

**St Helens Council**

**Children’s Services**

**Pre Proceedings (PLO)**

**Procedure and Guidance**

|  |  |
| --- | --- |
| **Version Control** | **Date** |
| V1 | December 2019 |
|  |  |
|  |  |

|  |
| --- |
| **STATUTORY GUIDANCE** |
| Revised Public Law Outline  Pre-Proceedings Protocol  Legal Gateway Panel TOR  Pre-Proceedings Procedure  Disclosure of Inadequate Agency Practice  PLO Flow Chart Link |

**CONTENTS**

|  |  |
| --- | --- |
| **CONTENTS** | **PAGE NUMBER** |
| Contents | 2 |
| Introduction | 3 |
| What is PLO | 3 |
| Management of cases under Pre-Proceedings process (PLO) | 4 |
| Letter before Pre-Proceedings | 6 |
| Preparation for the Pre-Proceedings Meeting | 7 |
| Pre-Proceedings Meeting | 7 |
| Pre-Proceedings Plan | 8 |
| Review of Pre-Proceedings | 9 |
| Conclusion of the Pre-Proceedings Process | 10 |

1. **Introduction**

The Family Justice Review (November 2011) clearly stated that care proceedings cases take far too long. The review, amongst other recommendations which significantly alter the way Local Authorities respond to the demands of the Revised PLO, includes the reduction of cases in proceedings to a timescale of 26 weeks.

This procedure seeks to set out a summary of the Revised Public Law Outline (PLO) and the Practice Direction to Case Management in Public Law Proceedings.

Guidance within this procedure will pay attention to the interface between the pre-proceedings protocol and social care processes, roles and responsibilities as set out in the PLO.

This procedure must be read in conjunction with the local Pre-Proceedings Protocol implemented by the Designated Family Judge for Cheshire and Merseyside, Her Honour Judge De Haas QC from 1st July 2012 and all related primary and secondary legislation, statutory guidance and regulations.

The Revised PLO has particular implications for the work undertaken by social work teams in the run up to applications being issued, in particular those cases being managed under the Pre-Proceedings Protocol.

1. **What is PLO?**

The Public Law Outline (PLO) sets out the duties Local Authorities have when thinking about taking a case to Court to ask for a Care Order to take a child into care or for a Supervision Order to be made. This is often described as initiating public law care proceedings.

Under Section 31 Children Act 1989, a Court may only make a Care Order or Supervision Order if it is satisfied that the Threshold Criteria have been met. Under the Public Law Outline (2014) and the Children and Families Act 2014, guidance states that care and supervision proceedings should be completed within 26 weeks.

PLO sets out, amongst other duties, that Local Authorities must ensure they identify concerns they have about a child early and where possible provide support for the family to address these concerns. This is pre-proceedings work and it is often what is referred to when social workers talk about PLO. Usually, when PLO is initiated, the child has been subject to a Child Protection Plan (guide) but insufficient progress has been made. Child protection core group meetings and conferences continue throughout the PLO process.

Where the social worker feels that the risk of harm to a child is so great, or the case is so urgent, a decision may be made that the case should go straight to Court and the pre-proceedings work does not take place.

What should pre-proceedings work include? When it is decided that pre-proceedings (PLO) work with the family will take place, there are specific things that need to happen from the date of the decision.

1. **Purpose of Pre-Proceedings**

The pre-proceedings period enables cases to be managed in a structured way, leading to a decision about whether or not to issue in a future review pre-proceedings meeting. A decision to enter pre-proceedings can only be triggered and approved via the Legal Gateway Panel.

Decisions to enter pre-proceedings usually occur where the Local Authority has concerns which are believed to reach the threshold as set out in the Children Act 1989, but the risk of harm is low and deemed manageable. Where the risk of harm is high and not deemed manageable, an urgent application may be made, with Legal advice, but should be ratified at Legal Gateway Panel.

The work required within the period of pre-proceedings is vital for two reasons:

* It may divert a case along a route which avoids the need for proceedings;
* When that is not possible, and proceedings have to be commenced, the preparatory work will facilitate the smooth running of the case.

The pre-proceedings work should focus on identifying and evaluating possible family carers/support.

Sir James Munby, the then President of the Family Division set out the expectations of the Local Authority.

He recommended that:

* Local Authority lawyers be involved in advising and assisting their social work clients, at an early stage;
* A properly organised legal planning meeting is invaluable and can be the key to achieving timely outcomes to care proceedings

1. **Legal Gateway Panel**

The Terms of Reference for the Legal Gateway Panel, embedded below identifies the scope, function and purpose of the Panel. The TOR also outlines how the Panel will review urgent cases, the Panel composition, attendance and frequency of the Panel as well as papers to be submitted and the process to be followed. All Legal Gateway Panel meetings are recorded, and the minutes placed on the child’s records.



The Legal Gateway Panel has additional responsibility for consideration and reviews of children becoming looked after under S20, those children subject to pre-proceedings and children subject to Interim Care Orders.

The Legal Gateway Panel is held weekly, with every fourth week focussing on review of children previously considered.

1. **Preparation for Legal Gateway Panel**

The social worker and team manager should discuss the need to attend Legal Gateway Panel in supervision for all planned work. This should be recorded within the Supervision Record Template within Liquid Logic.

Where emergency situations occur a Case Discussion should be held with the Head of Service and Management Decision Case Note recorded by the Team Manager / Head of Service within Liquid Logic regarding the decision to attend Legal Gateway Panel.

The Social Worker will liaise with the responsible Business Support Officer for the administration of the Legal Gateway Panel to plan the date and time to attend.

The social worker will complete the Legal Gateway Panel template and gather the relevant documentation to present to the Panel and make a recommendation regarding the required outcome in respect of the child(ren). All documentation should be submitted by 12 noon on the Monday before the date of the Legal Gateway Panel they will attend.

Please note the additional documentation which must be submitted to the Panel in addition to the report, embedded below. This document will be incorporated within ICS.



The social worker should record on the child(ren)’s records via Case Notes their attendance at Legal Gateway Panel. They should also record their discussion with the parent(s), carer(s) and others with Parental Responsibility their concerns and intention to present the child(ren) to Legal Gateway Panel.

The documentation will be distributed to the Chair, Legal Advisor and Commissioning Representative, who constitute the Panel by the Business Support Officer by 5pm on the Monday before the date of the Panel (Wednesday of each week).

Children will be reviewed at an agreed timescale within Legal Gateway and will form part of the weekly agenda. The social worker, manager and designated PLO Legal representative will be aware of the timescale set for review at the initial or review date discussion and minutes distributed. The Social Worker will complete the Review Legal Gateway Report template and provide the required documentation and also ensure that all actions previously identified have been completed, or explanations provided if there is any outstanding work.



The Business Support Officer will notify the Social Worker and Manager the week prior to the review date set to request an updated report and advise of the time slot allocated for the review to take place the following Wednesday.

All Legal Gateway Panels will be recorded, and the minutes will be placed on the child’s records.

1. **Panel Membership**

The chair of the panel is the Head of Service for the Social Work Assessment Service.

A member of the Legal Team will attend the Panel.

A member of the Placement Commissioning Team

SCUQA Representative

Business Support Officer

The social worker and manager will be invited to attend the panel to discuss the child(ren). Consideration should be given to whether any other professional involved should be invited to attend the Panel, for example Family Intervention Worker.

Where any member of the panel is on leave or off sick, deputy arrangements will need to be in place via each agency.

1. **Process at Panel**

All Panel members will read all documentation submitted in advance of the Panel meeting.

Panel attendees should be prepared to briefly present the case to the panel specifically in relation to the issues (including risk assessment) prompting the request for accommodation / issue of proceedings (private or public law).

Panel members will consider the issues and determine (in line with Directorate wide priorities, the risk management issues in the particular case and the identified outcomes for the child/children) the appropriate resource provision to the family.

Panel Members may have questions in respect of the information provided, gaps identified and work completed.

The Chair will ensure that the Legal Representative is given the opportunity to provide their view in respect of the Threshold Criteria, provide a view in respect of the requested outcome to Panel and advise as to any alternatives to proceedings.

The Legal Gateway Panel will: -

* Discuss the proposed decision
* Consider any recommendation in respect of S20 accommodation
* Decide if the use of the Public Law Outline – Pre-Proceedings Meeting is the appropriate course of action
* Decide if immediate issue of proceedings is required and if so, what ‘order is to be applied for
* Determine what communication should take place with the family including
* Date and invites to initial pre-proceedings meeting
* Letter of issue
* Letter to notify of immediate proceedings agreed and prepared with the assistance of the legal department
* No action
* Timetable the paperwork and the proposed plan including any pre-proceedings meetings in order to avoid drift
* Agree proposed assessments and funding of these assessments
* Timescales for completion of work including assessments e.g. parenting, viability etc
* Assessment of family and friends to consider the capacity and willingness of the wider family to provide care for the child on a short, or longer-term basis.
* Consideration of private law applications to support the plan for the child(ren)
* Agree timescale for a bespoke parenting / risk assessment to be completed, by whom and what the specific issues to be identified within the assessments are, if the pre-proceedings meeting is to be implemented
* Further period of pre-proceedings and a new review timescale agreed
* Required changes have not been achieved and parents are to be informed that authorisation will be sought to issue proceedings
* Timescales for completion of Court documentation

The Panel will agree actions for completion which will be recorded within the minutes.

The Panel will agree a review timescale at each Legal Gateway Panel.

The minutes of the Legal Gateway Panel will be sent to the Chair of the Panel for review and signature. Following authorisation of the minutes, the Business Support Officer will upload the Minutes to the child(ren)’s records in Liquid Logic.

The social worker should record on the child(ren)’s records via Case Notes, their attendance at Legal Gateway Panel. They should also record their discussion with the parent(s), carer(s) and others with Parental Responsibility the outcome of the Legal Gateway Panel and any subsequent actions, for example Letter before Proceedings.

1. **Pre-Proceedings Notification Letter**

A letter is sent to the Parents or Person with Parental Responsibility which outlines the main or ‘bottom line’ concerns and the help that has been provided by Children’s Services to date.

The social worker is responsible for completing the letter before pre-proceedings using the template – Pre-Proceedings Notification Letter.



The letter and pre-proceedings agreement should be provided to the allocated Local Authority Solicitor for their oversight / any amendments before sending to parents/parties.

The letter must be:

* a summary in simple language of the Local Authority’s concerns
* a summary of what support has already been provided to the parents
* what parents need to do and what support will be provided for them, to avoid proceedings, including time scales
* information on how to obtain legal advice and advocacy and make clear how important it is for the parent to seek legal representation
* The parents should be encouraged to take this letter to their chosen Solicitor as they will be entitled to non-means-tested legal aid representation and advice for the pre-proceedings process. Good practice provides that a parent should have up to ten working days’ notice of a pre-proceedings meeting.
* It is also advisable to attach with the letter a separate pre-proceedings plan (which will be drafted by the designated Legal advisor) setting out clear expectations of the parents and of the Local Authority so that the parents’ Solicitor can advise them on the plan ahead of the pre-proceedings meeting.

The sending to the parents of a timely ‘letter before proceedings’ triggers the availability of public funding for them.

The parents or those with Parental Responsibility are invited to a Pre-Proceedings Meeting and advised to seek legal support via a Solicitor who specialises in Family Law and to get their wider involved.

The letter must be sent within 5 working days of the PLO work decision, ideally within 3 working days. Where possible the letter should be hand delivered by the Social Worker in order to provide additional information and explanation if required by the parent / carer.

The pre-proceedings work should focus on identifying and evaluating possible family carers/support.

The Pre-Proceedings Notification Letter will vary from case to case, but also has a standard format. The list of solicitors is prepared by Legal and will vary over time (copies are held by admin)

Parents should be clearly advised of the importance of seeking legal advice.

The Team Manager should then prepare for the PLO meeting in consultation with the designated Legal advisor. This includes firmly establishing the areas of concern and any gaps in assessment.

1. **Preparation for the pre-proceedings meeting**

To ensure that the pre-proceedings meeting is effective the Local Authority Lawyer should prepare and send the following information to the parent’s Solicitor for them to consider and advise their client ahead of the pre-proceedings meeting:

* Expert’s CVs, time scales for assessments and draft letters of instructions (the necessity for any experts having been agreed by the SW and legal teams in advance of the meeting)
* evidence the Local Authority is relying on, any social worker documents, Police reports etc (these need to be provided to legal by the Social Worker in plenty of time for consideration)
* details of support services/agencies that the parents need to engage with as part of the pre-proceedings process (these having been identified by the SW team and any costs etc agreed in advance of the meeting)
* SW should prepare a chronology and genogram and have clear timescales for completion of any necessary assessments

1. **Pre-proceedings meeting**

The pre-proceedings meeting should take place within 10 working days of the decision made by Legal Gateway Panel.

The purpose of the meeting is to identify whether it is possible to reach agreement about what needs to happen to protect the child from harm, so that Court Proceedings can be avoided.

The pre-proceedings meeting is chaired by a team manager and is attended by:

* the parents(s)
* any person with parental responsibility
* their solicitor
* social worker
* team manager

The Local Authority lawyer is not required to attend but will do so if the parents attend with their own Solicitor(s).

If the social worker requires legal advice during the Pre-Proceedings Meeting, the Local Authority lawyer will provide such advice away from the Pre-Proceedings Meeting.

A child may attend a Pre-Proceedings Meeting if they are of an appropriate age and have capacity to contribute to the pre-proceedings process. They are not entitled to free legal advice, so the Local Authority needs to identify support or provide an Advocate for that child.

During the Pre-Proceedings Meeting the safeguarding concerns are highlighted and the support being offered is outlined. The meeting should identify what the parents need to do to reduce the concerns. These actions form the priority actions of the Child Protection Plan or the plan in place at that time.

During the Pre-Proceedings Meeting, the attendees should:

* agree and sign a pre-proceedings/working together plan



* specify what assessments and services the parents need to engage in and time scales
* identify family members’ details for a possible FGC or family meeting
* set down dates for review and conclusion of the PLO process
* clearly outline what steps the Local Authority will take at the end of the process depending on the progress or otherwise of the plan
* set out what support the Local Authority will provide to the family and clear timescales for any work/assessments the LA need to complete

The pre-proceedings meeting will consider the following potential outcomes: -

* pre-proceedings to continue, with additional timescales set;
* agreement that the required changes have been achieved and a recommendation can be made to remove the child(ren) from pre-proceedings
* agreement that the required changes have not been achieved and the concerns are such that a recommendation to proceed to Court is required

Whatever the outcome of the pre-proceedings meeting, the child(ren) must be presented to the Legal Gateway Panel to ratify the progress of the plan.

1. **Pre-Proceeding Plan**

The Pre-Proceedings Plan outlines the work to be completed within the timescales set. This is the time for the parents to make the necessary agreed changes to reduce the concerns, with the support identified. Support is provided by the Local Authority and progress is monitored by them via the plan in place for the child(ren), visits being undertaken and review meetings.

1. **Review of pre-proceedings**

To minimise drift under pre-proceedings, there should be a:

* Midway review pre-planning meeting, at six to eight weeks to consider the progress of the plan and outcome of assessments, this will be attended by the Social Worker and Legal
* Pre-planning Meetings should continue at least 6 weekly. These will be attended by the Social Worker and Legal.
* Review legal planning meetings between the Local Authority lawyer and client are to discuss the impact of assessments on the threshold criteria, parallel planning, any developments influencing the care plan
* A review of the pre-proceedings plan at Legal Gateway Panel will be held to provide oversight of the progress made. The review period will be set by the Chair of the Legal Gateway Panel.
* The pre-proceedings plan should be brought to Legal Gateway Panel no later than 22 weeks to ensure that the matter is resolved but can be brought at an earlier stage to either end pre-proceedings or progress to Care Proceedings.

These timescales are subject to the needs of the child and the progress by the parents and therefore pre-proceedings can be concluded sooner.

The review pre-proceedings meeting will determine if the threshold of significant harm has reduced sufficiently to continue to manage the case under this process. Consideration should be given to how the pre-proceedings plan interfaces with the existing plan for the child(ren).

Under the pre-proceedings process, the Local Authority must actively consider all other family members or friends. In the event that a child([ren) cannot remain in the care of the parents, the Local Authority has a duty to consider in the first instance placement with other family members and friends. This may include completing both viability and full connected persons assessments if there is a plan for the child to live with a family member/person known to the child.

Local Authorities will often use family meetings or family group conferences (FGC) to include family members in the decision making and to identify alternative family carers and support. Family Group Conferences are a voluntary process for family members to attend a meeting and agree a family plan for supporting the parent(s) and child(ren). The meeting is normally organised by a FGC coordinator who is independent of the Local Authority.

1. **Monitoring of Pre-Proceedings**

All children subject to Pre-Proceedings will have a PreP icon at the top of the page on the child(ren)’s records within Liquid Logic.

Pre-Proceedings should not exceed 26 weeks and this will be monitored via Legal Gateway Meeting and tracker.

Recording in respect of all children subject to Pre-Proceedings will be within ICS.

A tracker is maintained in respect of all children considered at Legal Gateway Panel which identifies review timescales and ensures that all children are reviewed in a timely manner and oversight over progress is maintained.

The Business Support Officer will maintain the Tracker and this will be updated at each Legal Gateway Meeting, supported by the Chair and Legal Representative. The Tracker will be stored on a Group Drive to allow all relevant individuals to have sight and review the tracker at any time.

The Legal Gateway Tracker is linked to the Permanence Tracker to ensure the transition between the two panels and oversight of progress and timely permanence planning.

The designated member of staff from the Legal Team will ensure oversight of the tracker in respect of pre-proceedings meetings held and view in respect of progress made. This will be considered at the Review Legal Gateway Panel every 4 weeks.

The Chair of the Legal Gateway Panel will monitor the timescales set for completion of documentation where proceedings are to be issued.

Heads of Service responsible for the child(ren) will review and authorise all Court Reports.

1. **Conclusion of the pre-proceedings process**

The outcome will either be:

* S20 is no longer required and the child has returned home
* S20 continues and consideration is required regarding Pre-Proceedings/proceedings
* Pre-proceedings plan continues - the parent(s) are meeting the needs of their child(ren). The PLO is stepped down. The work to progress the child(ren)’s plan will continue unless so much progress has been made that the plan is no longer required to safeguard the child(ren) and social care support is no longer required. Step Down to Early Help support should be considered for a period of time in all circumstances.
* Further period of support is required where it is felt that further progress can be made via pre-proceedings work. Pre-proceedings should not exceed 26 weeks therefore it is important that a review timescale is set by Legal Gateway Panel to ensure progress is monitored. Pre-proceedings may exceed the 26 week timescale under exceptional circumstances, which can only be agreed by the Legal Gateway Panel.
* The parents have not made meaningful changes so the Local Authority will be issuing care proceedings. The PLO process should have narrowed down the issues to be litigated on during the care proceedings
* If there are positive assessments of family members and the parents do not oppose their child(ren) living with that family member, they can then make their own application for a Special Guardianship Order or a Child Arrangement Order for residence.
* All of the above outcomes require approval by Legal Gateway Panel, in line with the need for management oversight.

The Legal Gateway Panel will set timescales for the completion of the relevant tasks and actions associated with the outcome of the pre-proceedings process.

The social worker and manager will ensure that the actions and timescales identified are adhered to and record within Liquid Logic completion of actions.

All Court Reports and associated documentation will be uploaded to the Documents Tab in Liquid Logic.

1. **Dispute Resolution**

Where a member of the multi-agency partnership involved with the child(ren) disagree with the decision making or plan for the child, they should use the Safeguarding Escalation Process to raise their concerns.

1. **Commencing Care Proceedings**

Once the decision has been made to commence Care Proceedings, a Letter of Issue must be sent to the parents and their Solicitor(s). It informs them that the Local Authority is applying to Court for a Care or Supervision Order. The template is embedded at Page 10 of this Procedure. This needs to be sent to Legal, who will agree with the Social Worker who should send this out and to whom.

Agreement in respect of the key documentation required will be outlined and timescales set for completion including

* Statement of evidence
* Genogram
* Chronology
* Pre-Proceedings Notification Letter
* Child and Family Assessment
* Pre-Birth Assessment
* Parenting Assessment
* Child Protection / CIN plan and reviews
* Viability Assessments of friends and family
* Multi-Agency supporting reports
* Specialist Assessments completed

NB Some of the above information may already have been undertaken and would be available. This should be shared with the Designated Legal Representative.

The Legal Gateway Panel will set timescales for this work to be completed. The Social Worker will upload all documents to the child(ren)’s records in Liquid Logic and will record in Case Notes the work completed. The Head of Service (SW Assessment) will be alerted to the completion of these documents via Case Notes. The responsible Head of Service will sign off all Court documentation.

1. **Emergency Application for Court Proceedings**

Where an application for a Care Order is made under emergency circumstances, this must be approved by a Head of Service following a case management discussion and the child(ren) will be presented to the Legal Gateway Panel for ratification of the application.

The child(ren) will be added to the Tracker by virtue of their ICO status and monitored alongside all other children.

1. **Monitoring of Care Proceedings**

The Legal Gateway Panel will monitor all children subject to Pre-Proceedings but will refer those children agreed to issue proceedings and to continue at S20 to the Permanence Panel. Where Care Proceedings have been issued in an emergency, this will be presented to the next available Legal Gateway Panel for ratification and transferred to the Permanence Panel.

The Tracker will be updated and maintained by Legal Gateway Panel and will be jointly maintained by both Legal Gateway and Permanence Panels.

The Legal Team will maintain a tracker in respect of all care proceedings, dates of hearings, evidence required and length of care proceedings. The Tracker will monitor the 26 week timescale in respect of Care Proceedings, as introduced by the amendments to the Children Act 1989.

1. Care Proceedings under PLO

Care Proceedings include the following elements.

* Issue and application
* Case Management Hearing
* Issue Resolution Hearing
* Final Hearing / Settlement Conference

The Family Justice Review proposed that, rather than scrutinising the full detail of the care plan prepared by the Local Authority, the Court should consider only the core components of the plan which include: -

* The planned return of the child to the family
* A plan to place (or explore placing) a child with their family or friends
* Alternative care arrangements
* Contact with birth family to the extent of deciding whether that should be regular, limited or none.

The Court is required to draw up a timetable for proceedings with a view to disposing of the application without delay and with the aim of doing so within 26 weeks. If proceedings can be resolved earlier, then they should be.

In exceptional circumstances the Court can record that the case can’t be completed in 26 weeks and can further extend the Court timetable. The reasoning for this extension needs to be clearly recorded on the face of the Court order.

A Care Plan is defined by S31A of the Children Act 1989. The Court in scrutinising the full detail of the Care Plan will consider core components which will conclude

* The planned return of the child to the family
* A plan to place (or explore placing) a child with their family or friends
* Alternative care arrangements
* Contact with birth family to the extent of deciding whether that should be regular, limited or none.

All evidence the Local Authority wishes to rely upon in Court must be evidence based, analysing all the possible options whilst providing clear conclusions and recommendations.

1. **Appendices**

|  |  |
| --- | --- |
| Public Law outline Pre-Proceedings Flowchart |  |
| Pre-proceedings Checklist | To be confirmed |
| SWET Template |  |
| Position Statement Template |  |
| Parenting Assessment Template |  |