**LB Newham Legal Proceedings**

**Guidance**

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**Contents**

|  |  |  |
| --- | --- | --- |
|  | Flow Chart | 4 |
|  | Introduction  | 5 |
| **1** | **Legal Planning Meeting Protocol** | 5 |
| 1.1 | Purpose of Legal Planning Meeting | 5 |
| 1.2 | Legal Planning Meeting Membership and Arrangements | 6 |
| 1.3 | Documentation Required | 6 |
| 1.4 | Legal Planning Meeting Agenda | 7 |
| 1.5 | Outcome and Timescales | 8 |
| 1.6 | Changes to Legal Planning Meeting decision | 9 |
| 1.7 | Urgent Legal Planning Meetings | 10 |
| **2** | **Pre-Proceedings Protocol** | 10 |
| 2.1 | Initiating Pre-Proceedings | 10 |
| 2.2 | Letter Before Proceedings | 10 |
| 2.3 | Issues of Capacity to Instruct  | 11 |
| 2.4 | Advocacy | 11 |
| 2.5 | Wider Family and Connected Persons | 11 |
| 2.6 | Instruction of External Assessments | 11 |
| 2.7 | The Initial Pre-Proceedings Meeting (IPPM) | 12 |
| 2.8 | Attendance at IPPM | 12 |
| 2.9 | Record of Meeting | 13 |
| 2.10 | The Review Process | 13 |
| 2.11 | Cases in Pre-Proceedings and Child Protection Plans | 13 |
| 2.12 | Review Legal Planning Meeting (RLPM) and decisions | 13 |
| 2.13 | Ending the pre proceedings process | 14 |
| 2.14 | Review Pre-Proceedings Meetings (RPPM) | 14 |
| **3** | **Legal Proceedings Protocol** | 15 |
| 3.1 | Initiating Legal Proceedings | 15 |
| 3.2 | Letter of Issue | 15 |
| 3.3 | Issues of Capacity to instruct | 15 |
| 3.4 | Advocacy | 15 |
| 3.5 | Wider Family and Connected Persons | 16 |
| 3.6 | Instruction of Expert Assessments | 16 |
| 3.7 | Service Manager’s authority to progress urgent legal matters | 16 |
| 3.8 | Initial Statement and Combined Care Plan | 17 |
| 3.9 | Additional Documentation: ‘Annex Documents’ | 17 |
| 3.10 | Court Attendance | 17 |
| 3.11 | Notification to Head of Service | 18 |
| 3.12 | Ongoing review during proceedings | 18 |
| 3.13 | Final Legal Planning Meeting  | 19 |
| 3.14 | Case Review Meeting | 20 |
| **4** | **Emergency Protection Orders** | 20 |
| **5** | **Cases issued by other Local Authorities and Designated to LB Newham** | 20 |
| **6** | **Supervision Orders** | 20 |
|  |  |  |
|  | **Appendices:** |  |
| A1 | Agenda for Legal Planning Meeting (and urgent LPMs) |  |
| A2 | LPM Referral Template |  |
| A3 | LPM Minutes Template |  |
| A4 | Letter Before Proceedings |  |
| A5 | Pre-Proceedings Meetings Minutes |  |
| A6 | Initial Statement |  |
| A7 | Updating Statement |  |
| A8 | Final Statement |  |
| A9 | EPO Statement |  |
| A10 | RLPM referral template |  |

**Introduction**

Under the Public Law Outline and associated practice directions, and also in line with the No Order principle, wherever possible we should seek to implement any safeguarding actions (including use of Section 20 accommodation) and if necessary, undertake any required external expert assessments under pre-proceedings. In determining whether pre-proceedings are appropriate, we will need to consider carefully whether the children can be appropriately safeguarded, whether any use of Section 20 is fully informed and parents have genuine capacity to understand the issues involved, and being mindful of the need to ensure that there is no delay in achieving permanency for children. We would aim for pre-proceedings to be concluded at 12 weeks, or last for a maximum of 20-weeks.

Following the Family Justice Review in 2011 (sometimes referred to as the Norgrove Report), a need to ensure that Public Law proceedings were completed in a more timely way was identified. This has led to updated Practice Directions to ensure clearer case management by judges, a reduced number of hearings with clearer focus of the issues to be reviewed, and a wish to ensure that there are no unnecessary ‘repeat’ assessments of parents and family members. Social workers are increasingly being viewed as experts able to provide clear analysis of parenting and capacity to change, and the Family Law ‘Rules’ in relation to the use of external experts has been changed from a consideration of whether an expert is ‘reasonably required’, to a need for any use of external experts to be judged as strictly ‘necessary’ in order to resolve the case justly. The need to ensure that there is no delay in decision making for children was already a general principle within the Children Act 1989, however to aid this the Children and Families Act 2014 included as a statutory obligation that care proceedings should be concluded within a maximum of 26 weeks, except for exceptional cases that require further time in order to be justly resolved.

1. **PROTOCOL**

**1.1 Purpose**

The purpose of the Legal Planning Meeting (LPM) is to consider whether the threshold for **initiating care proceedings** is met and if so whether care proceedings should be issued or if the case should enter the Pre-Proceedings process. Children who have recently entered care under Section 20 (where that is not part of a plan already approved by a Legal Planning Meeting), and without a clear plan to return home within around six weeks also need to be reviewed. Attendance to the panel is also required to review and approve any consideration of revocation of a Care or Placement Order.

The Care proceedings case manager will review all children becoming looked after on a weekly basis, and raise for LPM as appropriate

The decision to present a case to legal planning meeting is made by the Service Manager following consultation with the SW team. If an IRO or CP Chair makes a recommendation for an LPM the Practice Lead should discuss with the Service Manager and act upon it if they are in agreement. If there is a disagreement, then there needs to be full discussion with the CP Chair or IRO to reach agreement. In the event that agreement is not reached the Dispute Resolution procedure needs to be used to raise the matter with the Head of Service.

Consideration should always be given to presenting the case to an LPM:

* A child is made subject to Police Protection
* Or has been accommodated on an emergency or unplanned basis

• A child or young person is accommodated under Section 20 and there is no clear plan for a successful return home within 6 weeks

* When a parent who has previously had children removed from their care is expecting another child
* Where a child is subject to a Supervision Order and significant concerns remain following a review that precedes the ending of the supervision order
* Assessments indicate that a child or young person may be best returned home or to wider family, leading to potential revocation of a Care Order
* A parent or family member has applied for a revocation of a Care Order
* Where a child is subject to a Placement Order and family finding has not been successful, leading to reconsideration of the care plan and whether to revoke the order

Cases that have previously been presented to Legal Panel and entered a pre-proceedings process, or where care proceedings have already been issued, do not need to be further presented to Legal Panel. The Head of Service will be consulted by the Service Manager and is responsible for taking the decision to initiate proceedings

**1.2 Membership of the Legal Planning Meeting and Arrangements**

The Legal Planning Meeting is chaired by the relevant Head of Service . The legal team will allocate a solicitor to a matter, based on their rota, and they will attend the LPM. The LPM should be attended by the Social Worker and Practice Lead (or Service Manager) for each case.

* Chair – HOS
* Legal Advisor
* Keeping families together lead
* Permanency lead
* Care Proceedings Case Manager
* Minute Taker – Administrator

LPMs are held every Tuesday. The meetings take place 1000 Dockside.

**1.3. Documentation is required for LPMs by Wednesday 4p.m. the preceding week in order to provide to Legal Services and relevant HOS by Friday 10a.m.**

Compulsory Documents:

The allocated social worker must provide copies of all relevant background documentation from the social work file, such as, but not limited to, the following:

1. Completed LPM referral form (Appendix 2)
2. Evidence of a completed FGC referral and or minutes;
3. an up to date chronology;
4. all assessments and reports (e.g. single assessments);
5. documentation from any Child Protection Conferences (reports, minutes, CP/CIN plans, decision sheets, minutes of core group meetings, etc);
6. referrals from professional agencies such as police and schools;
7. family working agreements;
8. any other information that is relevant to understanding the concerns about the family;
9. Signed Section 20 agreement forms and signed social work certification where a child has recently entered care under Section 20;
10. Birth, and Marriage certificates (if available);

All relevant background documents are required to ensure the quality and accuracy of advice at LPMs, and these will have been reviewed for quality purposes by the Service Manager in progressing the matter to LPM .  A referral **may not be deemed complete** until all relevant background documents have been provided.  Therefore, an LPM may be postponed until all background documents have been provided.  Exceptions to this will only be made in matters of urgency.

Where appropriate:

1. Previous final care plans if children are currently subject to Care and/or Placement Orders, or have been subject to a Supervision or other order in the past
2. Recent and relevant reports from other agencies, e.g. school/health/police – these are especially important where they will be relied upon for evidence and may include statements from school staff, police reports, or medical reports.

In emergency cases, it can be agreed by the Head of Service for the case to be presented to an LPM without the above documents, however such cases should be rare and only where families have not been known to us or concerns are significant and unexpected.

**1.4. Panel Agenda (Appendix 1)**

* 1) **Welcome and introductions:**
* 2) [ASW] **Child and family pen picture:** (*Child profile e.g. identity, ethnicity, service user perspectives; Family composition – run through genogram*)
* 3) [ASW] **Brief case summary:** (*Precipitating events for LPM and experience of child – abuse and neglect; Social care previous involvement interventions* *tried including Family Group Conference and Family Safety Plans to support the care and protection of their child*)
* 4) [ASW] **The permanency plan for the child, including outcome (pre or court proceedings) requested from the LPM:** (*Detail of contingency plans and timescales*)
* 5) [LPM members] **Clarifying Questions:** *(Critical reflection)*
* 6) **Legal advisers clarifying questions:**
* 7) **Legal advice, including assessment of ‘threshold’:**
* 8) [LPM participants] **Summary, reflections, analysis, and decision:**
* 9) **Actions:** (*including timescales*)

**Supplementary guidance to LPM agenda:**

* **Additional assessments considered necessary -** Any recommendations for additional expenditure will need to be authorized by the Head of Service
* **Parallel Planning Actions Required** - If the Chair decides the matter must be worked under the PLO or in proceedings then parallel planning must commence to avoid delay. Following discussion appropriate actions will be identified with timescales for:
* Family Group Conferencing or family network meetings
* Viability assessments of potential connected carer’s, to include any potential Regulation 24 assessments
* Preparatory reports for Adoption planning (MB Reports, Birth Certificate, timetabling for CPR preparation)

Where Adoption is a potential permanence plan the Adoption Service will be alerted to support the parallel planning process concurrently throughout the care proceedings

* Where potential connected person carer’s assessments are identified, a referral will need to be made within 5-days to the Carers Recruitment Service (CRS) and Fostering Support and Supervision Service respective Practice Leads. The CRS Practice Lead will commission viability assessments and full assessments where required.
* **Decisions** The outcomes of LPMs are as follows:
1. The likelihood of persuading the court the threshold criteria are met, on the basis of the evidence available, is sufficient to justify working the matter via:
2. Pre Proceedings/PLO (where the level of risk does not warrant an immediate application to the court)
3. Application to the Court under care proceedings
4. It is not reasonable or proportionate to commence care proceedings or work the matter under the PLO. Therefore, social work intervention with the family should continue under the current plan or escalated if the child is not currently subject to a child protection plan.
5. The evidence that the threshold criteria are met is not sufficient to justify legal intervention.

**1.5. Outcome and Timescales**

1. **Pre Proceedings** is agreed - the following actions must be scheduled:

Letter Before Proceedings to be provided to the allocated legal advisor (the lawyer who attended the LPM) within 2 working days of the panel; this is the responsibility of the social work team. Finalised documents to be sent by Recorded Delivery or hand delivered to the parents within 5 working days of the panel. Where possible, the Local Authority will avoid serving pre-proceedings letters on Fridays being mindful of the impact of parents/careers who would not have access to legal advice or social worker consultations.

Good practice provides that a parent should have ten working days’ notice, from receipt of the letter before proceedings, of a pre-proceedings meeting.

The Solicitor who attends panel and advises on the case will usually be allocated the case.

Where provisional agreement has been given for additional assessments a Draft Letter of Instruction (LOI) for experts to be prepared by the social work team, and appropriate expert identified, who can report within an appropriate timeframe and sent to legal services within 10 working days of the panel.

Pre Proceedings Meetings should be aimed to be held within 10-15 working days of the LPM

The Head of Service is accountable for agreeing expert assessments and Service Managers must seek approval; these will be commissioned through the legal team as appropriate. Care proceedings case manager to be updated with request,

1. **Issuing proceedings** is the outcome - the following actions must be scheduled:

Letter of Issue to be provided to the allocated legal advisor (the lawyer who attended the LPM) within 2 working days of the LPM; Finalised letter to be sent by Recorded Delivery or hand delivered to the parents within 5 working days of the LPM (or more urgently when required). Where possible, the Local Authority will avoid serving pre-proceedings letters on Fridays being mindful of the impact of parents/careers who would not have access to legal advice or social worker consultations.

Where agreement has been given by the Head of Service for additional assessments a Draft Letter of Instruction (LOI) for experts to be prepared by the social work team, and appropriate expert identified, who can report within an appropriate timeframe and sent to legal services within 10 working days of the panel.

Social Work Statement and Care Plan preparation and quality assuring by the line manager (and Care Proceedings Case Manager if appropriate) to be scheduled ensuring the legal department receive it no later than 10 working days after panel (or more urgently where required to protect the child). The Service Manager is responsible for signing off Care Plans.

Date of Issue to be scheduled no later than 15 working days from LPM. The statement and combined care (initial social work evidence template) is to be signed by the Social Worker, and quality assured by the Practice Lead and Service Manager

In pre-birth cases, there should be robust consideration of the value of pre proceedings; this should include plans for the early delivery of the baby. If removal is sought, the application should ideally be issued on the day of the birth and documents should be lodged with legal in preparation (2 weeks before). Where children come early or unexpectedly and Section 20 is obtained, proceedings must be issued within 5 days of the baby being born.

**1.6 Recording the Discussions and Decisions of the Legal Planning Meeting**

The record of the LPM will provide summary reasons, and further actions to be taken and any date for review and by whom.

The minutes of the Legal Panel Meeting will largely follow the above agenda and recorded following the Record of Legal Planning Meeting template (Appendix 3). A summary of actions and timescales will be emailed directly from the meeting to the social work team, Service Manager, and allocated lawyer where known. The minutes will be uploaded to Azeus by the Court Coordinator following approval Care Proceedings Case Manager.

**1.7 Changes to Legal Planning Meeting Decisions**

The decisions of LPMs are made by the Head of Service in consultation with lawyer attending the LPM and should be implemented without delay. For cases in pre-proceedings, Pre-Proceedings meetings should be held, protective actions taken, and assessments completed as agreed, to be reviewed by Service Managers.

Where a case has been agreed to enter pre-proceedings, and the circumstances *quickly* change making an order immediately necessary, ideally a Legal Planning Meeting should be held to review this, or in emergency situations the Service Manager should agree this in liaison with the allocated lawyer, and outline the reasons why care proceedings need to be issued and the timescales for this and seek authorisation from the Head of Service without delay. Simultaneously the Care Proceedings Case Manager will need to be advised that care proceedings are to be initiated.

Sometimes family circumstances change unexpectedly, or evidence originally provided by other agencies is subsequently withdrawn or disproved, meaning that protective action agreed at a Legal Planning Meeting is no longer required. In such cases the service manager will review the circumstances in consultation with the legal advisor and confirm with a formal letter to the family. The social work team is responsible for also updating the Care Proceedings case manager

**1.8 Urgent Legal Planning Meetings**

It will sometimes be necessary to hold an urgent Legal Planning Meeting, when there are immediate concerns for a child’s safety and need legal advice in relation to whether an urgent order needs to be sought, such as a Recovery Order, Secure Order, Emergency Protection Order or short notice ICO. In relation to EPOs, please see also see Section 4 for additional requirements in this respect.

The urgent LPM should be chaired by the relevant Service Manager (or in their absence or with their agreement by another Service Manager, Care Proceedings Case Manager, or the Head of Service). If possible a full meeting should be held however it may be necessary to seek legal advice via phone conference. The LPM should follow as far as possible the agenda for LPM (Appendix 1), subject to time constraints. Minutes must be taken to reflect the information shared in relation to evidence of the risk of harm to the child, the order to be sought and rationale for this, assessments to be undertaken as far as this is possible to determine, and other actions, to include timescales (Appendix 3).

The minutes should be approved by the Care Proceedings Case Manager and emailed to the attendees and also to the Head of Service. Authorisation will also need to be sought from the Head of Service for agreement to accommodate a child, and for the cost of any external assessments. If it is not possible due to time constraints to send the minutes as part of this request, a summary will need to be provided to seek authorisation.

The allocated lawyer is in most cases likely to be the duty lawyer who attended the urgent LPM, however should this not be the case the relevant lawyer will inform the social work team and Care Proceedings Case Manager of the allocation.

Where a decision to issue urgently has been agreed, the case does not also need to be presented to Legal Planning Meeting. Where the LPM does not identify a need to issue urgently, it may still be appropriate to bring the case to LPM with further information at a later date, this should be determined by the Service Manager, in liaison with LPM panel members if necessary.

1. **PRE-PROCEEDINGS PROTOCOL**

**2.1 Initiating Pre-Proceedings**

To initiate pre-proceedings the case must be presented to the Legal Planning Meeting which will agree key protective or supportive actions, any external assessments, and deadlines for updated social work and family assessments. Please refer to the Legal Planning Meeting protocol, pages 5-9.

**2.2 Letter/s before Proceedings (LBP)**

Following the Legal Planning Meeting the ‘Letter/s before Proceedings’ (Appendix 4) must be sent to the family to inform them of the decision, the reasons and the actions that follow, The letter/s should be drafted by the Social Work Team, to be signed by the Service Manager responsible for the case and forwarded to the allocated solicitor within 2 working days of the LPM. The allocated solicitor should respond with comments in sufficient time to enable delivery to the parents within 5 working days. Where possible, the Local Authority will avoid serving pre-proceedings letters on Fridays being mindful of the impact of parents/careers who would not have access to legal advice or social worker consultations.

A separate letter needs to be written to each parent or person holding Parental Responsibility, and as such the letters will in many cases need to be phrased differently, for example being specific in relation to which parent is known or alleged to have been violent, and which parent has not been able to take sufficiently protective steps. The letter/s needs to summarise the concerns held in relation to the children, with specific reference to the key evidence for the concerns; the support that has been offered to the family; and the proposed plan of work within the pre-proceedings process, with clear timescales. The letter/s must be concise and written in plain English and the difference between facts and opinion should be clear.

The Letter before Proceedings should include the need to arrange a Family Group Conference or a Family Network Meeting if this has not occurred recently with an explanation as to the purpose of these meetings i.e. to identify members of the family or kinship network who could assist the parents and / or offer alternative kinship care to the child/ren if the outcome of pre-proceedings indicate that the child/ren cannot remain in the care of the parent / current carer.

A list of local Children & Family solicitors must be included with the letter to assist them in accessing legal advice within pre-proceedings.

**2.3 Issues of Capacity to Instruct**

Where there are concerns as to the capacity of the parent to give legal instruction it is the responsibility of the parent’s solicitor to obtain an assessment of their client’s capacity. The Local Authority must raise any concerns as to the parent’s capacity with the parent’s solicitor at the pre-proceedings stage or through prior correspondence with the parent’s representative. The Local Authority must provide copies of any assessments relevant to the question of capacity to the parent’s representative.

**2.4 Advocacy**

Constructive working relationships with families are fundamental to achieving change through intervention therefore all efforts must be made to engage with families. Where there are any issues that may impact on the ability of the parents to engage Children’s Services must work in partnership with Adult Services and any independent agencies to ensure that appropriate advocacy is obtained.

**2.5 Wider Family and Connected Persons**

Maintaining children within their family network is a key aim of social work practice therefore engaging the wider family / kinship network either directly or through Family Group Conferencing must always be actioned as early as possible in the child protection process. Involving key members of the family / community network may enable legal intervention to be avoided and support the children to be safely cared for within their family. Where protective family members are known but parents do not put them forward for assessment, this should be discussed with the parent and support to help the parents understand the benefits of seeking family support and to overcome any fears about sharing information should continue as part of social work practice and intervention.

**2.6 Instruction of External Assessments**

The need for additional assessments as part of the pre-proceedings process should be identified at the Legal Planning Meeting. Draft Letters of Instruction need to be provided from the Social Work Team to legal within 10 days of the LPM. These assessments must be fully identified with timescales and funding approved before the initial pre-proceedings meeting to avoid delay in progressing the plan and enable the parents to gain legal advice in a timely manner. Where possible details of these proposed assessments should be provided to the parent’s legal representatives from LB Newham legal prior to the Initial Pre-Proceedings meeting.

**2.7 The Initial Pre-Proceedings Meeting (IPPM)**

When planning pre-proceeding meetings the SW team will need to carefully consider any known factors that may place one or other parent at risk from the other, for example where Domestic Abuse is a known element of the case. If there are such risks, or where a more protective or stable parent may ultimately be best advised to separate from an abusive or less stable parent, separate pre-proceedings meetings should be offered. If parents refuse separate meetings, legal should discuss this with their lawyers however ultimately if separate meetings are not agreed a joint PPM will need to go ahead, with any appropriate steps taken to reduce risks.

The parent/s must be given at least 5 working days’ notice of the pre-proceedings meeting:. Pre-proceedings may take place in a shorter timeframe if there are clear risk management reasons for doing so and agreed by the allocated solicitor.

The purpose of the Pre-Proceedings meeting is to outline in more detail the Local Authority’s concerns and the expectations of the parents in a context where they have legal representation to ensure that the parents understand the seriousness of the situation and have advice as to the legal basis upon which the Local Authority is involved. It provides the parents with the opportunity to clarify issues with the benefit of legal advice and make their suggestions about how they or their family / kinship network may address the concerns. It is also often a helpful opportunity to confirm if parents accept or deny that particular incidents have happened, and/or are able to acknowledge concerns and harm to the children, which should be clearly noted and is helpful in beginning to establish agreed threshold.

At the conclusion of the initial pre-proceedings meeting a date must be set by which the case will be reviewed, after which time and where appropriate a review pre-proceedings meeting would then be offered. All parties must also understand that in the event that the concerns increase before the planned review date the Local Authority may initiate court proceedings without a review pre-proceedings meeting.

**2.8 Attendance at IPPM**

The initial pre-proceedings meeting must be chaired by a Service Manager with the following key people present:

* Social Worker for the family
* Practice Lead
* The birth parents and or those with Parental Responsibility via an order
* Legal Representatives for the parents (where obtained); either separate or joint representation according to the legal advice they have received.

Pre-Proceedings Meetings are best effected if the parents attend with legal representation. If parents attend without representation, decisions will need to be made on a case by case basis, however where the ongoing risk can continue to be managed, a further date should be set providing sufficient time for the parents to obtain representation. If the parents still do not obtain advice or representation, in order to avoid delay for the children then the meeting should still go ahead. If parents agree to the actions requested, their signed agreement can still be sought, however they should be further written to explaining the importance of seeking legal representation as soon as possible, and advising that another pre-proceedings meeting can be further offered to include their legal representation. Where parents are not agreeing to the key necessary actions or protective steps, a legal planning meeting needs to be held as soon as possible to consider initiating care proceedings in order to avoid delay.

**2.9 Record of Meeting**

Dependant on capacity of the social worker or other social work duty, minute taking may be delegated, however ensuring there is an appropriate record of the meeting is the responsibility of the Chair. Minutes should be completed using the template provided in Appendix 5 within 2 working days of the meeting. This record will summarise the issues and set the actions agreed with timescales and make clear a date by which progress will be reviewed. It should be clearly noted where parents have agreed or disputed: key events; evidence of concerns, assessed evidence of harm to the children; and/or whether they are able to acknowledge concerns and risk of future harm to the children; it is helpful in at this initial stage to establish agreed threshold, and areas of dispute.

The record of the meeting must be uploaded to each child’s file and a case note entry made confirming the date of each pre-proceedings meeting. It is likely to be helpful to alert the Child Protection Chair and or IRO where appropriate.

**2.10 The Review process**

Timescales for review of the pre-proceedings process will be set at Legal Planning Meetings, however the pre-proceedings process should generally last no longer than 20 weeks. An Internal Review must be scheduled well in advance with the Service Manager. The review should include the Social Worker, Practice Manager, and any other relevant local authority involved professional. Key allocated staff should make themselves available wherever possible, and if they are unable to attend should discuss this in advance with the social worker or Practice Lead, and provide clear written updates and views as appropriate in advance of the meeting.

In a small number of cases a short extension to the 20 week period will be needed, where this is the case the Head of Service and the Care Proceedings Case Manager should be informed of the reasons, rationale, and revised timescale – the Head of Service will either agree the revised plan or provide alternative guidance.

Case supervision records must record progress with the plans made within the pre-proceedings process with a clear contingency plan in the event that the changes identified are not achieved. Progress will also be reviewed in core groups or other appropriate review meetings. Any significant delay or lack of progress must be communicated to the Practice Lead , who will consider the need to ask for a review pre-proceedings meeting with the parent/s and their legal representatives, or to consult the Service Manager about convening a the Review Legal Planning Meeting if the risk assessment has significantly escalated.

All cases in pre-proceedings will be subject to a monthly internal management review/tracking process to include the SM, PL, and CPCM. The Care Proceedings case manager is responsible for updating the child’s record accordingly.

**2.11 Cases in Pre-Proceedings where children are also subject to a Child Protection Plan**

It is important that the experiences of children and their parents are kept in mind when pre-proceedings processes in addition to child protection plan work is combined. Therefore the plans should be consistent, avoid duplication, and be clear to the parents. They should not experience conflicting priorities or demands. The Child Protection Chair needs to be updated in relation to the progress within pre-proceedings which will also be reflected in reports to conference. The final decision as to the outcome of the pre-proceedings process lies with the operational service and is not made within a Child Protection Conference. It is recommended that core groups are scheduled to support the review of the pre-proceedings process and avoid over burdening families who will undoubtedly have additional expectations as a result of the pre-proceedings plan.

**2.12 The Convening of Review Legal Planning Meeting (RLPM) and Decisions**

 A review LPM may be appropriate if there has been a significant change during pre-proceedings, and this would be considered by the Service Manager.

A The RLPM referral form and agenda can be found in Appendix 10.

The social worker will need to present to the LPM a summary of the findings of the assessments undertaken, details of the progress of the plan or otherwise, and their own updated assessment of any evidence of harm to the children, any ongoing risk to the children, and the likelihood of being able to support positive change within the child/ren’s timescales. They will also need to make recommendations for further actions, to be discussed by the meeting attendees, and agreed or amended by the Head of Service.

**2.13 Ending the Pre-proceedings Process**

The pre-proceedings process can conclude in different ways:

1. Step down - parents have made sufficient progress and the risks to children have reduced – Pre Proceedings will be formally discharged by way of a final pre-proceedings review meeting with the parent(s) and a confirmatory letter.
2. Step up – sufficient progress in key areas has not been made and the children remain at significant immediate or long-term risk - Care Proceedings will likely be issued.

The outcome of a pre-proceedings case must be communicated to the Child Protection Chair and where relevant the IRO following the Review meeting and if that outcome is to step down then consideration should be given to the timing of the subsequent Child Protection Conference to enable the case to exit the child protection process where appropriate.

**2.14 Review Pre-Proceedings Meeting (RPPM)**

For some cases within the pre-proceedings process it will be most appropriate to conclude formally at a Review Pre-Proceedings meeting. The final review meeting will include a clear explanation as to the next stage of work with the family.

Where pre-proceedings are concluded, a formal withdrawal letter should be sent to the parent/s and their legal representatives. This should very briefly make reference to the key concerns that led to the pre-proceedings, however can refer to previous letters for the details. Summary of the key services provided and actions completed, dates and findings of assessments undertaken, and progress made should be briefly noted, with clarity that pre-proceedings has been withdrawn and the local authority is no longer considering attending court. If such significant progress has been made that services are no longer necessary to support safety or stability, a review pre-proceedings meeting may not be necessary, although should still be offered and may well be experienced as helpful by the parent/s.

Where the pre-proceedings process is being extended, the Letter Before Proceedings should be reviewed and updated, to include dates for a Review Pre-Proceedings Meeting, and copies of the review letters and agreements sent to the parent/s. This may include extension while the Local Authority support parent/s and/or family members to issue private proceedings, with clarity about actions to be undertaken and timescales.

Given the high level of concern for children where the pre-proceedings process has been applied it may not always be possible to convene a formal review meeting prior to issuing care proceedings if this decision is made. Whether a final review meeting has taken place or not; where the decision is to issue care proceedings a formal ‘Letter of Issue’ must be sent to the parents and their legal representative to ensure that they can obtain legal advice and representation without delay. This letter should be provided no later than two days following a final review meeting or one day following an earlier legal planning meeting during the process. LB Newham legal department would also communicate this decision to the parent’s legal representative as soon as possible.

As with Initial Pre-Proceedings Meetings, dates should be clearly recorded on case notes, and minutes taken, uploaded, and shared with all parties.

Where a decision has been made to conclude pre-proceedings with step down; should concerns arise again to the threshold of legal intervention, the case must be newly presented to Legal Planning Meeting for consideration of the new information.

1. **LEGAL PROCEEDINGS PROTOCOL**

**3.1 Initiating Legal Proceedings**

To initiate legal proceedings, where the case is not already in pre-proceedings, the case must be presented to the Legal Planning Meeting. Please refer to the Legal Planning Meeting protocol, pages 5-9. The Head of Service is responsible for authorisation where a child is to be looked after.

**3.2 Letter of Issue**

Following the LPM the ‘Letter of Issue’ must be sent to the family using the attached template (Appendix 8) to inform them of the decision; the reasons and the actions that follow. The letter/s should be drafted by the Social Work Team, to be signed by the Service Manager responsible for the case and forwarded to the allocated solicitor within 2 working days of the LPM. The allocated solicitor should respond with comments in sufficient time to enable delivery to the parents within 5 working days. If action needs to be taken more quickly this will have been agreed in Legal Planning Meeting.

A separate letter needs to be written to each parent or person holding Parental Responsibility, and as such the letters will in many cases need to be phrased differently, for example being specific in relation to which parent is known or alleged to have been violent, and which parent has not been able to take sufficiently protective steps. The letter/s need to summarise the concerns held in relation to the children, with specific reference to the key evidence for concerns; the support that has been offered to the family; and the decision to make an application to the Family Proceedings Court to determine the future care of the children*.*  The letter/s must be concise and written in plain English and the difference between facts and opinion should be clear.

The Letter of Issue should include the need to arrange a Family Group Conference or a Family Network Meeting if this has not occurred recently with an explanation as to the purpose of these meetings. This should include the identification members of the family or kinship network who could assist the parent/s and/or offer alternative kinship care to the child/ren if the outcome of proceedings indicates that the child/ren cannot remain in the care of the parent/current carer.

If the parent does not already have a legal representation a current list of local Child Care Solicitors must be attached to the Letter of Issue.

**3.3 Issues of Capacity to Instruct**

Where there are concerns as to the capacity of the parent to give legal instruction it is the responsibility of the parent’s solicitor to obtain an assessment of their client’s capacity. The Local Authority must raise any concerns as to the parent’s capacity with the parent’s solicitor through prior correspondence with the parent’s representative and if required within the application to the court. The Local Authority must provide copies of any assessments relevant to the question of capacity to the parent’s representative.

**3.4 Advocacy**

Constructive working relationships with families are fundamental to achieving change through intervention therefore all efforts must be made to engage with families. Where there are any issues that may impact on the ability of the parents to engage Children’s Services must work in partnership with Adult Services and any independent agencies to ensure that appropriate advocacy is obtained.

**3.5 Wider Family and Connected Persons**

Maintaining families within their family network is a key aim of social work practice therefore engaging the wider family / kinship network either directly or through Family Group Conferencing must always be actioned as early as possible in the child protection process. Involving key members of the family / community network may enable legal intervention to be avoided and support the children to be safely cared for within their family. Where protective family members are known but parents do not put them forward for assessment, this should be discussed with the parent and support to help the parents understand the benefits of seeking family support and to overcome any fears about sharing information should continue as part of social work practice and intervention.

Where viability or other assessments have already been completed, these should be summarised in the statement and filed as additional documents.

Where referrals have recently been made, details of the allocated worker and the timescale for completion needs to be taken to court, to be included in the directions.

**3.6 Instruction of External Expert Assessments**

The need for additional assessments as part of the legal proceedings should be identified at the Legal Planning Meeting. Draft Letters of Instruction need to be provided by legal within 10 days of the LPM or earlier if the case is issued on ‘short notice’ first hearing. These assessments must be fully identified with timescales and funding approved before the Initial Hearing to avoid delay in progressing the plan and enable the parents to gain legal advice in a timely manner. Where possible details of these assessments should be provided to all other parties to the proceedings from LB Newham legal team prior to the Initial Hearing and a s25 (CA 1989) application made where appropriate before the first hearing.

If this has not been possible, *at latest* draft Letters of Instruction, as well as CVs and confirmed timescales for experts must be available at court, to be agreed and directed as part of the Case Management Hearing.

**3.7. Service Manager’s** authority to progress urgent legal matters

Where the decision to issue has been made straight from Legal Planning Meeting, without a pre-proceedings process and the Legal Planning Meeting was chaired by a Service Manager, the social work team will need to further consult with the Head of Service in relation to care planning, in particular the type of placement to be sought and obtaining the necessary agreements, and potentially the arrangements for contact. The Service Manager should consult the Head of Service about these matters in advance of the statement being drafted, and obtain requisite authorisation. Time should also be booked into the Service Manager’s diary to enable them to agree and sign the care plan.

**3.8 Initial Statement and Combined Care Plan**

The initial statement for Care Proceedings uses the Social Work Evidence Template.

It is the responsibility of the Social Work team to provide the initial statement and combined care plan fully quality assured by the line manager and Service Manager if necessary within the maximum timescale of 10 working days from Legal Planning Meeting. Shorter timescales may be necessary in line with the timescales of the child and will be set at the Legal Planning Meeting.

Where appropriate the statement can be quality assured by the Care Proceedings Case Manager, prior to review by the Service Manager. In order to meet these timescale the Social Work team will need to set interim timescales for drafts to allow an effective quality assurance process.

The allocated solicitor will review the statement, care plan, annex and evidential documents (see following section) and return the initial statement and care plan for any amendments within 3 working days or less in line with the timescale to issue proceedings.

The Social Work team will finalise the documents returning signed copies, along with any further requested annex or evidential documents as soon as possible and within 2 working days or less in line with the timescale to issue proceedings.

The allocated solicitor will issue proceedings on receipt of all the required documents, including fully approved and signed statement.

**3.9 Additional Documentation: ‘Annex Documents’**

A list of previous assessments and documents will also need to be provided to the parties, who can then request copies. Therefore, these documents need to be provided to the allocated solicitor as early as possible to enable the application to be made without delay; they should be provided no later than 10 days from the Legal Planning Meeting or earlier in line with the timescale to issue proceedings.

The Social Work statement may refer to other documents as additional evidence that the Local Authority relies upon; these must be provided to the legal department in line with the above.

The LB Newham legal team will complete the C110 Application Form, will write the separate Local Authority Threshold document, and will also make a list of the previous assessments and documents that may be further disclosed. The Service Manager will need to sign the application forms prior to submission to court.

**3.10 Court Attendance**

The allocated social worker must attend all court hearings. Where evidence has been written by other social workers they must also attend as required with their line manager unless agreed otherwise. It is important that the Local Authority ensure that staff who attend are sufficiently experienced and supported to provide legal representatives with cogent instructions with reference to senior management via telephone when needed.

Workers will also need to have their own diaries up to date and available at court so that directions through to IRH or potentially through to Final Hearing can be agreed.

**3.11 Notification to Head of Service**

In the event that serious issues arise relating to the reputation of the Local Authority or significant financial risk, then it is the responsibility of both the relevant SW Manager and the lawyer with conduct of the case to advise the Head of Service.

**3.12 Ongoing review during proceedings**

Where further case management hearings (FCMH) are held, instructions will need to be provided to legal by the Practice Lead in liaison with the Service Manager. Where cases are likely to be departing from the 26-week track, (management discretion can be applied) and in particularly complex cases (optional), the Service Manager will chair a Review Legal Planning Meeting prior to a FCMH.

The social work team will need to continue to consider the following:

* Confirmation of those with Parental Responsibility, any dispute regarding parental responsibility and action to address such dispute.
* Updated evidence in relation to parenting capacity from the social work team or other assessments and the impact on the Local Authority care plan.
* Progress / Outcome of assessments in relation to parenting capacity
* Consideration of any issues arising from the legal status; language or needs of the parents regarding mental health, physical disability, learning disability or difficulty.
* Identified gaps in this evidence: Action required to address those gaps including the necessity of additional assessments or addenda to those instructed to date
* Progress / Outcome of assessments of potential alternative carers
* Identified gaps in this evidence: Action required to address those gaps including the necessity of additional assessments or addenda to those instructed to date.
* Consideration of sibling relationships and impact on both assessments and care planning
* Consideration of any issues regarding educational difficulties; disabilities or learning difficulties experienced by any of the children;
* Consideration of the legal status of the child / ren and the identity needs of the child / ren i.e. race, ethnicity, gender, religion, language etc.
* Progress / outcome on parallel planning for adoption; timescale for the completion of Child’s Permanence Report to be reviewed and schedule for ADM Decision set / updated
* Contact plans; are they meeting the child’s needs? Have there been any changes and if so issues arising? How are observations of contact reports supporting the assessment and care planning for the children? Have contact review meetings taken place and if so the outcome?
* Care Plan: is there evidence to support a change to the initial plan at this stage in the case?
* If reunification with either parent is considered feasible consideration to implementation during proceedings to be considered with reasoning.
* If a placement with connected persons is viable consideration to placement during proceedings to be considered with reasoning.
* Views of other parties
* Contingency planning: have alternative plans been considered and planned in the event of a change of circumstance?
* In light of the above is the timetable robust or is an application to amend required?
* Actions to note requirement to inform the court of difficulties complying with court directions.

**3.13 Final Legal Planning Meeting (preparation for final hearing)**

The Final Legal Planning Meeting will need to be scheduled by the court co-ordinator, to be held when all assessments have been completed or drafts received, and in line with the timetable for Final Evidence to ensure there is due consideration of the assessments and evidence, to enable agreement of a robust care plan in the child’s best interests. This meeting would usually be held 5-10 working days prior to the due date of the LA final evidence and care plan, and prior to any ADM decision.

The Final Legal Planning Meeting will be chaired by the Service Manager. The social worker should ensure that the Legal Adviser,the Practice Manager, the IRO, any Connected Carer's assessors, permanency lead and where relevant Adoption or Connected Carer’s fostering workers are invited. The CPCM should also be invited to support case tracking and monitoring, and can attend to support complex cases where available. Where available a minute taker should be arranged.

The social worker, with support from the Practice Manager, where required, will need to present a brief summary of the historical concerns, with a more detailed summary of the assessments undertaken in proceedings, the outcome of the assessments, and their analysis of any ongoing risks to the children and whether there has been sufficient change or change can be supported in the child/ren’s timescales. Connected Carer’s assessors will need to summarise their own findings, and current proposals for any support plan. The IRO should also provide their own view, in writing in advance if they are unable to attend the meeting. The social work team should present a proposed care plan taking into account all of the above, to be discussed and agreed by the Service Manager.

This meeting will consider the following:

* Outcome of assessments in relation to parenting capacity
* Any outstanding gaps in this evidence; legal arguments to counter those gaps and the potential impact on final hearing / timetabling.
* Outcome of assessments of potential alternative carer/s
* Outcome on parallel planning for adoption; date of ADM Decision
* Views of other parties
* Agreed Care Plan option for each child in light of their individual needs, including details of support or supervision plans, including any financial agreements that may be required.
* Contact plan for each child in light of their care plan and individual needs
* Contingency planning: clear alternative plans should be prepared where it is considered likely that the Local Authority plan will be challenged. These plans should include any financial agreements that may be required to implement each plan.
* Timescales for completion and quality assurance of the Final Statement and Care Plan, and any support plans, and dates to be sent to legal in order to comply with directions.
* *Only in exceptional cases*, actions to note requirement to inform the court of difficulties complying with court directions.

The Service Manager will need to agree the minutes and ensure that these are uploaded to the Azeus, and send to all attendees and the CPCM.

**3.14 Case Review Meeting (learning exercise)**

The use of legal intervention is one of the most serious steps that a Local Authority can take; therefore it is part of the process to learn from the outcome of proceedings. It may be that a review of the case would be helpful (for example, where the LA’s care plan was not achieved\_ and in these circumstances this will be facilitated by the Care Proceedings case manager.

The Care Proceedings case manager would consider whether or not this would be helpful and would recommend to the relevant Head of Service for decision to progress.

1. **EMERGENCY PROTECTION ORDERS**

In exceptional circumstances, it may be required to seek an Emergency Protection Order. These will only be granted where the risk is absolutely immediate, the harm is very significant, and where there is no other means to ensure sufficient protection of the children for even a few days to enable an urgent ICO application. They are a legal intervention that gives little time for parents or others with parental responsibility to argue their case effectively and therefore the evidence for the concerns must be high.

As with all cases, we should always explore whether agreement to Section 20 accommodation can be obtained, and/or whether we can effect a safety plan involving the care or support of wider family or connected persons. We should also ensure that the police are involved if appropriate, and consult with them in regards to whether their investigation concludes that they need to take Police Protection of the children.

If you are concerned about the welfare of a child this should be discussed through the line management system. If Emergency Protection Orders are being considered, this must first be agreed by the Head of Service (or Director of Operations in their absence), who will confirm their approval directly to the legal department or agree that that Service Manager can inform them.

Statements for EPOs need to be short and cover the relevant issues, ensuring clear reference to factual information, with supporting evidence being provided wherever possible (such as written/emailed statements from witnesses, copies of police protection already taken, etc). We will need to clearly evidence why the risk is immediate at that specific point in time and why there are no other protective steps that can be taken to safeguard the child. All documents will need to be provide to legal by 2pm.

1. **CASES ISSUED BY OTHER LOCAL AUTHORITIES AND DESIGNATED TO LB NEWHAM**

Occasionally cases may be issued by another Local Authority and then subsequently ‘designated’ by the courts to LB Newham. The legal test for this is based on the ‘ordinary residence’ of the children, which can include consideration of where they are registered at the GP or attend school, as well as their current or most recent address.

Legal will alert the relevant Service Manager to take responsibility. Either the Service Manager or by delegation a Practice Lead will read key documents of the bundle and liaise with legal in order to provide Position Statements as directed, and to attend court for a designation hearing.

CCPM should be alerted and updated by the SW team

1. **SUPERVISION ORDERS**

Where LB Newham has been awarded a Supervision Order, and a Child In Need plan has remained in place, at least two months before of the Supervision Order it will need to be reviewed at a Child In Need meeting (*NB – not all Supervision Orders are made for 12 month period*). The Supervision Order will need to have the actions that had been identified in the care plan reviewed to ensure that they have been addressed satisfactorily. In most cases progress will likely have been maintained, concerns reduced for the children, and the case is expected to close at the end of the Supervision Order. However if concerns remain such that we should consider renewing the Supervision Order, the case should be brought back to Legal Planning Meeting for review and decision making in the following week. If a decision is made to renew the Supervision Order a statements and care plan should be filed to enable a return to court for a date at a minimum of 4 weeks before the order is due to expire