parties are in agreement on further directions.

(In those circumstances it is possible for the Court to dispense with the pre-hearing review. Given the complexity of care cases, it is not anticipated that pre-hearing reviews will be dispensed with on a regular basis.)

**What is the role of the social worker?**

- Very often the Local Authority will be represented by counsel. You play an important role in instructing counsel and may request a conference with counsel prior to this crucial advocates' meeting.
- The schedule of issues should be agreed between the instructing social worker, the lawyer and, if involved, counsel, prior to filing with the Court.

9.14 **Pre-Hearing Review**

**Who will be in attendance?**

- All the parties and their advocates will attend the pre-hearing review if it has not been dispensed with previously.

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- The pre-hearing review is a short hearing aimed at considering all the issues in the case and ensuring that the final hearing will be effective.
- In agreed cases, or cases where there is no active opposition to the proposals of a party, it is possible that final orders can be made at a pre-hearing review. If such proposals are to be made, these will be included in the schedule of issues prepared by the advocates prior to the hearing.

**How long will it take?**

- Generally a pre-hearing review will take between 30 and 45 minutes.
- In the County Court, listing arrangements may mean that pre-hearing reviews cannot be given an exact commencement time. You should set aside a morning for a pre-hearing review.
- In the Family Proceedings Court, pre-hearing reviews will normally be given a set commencement time and will usually need to commence on time.
- The new requirements for preparation of case management documents should mean that hearings can be dealt with more efficiently.

**9.15 Final Hearing**

- At least 2 days before the final hearing, the Legal Services Office must file and serve:
  - The case management documents;
  - The court bundle or index of court documents,As directed by the Court at the pre-hearing review.
- You should consider in advance of the final hearing whether any directions will be sought for disclosure of documents in relation to:
  - Medical or therapeutic purposes;
  - A possible claim for criminal injuries compensation;
  - Family finding and permanency planning.
- You must, unless otherwise informed, attend the final hearing 45 minutes prior to the hearing time to enable final instructions to be taken and to engage in further discussions with the other parties prior to the hearing.

**9.16 Post Final Hearing**

**What happens to the order and care plan?**

- You need to keep a copy of the final order and final care plan in a prominent place on the file where it can be easily found. Where the care

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plan has been amended at Court, the social worker should ensure the amended plan is placed on the file and endorsed with the words "amended on [insert date]".

- If you have not received a copy of the order within 4 weeks, you should contact the LSO.
- You also need to provide copies to the reviewing officer and family finder.
- Spare copies should always be available.

#### Who will be informed of the court order?

- Tell the child and foster carer the outcome as soon as possible. They will be waiting to know what is happening.
- You should write to all significant adults informing them of the outcome of the final hearing and send them a copy of the final orders.

#### **What will the LSO do?**

- Where an expert has been instructed, the lawyer will inform the expert of the outcome of the case and the use made by the Court of their opinion.
- The lawyer will write to other witnesses and inform them of the outcome.
- We will not close the file until we have.
  - Paid all outstanding bills;
  - Ensured that all undertakings have been discharged;
  - Dealt with any outstanding issues;
  - Sent you an up-to-date copy of the case papers together with an index.

(This will assist you with disclosure and further statutory reviews.)

- If we need to get a file from archive to answer queries in a case, there is a cost. You should always check your file first. If we need to check our file for you, this can take up to 5 working days.

#### ***What happens if a supervision order has been made?***

- If a supervision order has been granted in respect of a child, the lawyer will follow the post-final hearing procedure as outlined above and will also review the file at a 6 and 11 month intervals from the date the supervision order was made.
- You should notify the lawyer with clear reasons two months before the expiry date as to whether you intend to make an application to renew the supervision order.

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***Disclosure***

- Where the Court has ordered disclosure of documents at the final hearing, this will be undertaken by you unless the lawyer has agreed otherwise.

***Criminal injuries compensation application***

- At any stage in the proceedings, as soon as it has become apparent that a criminal injuries compensation application is likely to be made, you should deal with this issue immediately. You should draft the application and prepare the documents. You should forward the documents to the LSO to check prior to them being forwarded to the Criminal Injuries Compensation Authority.

9.17 **Appeals**

**When should an appeal be considered?**

All cases where the result is not as anticipated should be reviewed with counsel and/or the allocated lawyer within 24 hours. If an appeal is advised, then the Head of Service/Area Director should be informed immediately so that a decision can be made.

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**10. RISK MANAGEMENT OF LEGAL PROCESS/PROBLEM SOLVING**

**Ownership**

- It is important that all risks are identified, owned by social workers, lawyers and managers and managed appropriately.

**What is risk?**

- 'Risk' in the context of case management relates essentially to non-compliance with case management steps, or to analysis and decision making which is legally and evidentially unsupportable. The consequences are delay in decision making, increased work/costs and criticism. Examples are:
  - Failure to protect, inappropriate thresholds or unjustified intervention;
  - Failure to assess;
  - "Unreasonable" decision making;
  - Failure to comply with directions or processes, with threat of wasted costs;
  - Non attendance at court hearings;
  - Lack of communication or consultation;
  - Breach of statute, e.g. Human Rights Act, Data Protection Act;
  - Failure to seek or follow legal advice;
  - Delay.
  - Complexity of case and inexperienced staff.

**How do we manage risk?**

- The basic principles in management of risk are:
  - Planning to avoid or overcome risk;
  - Early identification;
  - Communication;
  - Proper and supportive supervision;
  - Escalation to appropriate manager level, depending on the level of risk;
  - Taking the necessary action to remove or reduce the risk.
- Where non-compliance/risk has been identified, early action is essential. The action required is dependent on the level of risk
- Directorate team managers and LSO supervisors must be vigilant to risk factors through their routine staff supervision and act promptly to avoid or mitigate difficulties arising.
- When a team manager is unable to resolve a shortfall in practice promptly or where there has been a serious failure in the actions of the Local Authority (e.g. significant delay or breach of statute), they should fully brief their Operations Manager and the allocated lawyer both verbally and in

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writing. LSO supervising managers should brief team leaders and the Assistant Director/Social Care and Health Division.

- In cases where there is a high level of risk with a likely significant corporate impact, the Head of Service and Area Director should be informed by both Directorate and LSO staff.
- When supervising staff involved in court proceedings, team managers must maintain awareness of court timetables and plan accordingly. If a failure to comply with court directions becomes unavoidable (e.g. through staff sickness), the LSO lawyer must be informed immediately, and arrangements made to ensure compliance at the earliest possible date, if necessary in consultation with the Operations Manager.

**What are the timescales for action?**

- When a LSO lawyer becomes aware that there is a danger of non-compliance with a court direction or a case planning step has not been taken, this should be notified to the team manager immediately.
- The team manager must take steps to rectify the situation (in consultation with their Operations Manager if necessary) and advise the lawyer of these **by the end of the next working day**.
- Where no response has been received within this timescale or if the steps proposed are inadequate, the lawyer may escalate the matter to the Operations Manager who shall act to resolve the matter satisfactorily within the **following 2 working days**.
- If the issues remain unresolved satisfactorily after this period of time, the lawyer may refer the matter to the Head of Service. The LSO team leader should also be informed.

**Case Complexity**

The LSO gives a complexity score of 1–5 to cases. Very complex cases are scored from 3–5. If cases are scored in this category, the LSO will advise the Directorate so that, if necessary, extra support and supervision can be given by the team manager. The Operations Manager and Head of Service will also be advised and provided with a copy of the case plan in these cases.

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**11. CASE REVIEW**

- The LSO and the Directorate will seek to identify cases in liaison with the Courts, judiciary and other agencies where there has been poor practice or criticism, or particularly good practice or praise.
- Identification of such cases may take place during proceedings where there have been particular issues at a stage in the case. As each case is finalised and is ready for closure, the Principal Solicitor and Operations Manager will consider whether the case is suitable for review.
- The LSO and the Directorate will jointly review such cases and present the review report and any recommendations to appropriate management meetings in order to ensure that lessons are learned and action is taken either to take remedial action or to support and spread good practice.
- Where the review is the result of a referral from the Courts or other agency, the outcome of the review will always be reported back to that agency.
- The learning points and outcomes of reviews will be communicated to relevant staff through departmental publications such as the Legal News Bulletin and Directorate newsletters while respecting the right to confidentiality and anonymity of those involved.

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**12. CONTINUOUS IMPROVEMENT**

The Legal Services Office and the Social Care and Health Directorate welcome suggestions for the improvement of this protocol, which will be reviewed on an annual basis. Suggestions for change or improvements should be forwarded to:

**Social Care and Health Directorate**

Andrea Hickman, Assistant Director Children's Strategy  
Niall Macauley, Procedures Writer

**Legal Services Office**

Jane Robson, Assistant Director, Social Services Division  
Jerome O'Ryan, Principal Solicitor, Social Services Division

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**APPENDICES TO PART 2**

- 2.1 Agenda - pre-action planning meeting
- 2.2 Template task document
- 2.2(a) Template task document (Example)
- 2.3 Pre-action planning meeting checklist
- 2.4 Threshold criteria matrix

***To follow***

- 2.5 Case planning template
- 2.5(a) Case plan (example)
- 2.6 First statement for care proceedings
- 2.7 Chronology
- 2.8 Interim care plan
- 2.9 Synopsis
- 2.10 Findings of fact (example)
- 2.11 Parties and service
- 2.12 Transfer

***To follow***

- 2.13 Experts including finance issues and role of LSO

***To follow***

- 2.14 Disclosure

***To follow***

- 2.15 Care planning guidance
- 2.16 ACPC guidelines on neglect

***To follow***

- 2.17 Emergency protection

***To follow***

- 2.18 Section 7 and Section 37 reports

***To follow***

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**Appendix 2.1**

**AGENDA – PRE-ACTION PLANNING MEETING**

The following agenda shall be followed wherever possible, along with the case planning checklist at Appendix 2.3.

1. Introduction, purpose of meeting, identity of family
2. Identification of family members and significant others
3. Updating of facts the threshold criteria/matrix document/court proceedings
4. Assessment of child's needs and level of risk/court proceedings
5. Further evidence and assessment required
  - Expert evidence
  - The interim care plan and options for final care plan
6. Parties and non-parties (birth certificates) (Appendix 2.11)
7. Complexity, urgency, transfer (Appendix 2.12)
8. Disclosure issues (Appendix 2.14)
9. Court documents -

Timescales will be set for the preparation of all court documents as set out in step 1 of the JCMP.

- (i) Application Form C1 and C13 setting out with clarity the reasons on Form C13 on which the Local Authority are to rely.
  - (j) Initial social work statement (Appendix 2.6).
  - (ii) Initial social work chronology (Appendix 2.7).
  - (iii) Core assessment or, if core assessment is not complete, initial assessment.
  - (iv) Other additional evidence including expert reports that then exist.
  - (v) Interim care plan (Appendix 2.8).
  - (vi) First draft of the case plan (Legal Services) (Appendix 2.5).
  - (vii) Any Section 7 or 37 Reports.
  - (viii) Draft threshold document (Legal Services).
  - (ix) Case synopsis (Legal Services) (Appendix 2.9).
  - (x) Letter of instruction to expert.
10. Prepare case plan and allocate tasks (Appendix 2.2)

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Appendix 2.2

**TEMPLATE TASK DOCUMENT**

<b>START DATE</b>	<b>REVIEW DATE</b>	<b>END DATE</b>	<b>TASK</b>	<b>OFFICER</b>	<b>KEY POINTS</b>

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**Appendix 2.3**

**PRE-ACTION PLANNING MEETING CHECKLIST**

**1. Purpose of meeting**

- The clear identification of the threshold issues in the case.
- Once the issues have been properly and fully identified, the identification of any further assessments.
- The production of the case plan based around those assessments.
- The production of an interim care plan.
- Planning for production of the detailed documentation required for court proceedings.
- The allocation of specific tasks to specific individuals with each task properly project planned using the task template at Appendix 2.2.
- Early consideration of questions which will need to be answered at the beginning of proceedings, namely who the parties should be, the complexity of the case and transfer, and the disclosure of documents.

**2. Family Members and Significant Others**

- Have all significant persons involved in the children's care been identified?
- Have fathers with parental responsibility and other significant adults in the family been informed of the proceedings?
- Have parents been advised in writing to seek legal advice?

**3. Updating Significant Facts**

- Is any information held by other agencies/departments?
- What steps have been taken to obtain the information?
- Is the information available in sufficient detail?
- Are any further steps necessary to obtain information?
- Are files held on any other relevant individuals, e.g. grandparents?

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- Have we inspected those files and extracted relevant information?

**4. The Threshold Criteria**

- What is the harm that the child is suffering or is likely to suffer? Define it, e.g. neglect, sexual abuse, physical abuse.
- Is the harm the result of deficits in parental care?
- What evidence and research is relied on to support the assertion the child is suffering harm?
- Has the threshold matrix been applied?

**5. Assessment of Risk and Need**

- What is the likely outcome for the child in terms of harm issues if there is no intervention?
- Have protective and non-protective factors been identified? (See Parenting Capacity, Department of Health 1999).
- What are the long-term consequences for the child if the harm continues, with likely outcomes?
- Is the child securely or insecurely attached to carers?
- What is the balance of breaking attachments against the ongoing risk of harm?
- Can any disruption in attachment be mitigated?

**6. Options other than Court Process**

Agreed family placement -

- Appropriate?
- Vulnerability of parents?
- Human rights addressed?
- Advocates for parents with mental health or learning disabilities?

**7.**

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**Further Evidence and Assessment**

- Is further evidence required to clarify threshold issues?
- Is further assessment required to clarify harm issues?
- What needs to change in respect of deficits in parenting? – Specific issues.
- What is the prognosis for change, given past history?
- Have parents/carers been advised that particular behaviour needs to change and of the consequences for the child and their future care?
- What specific assessment can be put in place to measure ability to change?
- Risk management – risk to any person involved in a court case should be considered.

**8. Expert Evidence**

- Has reference been made to Appendix 2.13?
- Is an expert required? What are the issues to which it is proposed expert evidence or further assessment should be directed?
- What questions are to be put to the expert?
- The relevance of the expert evidence to the issues in the proceedings.
- Why can't the expert evidence proposed be given by social worker undertaking a core assessment, or by the guardian, in accordance with their different statutory duties and competencies?
- Who will carry out the assessment?
- The timetable for the assessment.
- Who will instruct the expert?
- Is more than one expert required?
- Likely cost.
- Apportionment of costs of jointly instructed experts.
- Has the letter of instruction been agreed with the legal adviser?

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- Which documents ought to be disclosed to the expert?
- Are the resources available locally?
- Are plans in place to ensure that local approvals are obtained and procedures followed?

9. **Interim Care Planning and Options for Permanence**

- Has the guidance at Appendix 2.8 been followed?
- Have specific tasks been allocated and is everybody clear on the timetable for completion of tasks?
- Has reference been made to adoption and permanence briefing papers and materials?

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**Appendix 2.5**

**LEGAL SERVICES DOCUMENT**

CASE PLANNING TEMPLATE

<b>WEEK</b>		<b>ACTION</b>	<b>OFFICER Legal / Social</b>
- 12		Meeting with Legal Services	
- 11			
- 10			
- 9			
- 8			
- 7			
- 6			
- 5			
- 4			
- 3			
- 2			
- 1			
0	Issue		

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+ 1			
+ 2			
+ 3			
+ 4	CMC		
+ 5	HEARING		
+ 6	BETWEEN		
+ 7	WEEK 4-12		
+ 8			
+ 9			
+ 10			
+ 11			
+ 12			
+ 13			
+ 14			
+ 15			
+ 16			

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+ 17			
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+ 32			

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+ 33			
+ 34			
+ 35			
+ 36	PHR		
+ 37	WEEK 36-38		
+ 38			
+ 39	FINAL HEARING		
+ 40	WEEK 38-40		

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**Appendix 2.5(a)**

**CASE PLAN (Example):**

NB this is an indicative example. You must work to agreed timetables for each case, which are likely to be less than 40 weeks, and you must comply with statutory timescales for reviews etc.

<b><u>WEEK</u></b>	<b><u>ACTION</u></b>	<b><u>OFFICER</u></b>
-12	Child protection conference followed by pre-action meeting at Legal Services	Social worker to convene
-11	If further experts to be instructed, draft letter to be copied to Legal Services within five working days for agreement.	Legal Services
-10	Commence any further assessments to be undertaken by social worker.  Confirm any letter of instruction to further experts.	Social worker Team manager
-9		
-8		
-7		
-6		
-5	Review of progress	Social worker and lawyer
-4		
-3	Threshold matrix to be completed and agreed between Legal Services and Social Care and Health.  Identification of parties to proceedings.  Send witness availability questionnaire to all potential witnesses.	Legal Services
-2	Last date for completion of core assessment, together with completion of all outstanding assessments.	

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	The Local Authority will also review urgency, complexity and grounds for transfer.	
-1	<p>Services provided with the following documents</p> <p style="padding-left: 40px;">Form C1, Form C13 with reasons, Social work statement, Social work chronology, Core assessment, Other expert evidence, Interim care plan.</p> <p>All documents to be checked and prepared to issue at Week 0.</p>	
0	Birth of child/commencement of proceedings. All documents required under paragraph 1.5 are to be filed on issue of proceedings.	
+1	<p>First hearing/allocation to take place on day 6 of the proceedings. Legal Services to provide draft standard directions.</p> <p>Legal Services to commence drafting case management documents. In the event of a contested hearing being directed, that will occur no later than week 2 (day 11).</p> <p>Case synopsis by day 8.</p>	
+2	<p>Legal Services complete case management checklist - Protocol Appendix A3</p> <p>Draft standard direction form for Court.</p>	
+3		
+4	<p>One month statutory review</p> <p>Local Authority to complete standard directions form together with case management questionnaire.</p> <p>Complete case synopsis and prepare bundle for case management hearing.</p> <p>The case management conference will take place between week 4 and week 12.</p>	

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	NB Seven days prior to the case management hearing, there must be a meeting between the social worker and Legal Services to draft and finalise the document that must be served 5 days prior to the hearing. The social worker must also attend the pre-case advocates' meeting.	
+5		
+6		
+7		
+8		
+9		
+10		
+11		
+12		
+13		
+14		
+15		
+16		
+17		
+18		
+19		
+20	Second (4-month) statutory review. This principally to review progress and consider any extraordinary developments that may need to be accommodated	Social Worker
+21		
+22		
+23		

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+24		
+25	Completion of all assessments including kinship/panel papers	
+26		
+27	Pre-hearing statutory review	
+28		
+29		
+30		
+31	Adoption panel	
+32		
+33	Filing of care plan and final evidence and freeing documentation	
+34		
+35	Filing of parents/other parties' evidence	
+36	Completion of pre-hearing review checklist - Protocol Appendix A5. If appropriate, certify pre-hearing review unnecessary.	
+37	Filing of bundles / guardian's report	
+38	Pre-hearing review	
+39		
+40	Final Hearing	

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**Appendix 2.6**

**SOCIAL CARE AND HEALTH DOCUMENT**

**FIRST STATEMENT FOR CARE PROCEEDINGS**

THE CASE HEADING AND DETAILS WILL BE PROVIDED BY LSO IN A SEPARATE FRONT AND BACK SHEET TO THE STATEMENT. LEGAL SERVICES WILL ALSO PROVIDE EXHIBIT SHEETS.

**GUIDANCE NOTES**

1. **What is a Statement?**

A statement from the social worker provides advance notice of the evidence from the Local Authority. Evidence given in a written format reduces the need for oral evidence to be heard.

NB The Local Authority has a duty to disclose all relevant information whether favourable or not to the Local Authority's position.

- Use straightforward language. Explain any term not commonly understood.
- Avoid overlong sentences and paragraphs.
- Do not start a new paragraph with each new sentence unless the sentence refers to a new incident, subject or issue.
- Use full sentences not notes.
- The witness statement should not repeat evidence provided elsewhere, e.g. in the core assessment, but should cross-reference, e.g. .... 'as described in paragraph 7.4 of the core assessment'.
- Check your spelling and grammar.
- Avoid jargon. Often the Court and family members do not understand the shorthand used by social workers.
- Use line spacing of at least 1½. This makes the document easier to read.
- Refer to all adults as Mr, Mrs or Ms - use surnames not first names.
- In subsequent reports, do not repeat information previously given or include chunks from other statements.

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2. **References**

It may be appropriate to quote relevant research and you will be expected to be familiar with relevant recent research findings (see FACIN Guidance).

If you use references, they should normally be within your area of expertise, and you need to know the whole context of the research and other relevant material as cross-examination may not (almost certainly will not) be confined to the excerpt quoted.

3. **Appendices**

All documents appended to the statement must be referred to in the statement as "Exhibit JE1" or Appendix 1, 2, 3, etc, and clearly marked as such.

Seek advice from your solicitor about which documents to exhibit.

Examples of documents likely to be appended to the first statement -

Genogram, working agreement, assessment report.

4. **Working Agreement**

When appending an agreement on contact or other matters, please ensure it is signed and dated.

5. **Numbering**

Number each paragraph, numbering under sub-headings where these are used. For example, if Background Information is a heading and is paragraph 6, paragraphs under that heading become 6.1, 6.2, etc.

6. **Practical Points**

- Handwritten drafts must be legible. If handwritten drafts are faxed, they must be in black ink. Number the pages of any such draft.
- Always keep a copy of your draft.
- If you have not provided a typed and signed report, you will need to make arrangements to come to Legal Services to sign the document prior to the filing date.
- When you refer to exhibits, make sure they are included.

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**7. Risks**

If a draft is not sent in on time, this will lead to late filing. An application must be made to file the document out of time if you know it will be late. This costs £80. There may also be the possibility of a Wasted Costs Order. Documents delivered just before the deadline for filing are not on time!

If annual leave or other commitments are likely to impact on time to draft the statement, this should be quickly raised with a line manager. It is essential that court directions are complied with.

**8. Evidential Rules**

- Only include what is directly relevant to the case. Do not include unnecessary detail.
- Distinguish fact from opinion and give a proper factual basis for any opinion. Although the law only allows experts to give opinion evidence, there is an exception which allows anyone to give an opinion, within their observations and experience.
- When reporting hearsay, identify it and say where and when you received it. Hearsay evidence will vary in weight, depending on a number of facts.

All relevant information must be included. It is particularly important to avoid only including information which supports the Local Authority case. If information is known which is favourable to another party, it must be included and taken into the balance in later analysis. A statement maker will be criticised and their evidence will be of little weight if a statement is not balanced in this way.

**LAYOUT OF STATEMENT**

**1. Introduction and Personal Details**

Include:

- Full name.
- Address.
- Relevant professional qualifications and experience.
- Current post.
- Time in current position.
- Allocation date and length of time involved with family.

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---

Example:

I am a (social worker, senior practitioner) employed by ..... The Applicant Council and I am currently based at [give office address]. I have been employed since [give date]. *If applicable add prior to this, I was employed as a [give occupation and employer's name].* I hold the following qualifications [give qualifications].

I make this statement in support of the Local Authority's application for [name order] in respect of [give name(s) of children]. In preparing this statement I have consulted with [give name(s) and/or professions or details of group, e.g. core group] and have had sight of (files/records held by .....). I became (the allocated worker/supervising manager) for this family [give date].

2. **Family Composition**

- Exhibit Genogram.
- Names and dates of birth and addresses of children.
- Ethnic origin.
- Parents details (names, dates of birth, addresses, marital status and whether parental responsibility.
- Other significant person.

Do not reveal any address which is confidential.

Example:

Child (subject)	Mary Brown	24/12/02	Mary and Ms Brown are currently placed at a mother and baby foster home in Coventry
Ethnicity	Mary is white/black Caribbean		
Mother	Alice Brown	12/12/82	Ms Brown previously resided with Mrs Jones at
Father	John Smith	DOB (unknown)	Whereabouts unknown
Mother's partner	Robert Jones	13/01/70	Living with his grandparents in Cardiff

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3. **Precipitating Incident and Background Circumstances Relevant to the Grounds and Reasons for Making the Application**

- Include a brief description of any referral and assessment processes that have already occurred.
- Cross refer to chronology where recent concerns link with historical concerns.

Example:

Following the Section 47 investigation on 17 March 2003, a child protection conference was held. All four children were registered under the category of neglect. A recommendation of the conference was that the Local Authority should initiate care proceedings. Conference members were concerned about the cumulative effect on the children of the history of neglect. There had been three periods of registration between 1999 and 2001 and a further period in 2002. A pattern had been established of Mr and Mrs C accepting services and co-operating during periods of registration and then refusing services as soon as the children's names were removed from the child protection register.

4. **Facts and Matters within the Current Social Worker's Personal Knowledge**

- Narrative account of the social workers involvement dealing with relevant issues
- Previous Local Authority involvement will be dealt with in the chronology with the previous social worker identified in the 'reference' column.

5. **Emergency Steps and Previous Court Orders Relevant to the Application**

Example:

The child was removed by police under a police protection order at 4.30 pm on [date]. The following day an emergency protection order (EPO) was granted for 7 days at a without notice hearing at Birmingham Family Proceedings Court to expire at midnight on [date]. A further hearing took place on [date] when the EPO was extended for 7 days to allow initial investigations to be completed.

6. **Decisions by the Local Authority Relevant to the Application**

If the chronology contains reference to child protection case conferences or other meetings, you may need to summarise concerns or recommendations or highlight certain information. It is not usually necessary to give details of every recommendation.

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**7. Family Profile**

- Information relevant to ethnicity, language, religion, culture, gender and vulnerability of the child and other significant persons.
- Narrative description of social care services relevant to each individual.
- Use sub-headings.

**8. Initial Proposals for Placement, Contact and Social Care Services  
(Separate interim care plan)**

- State that these are included in interim care plans exhibited at Exhibit ...

**9. The Social Work Timetable, Tasks and Responsibilities as far as they are Known** (Separate interim care plan)

- State that these are included in interim care plans exhibited as Exhibit ...

**10. Conclusion**

- Briefly bring the threads of the case together and state the order requested.

Example:

The Local Authority is mindful that the Court will have regard to the no order principle, however in this case the Local Authority respectfully seeks interim care orders for all three children.

**11. Declaration**

I declare to the best of my knowledge and belief the contents of this my statement are true and I understand that it may be placed before the Court.

Signed.....

Dated.....

NB Your statement cannot be pp'd by anyone else.

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## **Appendix 2.7**

### **SOCIAL CARE AND HEALTH DOCUMENT**

#### **CHRONOLOGY**

1. The purpose of the chronology to be submitted to the Court is to assist in understanding the case history by identifying and dating key events.
2. Under the new protocol its purpose is also to cut down on the need for the filing of statements as at an early stage the parents and other respondents will be directed to make statements in response to the Local Authority case and to provide a position statement in response to Local Authority documents. These will include the chronology and a schedule of facts upon which the Court is invited to make findings. If facts are not in dispute it will not be necessary to seek statements from the witnesses concerned.
3. The chronology should be kept simple. It does not need to list every event or provide the level of detail in a case record. Each and every phone call does not need to be recorded.
4. A simple test is that the chronology should not confuse or mislead in assisting the reader in reaching a clear understanding of the case. When the chronology has been completed read it to make sure that crucial events have not been omitted and ask yourself if it aids understanding.
5. It is important to include the dates on which social workers were allocated to the case or ceased working on the case.
6. The chronology should be a balanced document and should include information which does not support the Local Authority case. It is necessary to consider parental strengths as well as weaknesses.
7. Child protection conferences and reviews are important events. The dates on which these took place should be included along with a bullet point list of plans made. The chronology should be clear as to whether plans were implemented.
8. It is important to complete the witness or document reference section as this will aid the Legal Services Office, Court and parties in identifying the witnesses from whom evidence may be required.
9. An example chronology is set out below.
10. Practical point.

It is possible to sort by date in a Word table. This allows the document to be dictated or completed out of order and sorted by date upon completion. It will be prudent to

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insert the numbers in the serial number column after you have sorted the document by date.

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**Example**

<b>Serial No</b>	<b>Date</b>	<b>Event</b>	<b>Witness or document reference where applicable</b>
	10/10/94	Ms Smith in hospital in labour. Concerns regarding lack of preparation for the baby. Social worker, Mary Brown, allocated to work on parenting and housing.	Mary Brown
	11/11/94	Request for financial support for Ms Smith.	“
	Dec 1994	Ms Smith and Katie moved to County Durham without informing Social Services, no forwarding address given.	“
	27/02/95	Ms Smith had moved back to the area, concerns regarding poor home conditions. Katie had had no contact with health services since 13/11/94. Ms Smith made an allegation that Katie had been sexually abused by a neighbour. Mary Brown re-allocated to the case.	“
	02/03/95	Ms Smith moved house again, whereabouts unknown.	“
	22/03/95	Ms Smith made request for financial support.	“
	23/03/95	Ms Smith living with a person who had convictions for indecent assault on a child. Ms Smith acted appropriately on our advice and left.	“
	05/05/95	Ms Smith spending increasing amount of time with ‘family friends’. Family friends were taking an increasing amount of care for Katie against Ms Smith’s wishes. Social Services supported Ms Smith in moving away. Mrs Smith accepted advice and guidance.	“
	13/02/98	Ms Smith pregnant. Concerns from Health Service re lack of antenatal care. Concerns re poor home conditions. John Jones allocated as social worker.	John Jones

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	17/11/99	Tara Smith born at 28 weeks' gestation, again no antenatal care. Health Services unaware of pregnancy. Concerns regarding poor home conditions. Health visitor difficulty in visiting the children over last 18 months. Adam had not received immunisations. Abbey had outstanding immunisations and a squint which required attention.	Jane Black, health visitor
	23/12/99	Tara on special care baby unit. No visits from family since 15/12/99.	Sarah Green, midwife
	15/03/00	Health visitor requesting alternative accommodation for Ms Smith. She had been 'thrown out' by Mr White.	Jane Black
	27/05/00	Ms Smith contacted Coventry Social Services requesting help with food for the children.	Craig Burton, social worker, Coventry
	20/06/00	Tara Smith admitted to hospital in a 'moribund state', described as 'pale, floppy and needing oxygen.	Dr John Smith, Children's Hospital
	13/07/00	Initial child protection conference. Tara's name placed on the register re neglect. No plan for Tara Smith to return home until an assessment is undertaken.	John Jones
	Sept 2000	Assessment completed. There were no concerns re Katie. There were concerns about Adam's development. Ms Smith fully co-operates with the assessment	"
	23/11/00	Decision to initiate care proceedings on Tara Smith.	"
	30/01/01	Child in need review. Concerns around safety issues in the home. Decision to close the case in respect of Katie and Abbey. Adam to remain open due to concerns re non-attendance at nursery.	"
	09/02/01	Referral due to bite marks to Adam's arm. Current social worker, Jenny Brown, allocated.	Jenny Brown

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	26/04/01	Anonymous referral about parents using drugs, Mr White hitting the children.	“
	28/04/01	Initial child protection conference held – children’s names on register re neglect and physical abuse.	“
	02/05/01	Social worker informed by neighbour that the family have moved, no forwarding address.	“
	15/05/01	Anonymous referral that Ms Smith’s partner was hitting the children. Children locked in room. Mother ‘constantly stoned’.	“
	17/05/01	Social work visit. Children clean and appropriately dressed. Ms Smith denied using drugs. Planned weekly visits followed and on each occasion social worker unable to gain entry.	“
	21/06/01	Referral stated that both parents were again living together with children and injecting heroin. Social worker unable to gain access to flat.	“
	28/06/01	Police received an anonymous phone call saying the children were being hit by parents. Father had been overheard to say ‘you can stay in the cupboard’.	“
	29/06/01	Core assessment completed. Conclusion – that it is unsafe for children to remain at home and parents have done their best but have not demonstrated any potential to change. Decision to initiate proceedings as no family or friends available to care for children. Foster placements required. Plan for adoption.	“

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**Appendix 2.8**

**SOCIAL CARE AND HEALTH DOCUMENT**

**INTERIM CARE PLAN**

1. Full Name of Child: [REDACTED]

2. Date of Birth: [REDACTED]

3. Name of Local Authority: [REDACTED]

4. Date of Plan: [REDACTED]

This Care Plan is produced in accordance with the protocol for judicial case management in public law Children Act cases and should be read in conjunction with the social work statement.

Where there is more than one child, an interim care plan should be produced for each individual child. This is particularly important in large sibling groups who may be placed in different placements or have different long-term contact plans.

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**Section 1: Overall Aims**

- 1.1 ***The Local Authority's primary plan*** [Include date the plan was agreed and body making plan, e.g. child protection conference]

Examples:

- (a) Rehabilitation to the mother with twice-yearly written contact to father.
- (b) Placement with another family member.

- 1.2 ***The parallel plan or any other options***

Examples:

- (a) Permanency by way of adoption outside of the natural family; or
- (b) Long-term fostering with an extended family member.

- 1.3 ***Details of further proposed assessments by the Local Authority*** [This could be of the child, parent or family and friend. Where more than one assessment is proposed, the details of each assessment should be set out]

Example:

The Local Authority proposes to carry out a community-based assessment at a family centre. The assessment will commence on \_\_\_\_\_ and be completed on \_\_\_\_\_. The assessment will involve four sessions per week with an identified worker travelling to the parents' home with the child to assess the parents' ability to cope with day-to-day tasks.

- (a) *The identified person to carry out those assessments*

Example:

Alfred Aardvark, Family Assessment Centre.

- (b) *Why the assessment(s) is are required?*

Example:

The previous concerns relate to the parents' inability to meet the emotional and physical needs of the child, particularly in day-to-day parenting tasks such as keeping the home tidy, preparing meals, clean clothing and responding to the child's needs. The core assessment

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has identified areas in which the parents' skills can be improved by way of the community assessment.

(c) *The timescales for the assessment*

Example:

Commencement 1/7/00  
Completion 15/9/00  
Final review 1/9/00  
Report will be available 25/9/00

(d) *Funding*

Example:

Funding for the assessment was agreed at child protection panel on . The cost is .

**1.4 Details of any expert intended to be instructed by the Local Authority**

(a) *Who will undertake the assessment*

Example:

Dr Beverley Basilisk, Psychologist

(b) *Why the assessment is required*

Example:

To enquire into the therapeutic requirements identified by the father's bizarre behaviour, and learning difficulties.

(c) *Timescales for the assessment*

Example:

The assessment can commence by \_\_\_\_\_ and will be completed by \_\_\_\_\_ subject to the letter of instruction and documentation being received by the doctor no later than \_\_\_\_\_

(d) *Funding*

Example:

The Local Authority will fund a one third share.

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**1.5 *Details of the timescales for the Local Authority parallel plan***

[This should include dates for permanency medicals proposed, referral dates for adoption panels, etc.]

Example:

The permanency medical will occur on .....

The Form E Part 1 will be completed by .....

The proposed final statutory review is .....

The proposed final panel date is .....

The proposed date for ratification of any decision to place the child for adoption is .....

The proposed date to refer the matter to Family Finding is .....

**Section 2: Child's Needs Including Contact**

**2.1 *Duration, frequency, venue of contact to parent, siblings, significant others***

**Section 3: Interim Placement Details and Timetable**

**3.1 *Proposed placement - type and details (or details of alternative placement) [with or without sibling broad geographical location, etc]***

Example:

Charles Cat will live with his half-sibling, David Duck, at a foster placement in . The half-sibling, Elizabeth Elephant, will be placed in a specialist therapeutic unit before being placed with her siblings.

**3.2 *Time that is likely to elapse before proposed placement is made***  
[Completion of initial assessment of grandparents, etc]

Example:

The children will be moved from the initial foster care placement within 14 days.

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- 3.3 ***Likely duration of placement (or other placement)*** [until final hearing, or if emergency placement, or if looking for joint sibling placement]

Example:

The placement as outlined in Section 2.1 will last until final hearing or, if applicable, placement with the paternal grandparents on completion of the fostering assessment.

- 3.4 ***Arrangements for health care (including consent to examination and treatment)*** [GP and any special needs]

Example:

The children are registered with local GPs. The child with special health needs has been referred to Consultant at ..... Hospital.

- 3.5 ***Arrangements for education (including any pre-school day-care activity)***  
[Type of education and any special needs]

Example:

Two children attend pre-school nursery three days a week. One child attends the First Frog Infant School. There are no special educational needs.

- 3.6 ***Other services to be provided to the child*** [therapeutic referrals]

Example:

Speech therapy is being provided for all children.

- 3.7 ***Other services to be provided to parents and other family members***  
[e.g. assistance with travel to contact, referral to drugs clinic]

Example:

(a) The parents have been given the names and contact details of drug referral clinics and the initial appointment set up.

(b) They were provided with vouchers for travelling to contact.

- 3.8 ***Details of proposed support services in placement for carers***  
[E.g. respite care, nursery, assistance for disabled child and agency providing support]

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Example:

The foster carers will be provided with respite care on a regular basis due to the children's behavioural difficulties.

#### **Section 4: Views of Others**

##### **4.1 *The views of parents and other significant adults***

[Are the parents agreeing to plan?]

Example:

The parents object to the children being accommodated and have threatened to remove them.

#### **Section 5: Local Authority's Decision Making Timetable**

##### **5.1 *Dates of review*** [set out dates for all strategy reviews and other review processes from the case plan]

Example:

This should follow your case plan template.

9/7/03            First hearing in Magistrates Court. Interim care order granted due to the mother's concealing of the pregnancy until very late. The Local Authority to immediately commence case planning and to provide the Court on 22 July an agreed case plan.

22/7/03            First hearing in County Court, case plan to be provided.  
Update on enquiries to locate the father.

Update on the assessment to find whether there has been any change in this family.

Local Authority 's position on contact to be made absolutely clear.

Assessment of mother during contact sessions to commence.

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- Mother's solicitor to commission updating psychological assessment.
- 5/9/03            Local Authority to file statement in respect of the contact and the assessment of the mother through the contact sessions.
- Local Authority to file outcome of the assessment looking at any change in the family home.
- Local Authority to set out proposals, if any, for further assessment between September and November.
- 15/9/03            Commencement of psychiatric assessment.
- 3/11/03            End of psychiatric assessment.  
Completion of any further assessments by the Local Authority.
- 10/11/03           Statutory review.
- 08/12/03           Permanency panel – family finding starts if so advised.
- 29/12/03           Care plan and homefinding evidence. Local Authority being given leave to update on the homefinding situation and final hearing.
- 12/01/03           Parents' evidence.
- 26/01/03           Filing of guardian's report.
- 09/02/04           Pre-hearing review.
- 23/02/04           Final hearing - time estimate two days.

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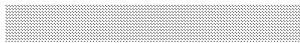
**Section 6: Management and Support by Local Authority**

**6.1 *Who is responsible? - Social worker / team manager***

Example:

Gerald Gecko - social worker, and Harriet Hedgehog – team manager.

**6.2 *Dates of review [set out dates of review from case plan]***



**Care Plan prepared by:**

Signed ..... Dated .....

Name in block capitals .....

Position .....

Work address .....

.....

**Endorsed by:**

Signed ..... Dated .....

Name in block capitals .....

Position .....

Work address .....

.....

Interim care plans should be endorsed by the team manager.

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**Appendix 2.9**

**LEGAL SERVICES DOCUMENT**

**SYNOPSIS**

Step 2.7 of the JCMP provides that where a case is to be transferred from the FPC to the County Court, the Court shall direct the Local Authority or child's solicitor to prepare a case synopsis, which shall be filed with the Care Centre and served within 2 days of the first hearing in the FPC.

Appendix B of the JCMP sets out the specific headings which must be used.

Reference for LSO lawyers: see Precedent S0 in LSO precedent pack.

**The synopsis should normally be limited to no more than 2 sides of A4**

Synopsis layout:

1. The identities of the parties and other significant persons -  
Include the representatives of the parties here.
2. Applications before the Court.
3. A **very** brief summary.
4. Issues for directions at allocation hearing.
5. Any intention to apply to transfer the case to the High Court.
6. Parties' interim proposals in relation to placement and contact.  
This should include any points of disagreement and alternative proposals.
7. Time estimate for allocation hearing
8. Reading list and reading time for allocation hearing.
9. Advance notice of any other decisions or proceedings that may be relevant, to include:  
Criminal prosecutions,  
Other family law proceedings,  
Disciplinary, immigration and mental health adjudications.

**See example synopsis attached**

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I. IN THE BIRMINGHAM  
COURT

Case No \_\_\_\_\_

IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF:

\_\_\_\_\_  
(DOB \_\_\_\_\_)  
\_\_\_\_\_  
(DOB \_\_\_\_\_)  
\_\_\_\_\_  
(DOB \_\_\_\_\_)

(A CHILD REN)

B E T W E E N :

BIRMINGHAM CITY COUNCIL

Applicant

- and -

-

First Respondent

- and -

(A child acting by his Guardian)

Second Respondent

- and -

-

Third Respondent

---

**CASE SYNOPSIS FOR HEARING ON**

---

**The Parties and Other Significant Persons**

(a) Subject of the proceedings

[Name all the children who are subject to the application].

(b) Mother

(c) Father

(d) Other siblings

[Name any other siblings or half-siblings who are living elsewhere or  
who are over 18 years of age].

(e) Other significant adults

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[Identify any person with whom the child is living or has a significant relationship, e.g. grandmother, aunt etc. This should include any person who is being assessed for the long-term care of the child.]

II.

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**III. Applications**

[You should clearly state the application that is being made, together with the date, e.g. care order; contact application; application by Birmingham City Council for leave to refuse contact; etc.]

**Case Summary**

In this section there should be a brief description of the history of this matter that has resulted in the application being made to Court. This should be no more than 500 words and should include only the basic information. For example -

Birmingham City Council commenced care proceedings in respect of these children because of -

- (a) Inappropriate sexual boundaries within the household and an allegation of inappropriate touching by a family friend.
- (b) Ongoing concerns in respect of neglectful parenting evidenced by -
  - Poor attendance at school;
  - Unhygienic household conditions;
  - The children appearing malnourished and unkempt.

On the allocated social worker attended at the property in pursuance of the Section 47 enquiries, and the allegation of inappropriate touching, and found the youngest child to be locked in a small room in squalid and dirty conditions with faeces on the floor. The accompanying police officer immediately decided that a police protection order was required.

All children were then removed from the property pursuant to the police protection order and placed in foster care on (date).

The mother has displayed difficulty in understanding social work involvement in the past, and it is believed by the Local Authority that she has a significant learning disability.

The Local Authority believe that the father has 22 previous convictions for violence, and has threatened to kill the family pet hamster if the social worker visits the house.

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**IV. Placement**

This should be a section of no more than two paragraphs setting out current and proposed placements. For example -

The children moved from the care of the parents to an emergency duty foster placement. They remained in this foster placement for four days. The sibling group has been split as follows:

Alice Aardvark is with foster carers on the Isle of Skye and Ziggurat Zebra is placed in foster care on the Isle of Wight. It is proposed that they remain in these placements until final hearing.

**V. Contact**

You should set out the level of contact to be enjoyed between those persons set out in Section 34 of the Children Act, that is contact to mother, contact to father, and inter-sibling contact. It should also set out where appropriate contact to those persons as set out in Schedule II Article 15 of the Children Act 1989. Points of disagreement and alternative proposals should be included.

**VI. Transfer/Transfer to High Court (if applicable)**

You should set out clearly why you feel transfer is required. Particularly relevant to the first hearing and allocations hearing.

You should also have regard to the need for nominal transfers to the High Court to invoke inherent jurisdiction, e.g. injunctions, or seek and find orders.

**VII. Issues for This Hearing**

Under this section you should state any particular issues that have been identified by the parties for the next hearing. These may include such things as directions for social work core assessment, proposed expert evidence or disputes as to contact venue or the need for supervision of contact.

**Time Estimate for Allocation Hearing**

Should be realistic. Where likely to be argument on issues go beyond the standard 45 minutes, if all agreed less.

**Reading List and Reading Time**

E.g. Judgement of His Honour Judge .....  
Chronology  
Social work statements of ..... dated .....  
Time required 30 minutes

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**VIII. Advance Notice of Other Decisions or Proceedings**

Under this heading, you should set out and give notice of other decisions or proceedings that may be relevant to the Court's decisions. This will include pending criminal prosecutions, other family law proceedings such as residence applications by great aunts, immigration proceedings or questions as to immigration status, mental health issues, particularly any sections or mental health tribunal decisions.

E.g. Criminal proceedings  
Case number  
Birmingham Crown Court  
Next hearing date.

**NB:** Your completed synopsis should be shorter than this example, and in normal circumstances only 2 sides of A4.

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Case No \_\_\_\_\_

IN THE BIRMINGHAM  
COURT

IN THE MATTER OF THE  
CHILDREN ACT 1989

AND IN THE MATTER OF:

\_\_\_\_\_  
(DOB \_\_\_\_\_)

\_\_\_\_\_  
(DOB \_\_\_\_\_)

\_\_\_\_\_  
(DOB \_\_\_\_\_)

(A CHILD REN)

B E T W E E N :

BIRMINGHAM CITY COUNCIL  
Applicant

and –

First Respondent

and –

(A child acting by his Guardian)  
Second Respondent

and –

Third Respondent

---

**CASE SYNOPSIS FOR HEARING  
ON**

---

Jane Robson  
Solicitor (Social Services)  
Ingleby House  
11-14 Cannon Street  
Birmingham  
B2 5EN

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**Appendix 2.10**

**LEGAL SERVICES DOCUMENT**

**FINDINGS OF FACT**

IN THE BIRMINGHAM COUNTY COURT

Case No \_\_\_\_\_

IN THE MATTER OF THE CHILDREN ACT  
1989

AND IN THE MATTER OF:  
TOM MURPHY (DOB \_\_\_\_\_ )  
OLIVER MURPHY (DOB \_\_\_\_\_ ) and  
JOSEPH MURPHY (DOB \_\_\_\_\_ )  
(CHILDREN)

B E T W E E N :

BIRMINGHAM CITY COUNCIL

Applicant

- and -  
MARY MURPHY

First Respondent

- and -  
TOM, OLIVER AND JOSEPH MURPHY

Second to Fourth Respondents

- and -  
JOHN MURPHY

Fifth Respondent

-

---

**SCHEDULE OF FINDINGS OF FACT  
(ON BEHALF OF THE APPLICANT)**

---

1. John Murphy and Mary Murphy are the parents of Tom, Oliver and Joseph Murphy. John Murphy does not have parental responsibility.

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**NEGLECT**

2. The children have suffered harm as a result of neglectful parenting. For example:

- (a) There is a history of the children presenting underweight, hungry and having to beg for food. For example -
  - (i) The children had missed immunisations. The children were underweight. Following Tony's admission into hospital he gained weight.
  - (ii) The mother had failed to keep any appointments at the clinic.
  - (iii) On 7 March 2002 the police attended the family home and discovered that no food was present.
  - (iv) Joseph often complained at school that he was hungry as he had not had breakfast and had no school snack with him.
  
- (b) The children's presentation was very poor and was noted by the children's respective schools. For example -
  - (i) St Clare's Primary School: Tom, Oliver and Joseph were sometimes inadequately or unsuitably dressed and were not always clean.
  - (ii) City High School: Joseph appeared pale and undernourished.
  
- (c) The parents were unable to maintain a hygienic home environment for the children. For example:
  - (i) On 13 June 2000 Social Care and Health were concerned about the home. The house was dirty, squalid and filthy.

5. **Educational Needs**

The parents were unable to meet the children's educational needs. Consequently the children have suffered harm by reason of impairment of their intellectual and social development. For example:

- (a) The parents failed to take appropriate steps to ensure Tom's transfer to secondary school was arranged. Tom (aged 12) subsequently missed 12 months of secondary education.

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- (b) He was not registered at any school and had not attended school since September 2001.
- (c) The mother had not arranged a secondary school transfer for Oliver despite having been sent a letter from City High School and having had reminders.

**PHYSICAL HARM**

- 8. The parents' lifestyle exposed the children to a risk of physical harm. For example:
  - (a) The family home was broken into by a crack cocaine dealer wielding a knife, who was trying to recover money owed by the father. The children were present and at risk because violence was used.
  - (b) The mother used Tom to protect her when she needed to buy drugs whilst his father used to stay at home to look after the other children.
- 9. The parents exposed the children to their inappropriate lifestyle and drug misuse. For example:
  - (a) Tom stated that a prostitute shares drugs with mummy and daddy. They burn foil with drugs and stone on it. Tom was able to show with his hands how this was done.
- 12. The parents in January 2003 disclosed their continued drug usage for example:
  - (a) Mother admitted on 2 January 2003 that she was a crack user and was seeking to educate herself concerning the use and abuse of crack cocaine and how to remain drug free after rehabilitation.
  - (b) On 2 February 2003 the father stated that he was using five bags of heroin daily along with his prescribed methadone.

**EMOTIONAL HARM**

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13. The parents have exposed the children to an unsafe, unstable and chaotic lifestyle. They have been unable to provide a safe and secure environment for the children. As a result the children have suffered emotional harm.

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**Appendix 2.11**

**PARTIES AND SERVICE**

1. The LSO or the social worker must ensure that the documents are served within 2 days of issue of the application by the Court.
  - The LSO will effect service upon the guardian and legally represented parties.
  - The social worker will effect service upon the parents and any parties who are not legally represented.
  - A distinction must be made between the automatic respondents and a person to whom notice must be given.
  - Automatic respondents to an application for a care or supervision are:
    - Every person whom the applicant believes has parental responsibility for the child; and
    - The child.
  - The automatic respondents should be served with the following documentation:
    - The C1 and C13 together with the Notice of Hearing.
    - Any supplementary forms issued by the Court.
    - Any relevant court orders, justices' facts, reasons and any relevant judgements.
    - Social workers' statements.
    - Social worker's chronology.
    - The core assessment, or the initial assessment where the core assessment has not yet been completed.
    - Any Section 37 report.
    - Any additional evidence upon which the Local Authority seeks to rely.
  - Persons to whom notice must be given are classified as follows:
    - Any Local Authority providing accommodation for the child.
    - Any person with whom the child is living at the time the proceedings are commenced.
    - Where the child is alleged to be staying in a refuge which is certified under Section 51(1) or (2), the person providing the refuge.
    - Every person whom the applicant believes to be a party to pending relevant proceedings in respect of the same child.
    - Every person whom the applicant believes to be a parent without parental responsibility (i.e. an unmarried father who has not acquired parental responsibility).The persons specified above should only be provided with the notice of the hearing (Form C6A).

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2. Service may be effected by the following means:

- If a party is legally represented, service upon his solicitor -
  - By delivery at his office.
  - By first class post to his office or through the document exchange.
  - By facsimile transmission to his office.
- If the party is not known to be acting by a solicitor:
  - Personally by handing the documents to the individual concerned.
  - By delivery or posting the documents first class to his residence or last known residence.

Service upon a child must be effected by serving the document upon the solicitor acting for the child or, where there is no solicitor acting, service upon the children's guardian. Where neither a solicitor nor children's guardian is acting, service may only be effected upon the child himself with leave of the justices' clerk or the Court.

It is important to note that a document is deemed to be served at specified times which are dependent upon the method of service used (see table below).

<b>Method of service</b>	<b>Deemed day of service</b>
First class post	The second day after it was posted.
Document exchange	The second day after it was left at the document exchange.
Delivering the document to or leaving it at a permitted address	The day after it was delivered to or left at the permitted address.
Fax	<ul style="list-style-type: none"> <li>• If it is transmitted on a business day before 4 pm, on that day; or</li> <li>• In any other case, on the business day after the day on which it is transmitted.</li> </ul>
Other electronic method	The second day after the day on which it is transmitted.
Personal service	If a document is served personally after 5 pm or at any time on Saturday, Sunday or a bank holiday, it will be treated as being served on the next business day.

3. Once the documents have been served, the social worker must complete the Form C9 Statement of Service and fax it to the LSO within 24 hours of service.

4. Where there are safety issues, the social worker should obtain the Operations Manager's authority to use a process server.

## CARE PLANNING GUIDANCE

### Introduction

1. The Local Authority circular LAC (99) 29 contains guidance (which is mandatory) regarding the preparation of care plans in care proceedings.
2. The guidance requires the contents of the care plan to be structured into 5 sections:
  - Overall aims
  - Child's needs including contact
  - Views of others
  - Placement details and time table
  - Management and support by the Local Authority.
3. The care plan template should be used for all care plans including the interim care plan. When applying for a supervision order it is advisable, and it is current practice, to use the care plan format.
4. The attached guidance notes explain what should be entered under the headings.
5. Care should be taken to give details of **why** something is proposed as well as **what**.
6. Attention to the above aspect of the care plan, as well as time scales and other details of the plan, may significantly reduce the time spent at Court and in giving oral evidence.
7. It will also assist at a later stage in reviewing the implementation of the care plan.
8. Care Plan and Disabled Children

Show what is proposed is the best way to meet the assessed needs of the particular child. Pay particular attention to educational component (NB DES policy of promoting more widely the inclusion of disabled children into mainstream school.)
9. Care Plan and Pathway Plan

In respect of teenage children, the care plan should address the arrangements for leaving care.

## 10. Adoption

- Where adoption is the probable option, the care plan must contain details of likely steps and timetable to implement the plan.
- The degree of preparatory work achieved will depend on
  - The stage of the proceedings;
  - Whether rehabilitation or placement with relatives has been ruled out; and
  - Whether adoption is a parallel plan or is the preferred plan.
- By the time of the final care plan, the child(ren) should have (at least) been presented to adoption panel for an “in principle” decision.
- An interim care plan should contain details of the steps which will be taken e.g. preparation of Form E etc.
- Other issues to be addressed include:
  - Plan for contact pre-placement and post-placement;
  - Services to the child pre-placement and post-placement e.g. therapy;
  - Family finding and any placement options;
  - Contingency plan (be as specific as you can);
  - Freeing - the freeing application will mostly be heard alongside the care application.

## 11. Long term fostering or permanent fostering.

The care plan should address the same key steps and timetable as in adoption except that presentation will be to officer panel.

## 12. Contact and separated siblings.

Where there are different plans for siblings, for example adoption for one or more of the children in a sibling group, fostering for another or others, pay careful attention to the contact plan.

## 13. The final care plan requires endorsement by a senior officer of the Local Authority. This task has been delegated to the Operations Manager.

Adequate time should be scheduled in for the care plan to be checked within the team and by the allocated lawyer and then read and considered by the Operations Manager, before filing with the Court. (See advice re statements and avoiding delay.)

## **General Guidance Notes**

1. A separate care plan is needed for each child who is the subject of proceedings. Where siblings are involved, take care to identify individual differences by use of italics, highlighting (bold) or underlining, even though some information will be identical.
2. The care plan is a separate "stand alone" document and should not be incorporated into a statement of evidence. The care plan should not duplicate evidence contained in other documents before the Court.
3. The amount of detail will depend on whether the plan has been prepared for an interim or final hearing.
4. The implementation of the care plan will be reviewed by LAC statutory review.
5. Ensure that agreement has been obtained from any other agency or service provider referred to as providing a resource/service in the care plan.
6. Time scales should be realistic and achievable.
7. Be as specific as you can, and say why something is planned as well as what is planned.
8. Where there is more than one proposal, for example there may be parallel planning in progress, explain each strand and how a decision will be reached.
9. The **care plan** for the **final hearing** must be endorsed by a senior officer within the Local Authority.
10. It is crucial that time is allowed for the care plan to be checked by yourself, your team manager, Operations Manager and your solicitor **before** it is passed to the designated officer for signature. The designated officer will also need time to consider the plan before signing it.

## **Practical Details**

1. Use the format provided. All pages should be numbered and single sided.
2. Each case is different. You may need more or less space under each heading.
3. Check which Court as cases may move to a higher Court during proceedings. The case number may also then alter.

## **Front Sheet**

Please enter appropriate information omitting alternatives in brackets e.g. if case is in the County Court the first line should read

IN THE BIRMINGHAM COUNTY COURT

CASE NO.....

## **Section 1: Overall Aim of the Plan**

NB Start Section 1 on a new page. A new page is not required for the following 4 Sections.

### 1.1 Aim of the plan

- **Explain why the plan varies from any previous one prepared in the proceedings.**
- **Do not say “the aim of the plan is to obtain a care order”;**
- Say **what** is proposed and **why**;
- Identify **key** components of the plan;
- Who will do the assessment, what is to be assessed and (in 1.2) when?

### 1.2 Timetable

Be as specific and realistic as you can about timescales for implementation of the **overall plan** as well as each **key stage**.

## **Section 2: Child’s Needs**

### 2.1 The child’s identified needs

Consider the above needs, including needs arising from emotional and behavioural difficulties or any harm the child has experienced e.g. failure to thrive due to non-organic causes.

### 2.2 The extent to which the wishes and views of the child have been obtained and acted upon

Give details of the wishes and views of the child and the extent to which they have been taken into account. Bear in mind that quite young children are able to convey their feelings.

### 2.3 The reasons for supporting this or explanations of why wishes/views have not been given absolute precedence.

Give reason for the plan supporting the child's wishes and feelings or if not, why they have not been given precedence.

### 2.4 Summary of how child's needs may be met

(There is overlap with Section 4 so do not duplicate)  
Link with the needs identified in 2.1 e.g. if the child has been neglected and has not received adequate stimulation, explain how this may be remedied.

### 2.5 Arrangements for and purpose of contact in meeting the child’s needs.

Specify the contact relationship e.g. parent, stepparent, family member, former carer, friend, siblings including those looked after who may have a separate placement. If supervised, where will it be? Who will supervise? How will it be reviewed? Give details of any proposals to restrict or terminate contact.

### Section 3: Views of Others

- 3.1 The extent to which the wishes and views of parents and significant others, including agencies, current and former carers, have been obtained and acted upon.

If it has not been possible to obtain views explain why. Where relevant, include views of representatives of other agencies.

- 3.2 The reason for supporting those views or explanations of why wishes /views not given precedence.

Give reasons as requested.

### Section 4: Placement Details and Timetable

- 4.1 Proposed placement, type and details

**Consider whether the address should remain confidential.**

Are alternative placements being considered?

Give reason for the choice of placement - e.g. if the plan is for the child to be placed in a long term foster home, explain why it is not possible to place the child with family member or close friend or to remain in the present foster home.

State if the plan is for rehabilitation to parent and why.

- 4.2 Time that is likely to elapse before placement can be made.

Explain the time scale - what is to happen before placement can be made?

4.3 Likely duration of placement

Is the placement a bridging one or a permanent placement, e.g. is it a placement with a foster carer while an adoptive placement is sought?

4.4 Arrangements for health care

Give details, e.g. any ongoing treatment. Whose consent to examination and treatment will be sought?

4.5 Arrangements for education

Give details including pre-school day care activity.

4.6 Arrangements for rehabilitation

Give details of these arrangements if applicable within the plan. Give details of time scales. See also 4.8. Do not duplicate information.

4.7 Other services to be provided to the child

Who will provide the services and when? Any service not included elsewhere in the plan, e.g. independent visitor.

4.8 Other services to be provided to parents and other family members

Give details of who will provide the services and when. If funding is an issue, be clear who is funding and for how long, e.g. post adoption counselling, therapy, respite care for a kinship carer etc.

4.9 Details of support services in placement for the carers

Give details of frequency of visits, which agency will provide the service.

4.10 Specific details of parents' role in day to day arrangements.

If role is restricted explain why; be as specific as you can, especially about any issues which have arisen in relation to the parental role

**Section 5: Management and Support by the Local Authority**

5.1 The person(s) responsible for implementing the overall plan

Give details of who is the key worker. If the child is moving to another Local Authority, who will have responsibility?

5.2 The persons responsible for implementing specific tasks within the plan.

Give details.

5.3 Review dates.

Include child protection reviews, statutory reviews, education reviews etc.

- 5.4 Contingency plan if placement breaks down or preferred placement is not available. **This is important, be as specific as you can.**

E.g. your plan may be rehabilitation to father and the contingency plan may be adoption. If so set out what steps have been taken so far and what steps will be taken should the plan for rehabilitation not be achieved.

- 5.5 Arrangements for input by parents, child and others into the decision making process.

Explain who will be invited to meetings, how views will be obtained, if not.

- 5.6 Arrangements for notifying the responsible authority of disagreements about the implementation of the care plan or making representation or complaints.

Confirm parents have been given information about complaints procedure and that any disagreements will be shared at the statutory review or other meeting.

### **Last Page**

Start on a new page.

The care plan must be endorsed by the Operations Manager or other designated office.