

**ST HELENS PRE-PROCEEDINGS PROTOCOL**

|  |  |
| --- | --- |
| **Version Number:** | **Date** |
| V12 | 12.01.2024 |

**ST HELENS PRE-PROCEEDINGS PROTOCOL**

**Introduction**

Public Law Outline (PLO) takes place when the Local Authority is concerned about a child’s wellbeing and unless steps are taken to address and alleviate those concerns, the Local Authority may consider making an application to the Court. The PLO process is therefore the last opportunity for parents to make changes to improve their parenting before care proceedings are issued. This is referred to as Pre-Proceedings work.

The President of the Family Division issued a re-launch of PLO advising a need for all involved in public law children cases to reconnect with the core principles of the PLO. The President highlighted the need to focus on the basics of what is required including

* The PLO Pre-Proceedings process, with the engagement of parents and a thorough assessment exercise, following the DfE guidance and the Public Law Working Group (PLWG) recommendations is essential.
* Only those rare cases that are truly urgent should be the subject of an ‘urgent’ first hearing is sought as a matter of course. Urgently fixed hearings are seldom fully effective, and a further hearing or hearings will normally be required.

The Best practice guidance: Support for and work with families prior to court proceedings [Microsoft Word - Prior to court proceedings BPG report.docx (judiciary.uk)](https://www.judiciary.uk/wp-content/uploads/2021/03/Prior-to-court-proceedings-BPG-report_clickable.pdf) was convened to explore the how children and young people may be safely diverted from becoming the subject of public law proceedings. The Guidance indicates key themes including

* Care Proceedings are an option of last resort,
* The PLO pre-proceedings process represents a genuine opportunity to work closely with families by offering help and support to address their recognised needs in a bid to negate the need to issue care proceedings.
* Working in partnership with families requires a collaborative approach to identifying issues together and co-producing a plan to support change.
* The child’s safety must always be maintained, and the voice of the child must be heard; v. safely managing risk, while building on family strengths and energising wider family support, is critical; vi. the decision to initiate court proceedings should be taken by a senior manager of the local authority.
* It is crucial that the parents clearly understand the PLO Pre-Proceedings process and what is expected of them.
* In respect of newborns, if the local authority comes to an early view that proceedings will be issued on birth, then draft documents should be ready to send to lawyers before the child’s birth.

The President issued the Best Practice Guidance (BPG) to improve the ability of social workers, senior managers, children’s guardians, the legal professions, and the judiciary to promote the welfare and protection of children by working in partnership with families to achieve the best outcomes, in a fair and timely manner, for children and young people. The aim is to assist families to be able to make decisions that, wherever possible, enable children to be safely raised within their family network and avoid the need for more intrusive state intervention, including court proceedings. The BPG will help families to know what they should be able to expect from children’s services departments, both when pre-proceedings work is being undertaken and if court proceedings are issued.

Local authority decision-making should be underpinned by principles of partnership working and relationship-based practice at all times.

The PLO process sets out the duties the Local Authority has when thinking about taking the matter to Court to ask for a Care Order or Supervision Order. It is important to note that where a social worker feels the risk of harm to a child is so great or becomes urgent, a decision may be made that the matter should go straight to Court. The Pre-Proceedings process usually lasts a maximum of 16 weeks but can be extended in exceptional circumstances and needs to be approved by the Assistant Director (AD).

The Pre-Proceedings process aims to:

* Clearly set out for parents what concerns children’s services have.
* Make clear what changes children’s services would like the parents to make.
* Identify and put in place extra help and services needed to support the family to make the changes required.
* Assess and review the needs of the child and family.
* Explore what help and support wider family and friends can provide.
* Work in partnership with families to avoid the need for care proceedings to be started.

The Pre-Proceedings process is sometimes described as a last chance for parents to make changes needed. Whilst involvement under Child in Need and Child Protection plans should evidence ongoing assessment including parenting assessment, contingency planning, and specialist assessments in respect of for example mental health or substance misuse issues, the Pre-Proceedings process ensures that the Local Authority frontload all assessments to evidence the parents’ ability to care for their child/children and capacity for change.

This document outlines the framework for working with families with the pre-proceedings framework in St Helens and ensuring that this is completed in 16 weeks.

**Pre-Proceedings Decision**

Head of Service approval is required to request Pre-Proceedings via the Legal Gateway Panel and a case note indicating approval must be recorded within ICS. The PLO Co-ordinator will advise Legal Gateway Panel for all new requests whether this has been completed and can be included in recommended actions.

The request to Legal Gateway Panel should clearly evidence the resources, help and support offered to the family and the Panel will consider the support plan in place prior to any decision regarding escalation to Pre-Proceedings. The documentation for Legal Gateway Panel clearly evidences the assessments and support which must be evidenced when making a request for Pre-Proceedings. The proposed plan for Pre-Proceedings can be included in the report for Legal Gateway Panel and should reflect the Child in Need / Child Protection Plan with additional areas of concern included which evidences threshold is met. The Social Worker and Team Manager should reference the Frequently Asked Questions and Checklist for Legal Gateway Panel located in the PLO Toolkit before submitting their report to panel.

The IRO manager is a member of the Legal Gateway Panel and will request that the Conference Chair or IRO will complete the LGP Consultation Form (See Appendix 4) to provide their overview for Panel’s consideration. The LGP Consultant Form can also be shared with partner agencies to provide their own contribution to the information being shared with Panel.

The IRO Manager’s role is independent of the individual Conference Chair or IRO within the Panel. NB the Social Worker should liaise with the Conference Chair or IRO when considering seeking agreement from the HOS to attend LGP. The Head of Service will also alert the Conference Chair or IRO to the case note where approval is given to attend Legal Gateway Panel.

All decisions about initiating the Pre-Proceedings process are agreed in the Legal Gateway Panel.

The PLO Co-ordinator will ensure that the Pre-Proceedings flag is added to ICS within 24 hours of the decision being made to ensure that the ICS tracking report is up to date and remove the flag when Pre-Proceedings end. The PLO Co-ordinator adds a case note to ICS and alerts the Social Worker, Team Manager, Conference Chair or IRO.

The Chair of the Legal Gateway Panel will seek the views of all panel members and their recommendation in respect of whether the child(ren) should be made subject to Pre-Proceedings. Where there is a split recommendation between the panel members, the Chair will make the final decision regarding the outcome. Any panel member who disagrees with the final outcome should escalate their concerns to the Chair in the first instance. The Chair will consider the issues raised in the escalation, and where new information is identified, or where the escalation identifies an issue which was not considered by the panel previously; this will be discussed further by the Legal Gateway Panel. Where the escalation does not raise any further issues, the Chair of the Panel will discuss with the Assistant Director to consider the details in full and will provide formal response to the panel member escalating the concerns. A record of this will be recorded within ICS and Panel members will be informed of the final outcome.

In the event that the Social Work team disagree with the decision of Legal Gateway Panel, this should be escalated to their respective Head of Service who will consider further with the Chair of the Legal Gateway Panel. Any request for further consideration by Legal Gateway Panel by the Head of Service should be arranged in a timely manner. Where the matter remains unresolved, this can be further escalated to the Assistant Director for Children’s Social Care.

**Child Protection and Pre-Proceedings**

The children considered in respect of Pre-Proceedings will be subject to a Child Protection Plan where insufficient progress is being made. Please note that the Child Protection process, including core group meetings and Child Protection Review Conferences will continue throughout the Pre-Proceedings process.

The Child’s Plan and Pre-Proceedings Plan will be aligned within ICS and will correlate but should not be copied to the Pre-Proceedings Plan as this should have a focus on the bottom lines, which sets out what needs to be achieved to prevent the Local Authority from taking the matter to Court. Statutory duties will be included in the Child in Need or Child Protection Plan around visiting frequency however this would not be part of the Pre-Proceedings plan. The Pre-Proceedings Plan within ICS will populate the Child Protection Plan and where updates are required the Social Worker will address this within the Core Group and update the Child Protection Plan accordingly.

Where possible, and where it is considered safe and appropriate to do so, the Local Authority will use the Pre-Proceedings protocol to work with families before consideration is given to issuing Care Proceedings.

​In respect of unborn babies, they may be considered by Legal Gateway Panel whilst subject to a Child in Need Plan. This is in recognition that an Initial Child Protection Conference will not be convened until 30 weeks' gestation as per the Pan Merseyside Pre-Birth Protocol. Unborn babies would be considered for Pre-Proceedings where the information clearly indicates early in the pregnancy, that there is a significant likelihood of the need to issue proceedings at birth. Reference should be made to the Pre-Birth Protocol (PLO Toolkit) which outlines the Pan Merseyside Pre-Birth Protocol and the Pre-Birth Practice Directions.

**Legal Gateway Panel**

The Legal Gateway Panel is chaired by a Head of Service from Children’s Social Care. The panel is made up of a representative from the Legal Team, Edge of Care Service, PLO Coordinator, Court and Protection Specialist Lead, Safeguarding Children’s Unit, Fostering Service and Adoption Service.

The Panel meets every week on a Wednesday afternoon and is supported via Business Support to minute the discussions and decision making.

The children presented to Legal Gateway Panel are also monitored and tracked via the use of a report contained within ICS which is generated by the addition of a ‘Pre-P’ icon in ICS and also a Legal Gateway Panel spreadsheet.

**Initial Legal Gateway Panel Meeting**

The purpose of the initial Legal Gateway Panel will be to consider if the threshold for proceedings is met.

The report for Legal Gateway Panel should be sent to [legalgatekeepingpanel@sthelens.gov.uk](mailto:legalgatekeepingpanel@sthelens.gov.uk) to request to attend the panel. The report should be submitted 1 week before the date of the initial or review Legal Gateway Panel. Reports are then circulated to panel members by Business Support.

The Social Worker and the Team Manager should reference the Frequently Asked Questions Guidance and Checklist for Legal Gateway Panel.

The following documents are required for the legal gateway meeting:

1. Initial Legal Gateway Panel Report – ICS Form in the Forms Tab
2. Updated Child and Family Assessment
3. Impact Chronology
4. Genogram
5. Current Plan
6. ICPC/Child Protection conference review minutes
7. Parenting assessment
8. Viability assessments
9. Family Group Conference meeting minutes
10. Graded Care Profile 2
11. Updated Case Summary

These documents should be attached to the report being submitted to Legal Gateway Panel.

NB where a request is being made for Pre-Proceedings, the letter should be completed and presented to Legal Gateway Panel. This will enable Legal advice and oversight in respect of the letter. The PLO Co-ordinator can provide advice in respect of developing the letter.

All reports should be provided to the initial Legal Gateway Meeting and an explanation as to why work is not available for example FGC where the family have refused to engage.

The PLO Coordinator will ensure that she continues to advise all staff and managers regarding the requirements and HoS will discuss the evidence required for LGP in pre case discussion to agree seeking pre-proceedings.

**Please note new referrals to Legal Gateway will not be considered unless reports are available on time.**

Where the Legal Gateway Panel agrees that Pre-Proceedings should be initiated, the following needs to happen:

* The Pre-Proceedings letter to parents must be drafted before the Initial Legal Gateway Panel, finalised within 72 hours of the Legal Gateway decision. The Social Worker and Team Manager will share the letter with the Pre-Proceedings Legal Solicitor and PLO Coordinator before being shared with the Parents. **NB** The Pre-Proceedings Letter Part 1 and 2 can be found within the PLO Toolkit on Teams with Children’s Social Care Resources and the link is embedded at the end of this document (Appendix 1).
* The Pre-Proceedings Letter Part 1 and 2 should be shared with the parents in person within a further 48 hours of the letter being finalised. This is to ensure that the parents have an opportunity to discuss the issues outlined within the letter and have a good understanding. The timescales identified have considered that the Pre-Proceedings letter should not be shared with the parent(s) on a Friday when they will not have access to support and assistance over the weekend period.
* A copy of the Pre-Proceedings Parent Brief (information sheet) can be shared with the parents at any time but should also be shared with the letter.
* A list of available Solicitors should also be shared with the family alongside the Pre-Proceedings Letters, these can be found in the PLO Toolkit.
* The outline of the plan is incorporated into the Pre-Proceedings Letter Part 2 and the parents can use this to share with their solicitor prior to the initial Pre-Proceedings Meeting.
* The Initial Pre-Proceedings Meeting must take place within 10 working days. This is arranged between the Social Worker, Team Manager and Legal Solicitor supporting Pre-Proceedings.
* Review Pre-Proceedings meetings should take place at least every 4 weeks. The Pre-Proceedings meeting should be agreed at the end of each meeting to ensure that all parties are able to attend. It is good practice for the Social Worker to remind the Parent of the date and time of the meeting two days prior.
* Pre-Proceedings meeting should be face to face wherever possible. There may be occasions where this is not possible however, the Social Worker and Parent should be together to support other members of the meeting joining virtually.

**Timescale for Pre-Proceedings**

We will complete the Pre-Proceedings process within 16 weeks of the agreement at LGP to enter PLO. It is recognised in some cases this process may take longer. In exceptional circumstances the Legal Gateway Panel may agree to extend the timescale of 16 weeks.

Legal Gateway Panel would consider exceptional circumstances requiring an extension of Pre-Proceedings plan where for example a significant change has occurred which has impacted on the progress of the plan, or an assessment is outstanding which would significantly impact on decision making.

The timetable for each case and target date for completion of the Pre-Proceedings process will be agreed at the Legal Gateway Panel.

Cases predicted to take longer than 16 weeks will have a clear rationale recorded in the Pre-Proceedings Plan and decision making within the Panel minutes.

**Pre-Proceedings over 16 weeks**

Where a family subject to Pre-Proceedings are predicted to go over the maximum 16-week timescale, the Chair of Legal Gateway Panel will identify the relevant children each week and request that the PLO Co-ordinator complete the embedded document below (Appendix 5) and send to the Assistant Director within 24 hours of the LGP being held. The form will outline the reasons for the delay and the steps being taken to resolve these issues. The comments of Panel members and the Chair will be identified at the Legal Gateway Panel meeting.

The notification form will then be sent to the Assistant Director by email.

The Assistant Director will review the document and will add comments and signature to the form and will return to the PLO Co-ordinator who then adds a case note and attach the document indicating the Assistant Director’s oversight and comments.

The PLO Co-ordinator will alert the relevant Social Worker, Team Manager and Head of Service to the case note.

**Second period of Pre-Proceedings**

Best practice dictates that Pre-Proceedings should not be a repeat process. These circumstances should be exceptional however there may be circumstances when this is appropriate, for example a significant period has elapsed since the previous Pre-Proceedings arrangement, or the circumstances of the family has changed to such an extent that the situation is different and requires further assessment.

It is also noted that the President of the Family Division clearly identified the importance of the PLO Pre-Proceedings process with the engagement of parents and a thorough assessment exercise being essential. The Public Law Working Group Best Practice Guidance emphasises the need for carefully managed Pre-Proceedings work and states ‘the subsequent requirement for care proceedings should not attract criticism of the local authority’. It further states ‘The PLO has a dual function. First, assessments conducted under the PLO during the Pre-Proceedings phase (multi-disciplinary if needed, informing intensive, relationship-based social work support to the family, which itself builds on earlier support, accompanied by independent legal advice to the parents) are more likely to prevent issues from escalating and to divert families from proceedings. Secondly, they serve more clearly to identify those for whom Care Proceedings are required. Where it is clear that a child may require removal from her parents’ care, the earlier approach of the local authority enables decisions to be made in a timely manner, with plans based on a real understanding of the needs of the child and the capacity of the family to meet those needs’. On this basis, all options should be considered where concerns are identified which meet threshold with a view to considering repeat Pre-Proceedings.

The Chair of the Legal Gateway Panel will notify the Assistant Director of all children who are subject to Pre-Proceedings for a second time and the reasons for this.

Where the family are predicted to go over the maximum 16-week timescale, the Chair of Legal Gateway Panel will escalate to the Assistant Director and outline the reasons for the delay and the steps being taken to resolve these issues.

**The Initial Pre-Proceedings meeting with parents.**

Once Legal Gateway have agreed the Pre-Proceedings framework, the initial pre-proceedings meeting with the family should take place within 10 working days. The initial meeting is an opportunity to discuss the presenting issues with parents and agree the pre-proceedings plan of work.

**NB** The Initial Pre-Proceedings Meeting and Plan is located in ICS in the Forms Tab. The Plan is incorporated into the meeting document. The outline plan included in the Pre-Proceedings Letter Part 2 should be incorporated into the ICS Pre-Proceedings Plan document and sent to the Parents and their legal advisor 3 working days before the date of the meeting. The plan will consider the bottom line concerns, recommendations of Legal Gateway Panel and specifically address the issues included in the letter. This can be shared with Legal and PLO Coordinator prior to the meeting to agree the plan and ensure that it is fully completed and is recorded in appropriate language. Please ensure that the parents have also received the Pre-Proceedings Parent Brief (information sheet).

The initial meeting will review the proposed plan, areas of strength and concern and ensure that the parents clearly understand the goals identified. The language used in the plan and meetings should be clear, child focused, impact focused and set clear timescales to achieve change.

The initial meeting will discuss with the parents’ legal representatives how the review meetings will be held and whether legal representation is required at every meeting. Where the parents’ legal representative indicate that they will attend every review a member of the Local Authority Legal Team will also attend.

The Pre-Proceedings Meeting minutes and plan should be shared with the parents and their legal representative within 5 working days of the Pre-Proceedings Meeting being held.

As stated above the Pre-Proceedings meetings should take place every 4 weeks and the date of the next meeting should be agreed at the end of each meeting.

**NB** The dates of the Pre-Proceedings meetings will be forward planned at the first meeting to ensure that these are suitable for all those attending.

A discussion will be held with the Legal Representatives and Parents regarding the need for solicitors to attend the intervening meetings. It is proposed that Legal Advocates would attend the first and the final Pre-Proceedings meetings.

**Legal Gateway – Initial Review**

The Legal Gateway Panel Review form is located within ICS in the Forms Tab.

Legal Gateway will have oversight and monitor the progress of all Pre-Proceedings cases, using the following review process.

The initial review by Legal Gateway Panel should take place at 6 - 8 weeks of the Pre-Proceedings process being agreed. Within this time period at least 2 Pre-Proceedings meetings should have taken place with the Family and the third planned.

The Legal Gateway Panel will review the pre-proceedings plan and progress made in assessments. The Panel will also review the original timescales identified for all tasks and whether these are progressing in a timely manner.

Where the plan is due to be finalised following the third meeting with the parents, the Legal Gateway Panel should agree a return date to consider the recommendation regarding the conclusion of the Pre-Proceedings Process.

For all reviews by Legal Gateway Panel, all required documentation must be provided as identified within the Review Legal Gateway Document. Failure to provide the relevant documentation may result in the children not being considered by the Panel and will result in delay in oversight and planning. The Chair of the Panel will notify the responsible Head of Service of any children being removed from Panel due to documentation not being presented.

Any request to change the date of the review must be agreed with the responsible Head of Service.

In addition, the PLO Coordinator will present the up-to-date Pre-Proceedings tracker to panel which will provide an overview of the progress of all current Pre-Proceedings plans. This will be an agenda item on every Legal Gateway meeting.

**Legal Gateway – Second Review**

The Legal Gateway Panel will review at 6 – 8 weeks and will agree a further review period where this is identified as being required. This should take place around 12 weeks of the Pre-Proceedings process. At the 12-week point, most cases should be near conclusion with assessments being finalised.

There will be a review of the progress made in progressing assessments, parents’ engagement, and a discussion of potential delays in the original timescale.

The Legal Gateway Panel will ensure that the children and family are booked to be considered by the panel within the 16-week period.

**Legal Gateway - third and subsequent reviews**

It is expected that all Pre-Proceedings will be concluded within the agreed 16-week period.

Where an agreement is given by Legal Gateway for Pre-Proceedings to be extended beyond 16 weeks, this should be in exceptional circumstances and the reasons clearly recorded by the Panel. The review will be set to ensure that an outcome is achieved in the appropriate but shortest timescale required.

Where a family subject to Pre-Proceedings are predicted to go over the maximum 16-week timescale, the Chair of Legal Gateway Panel will escalate to the Assistant Director and outline the reasons for the delay and the steps being taken to resolve these issues.

**Issues arising between Legal Gateway Review Meetings.**

Where there is an escalation of concerns regarding parents’ engagement or a lack of progress in respect of the plan, the Social Worker and Team Manager should not wait until the next Legal Gateway Panel Review to discuss the family.

A case discussion will be held with the Head of Service to consider the issues raised and agree the plan to return to Legal Gateway Panel.

The Social Worker / Team Manager will then seek an earlier date for review by Legal Gateway Panel.

Where concerns are such that Care Proceedings need to be issued on an urgent basis, the responsible Head of Service can make this decision and the children will be presented to the next Legal Gateway Panel to update and ratify the decision.

**Conference Chair Oversight**

As outlined, the children considered in respect of Pre-Proceedings will be subject to a Child Protection Plan and will have an allocated Conference Chair. The Pre-Proceedings Plan and Child Protection Plan will correlate and will be reviewed as part of the Core Groups and Pre-Proceedings Meetings.

The Conference Chair will have oversight of the child/children’s plan and will monitor the progress of the Child Protection / Pre-Proceedings Plan. Where there are areas of practice identified, concerns regarding the progress being made or issues of delay, the Conference Chair will discuss in the first instance with the Team Manager, consider whether they need to raise a practice alert or whether they should raise an escalation. It is important that any areas of concern raised by the Conference Chair are responded to in a timely manner by the Manager / Social Worker and in the event that the timescales set are not met, this will be sent to the Head of Service.

For unborn babies subject to CIN plan and Pre-Proceedings, the PLO Co-ordinator will maintain oversight as per all children subject to PLO and the CIN Co-ordinator will maintain oversight of these children also.

**Documentation**

All documentation associated with the Pre-Proceedings process, which are not already recorded within ICS, including the initial letter, assessments completed etc must be uploaded to ICS in a timely manner and be available for the PLO Co-ordinator to undertake tracking of progress.

**Concluding the process**

Once all assessments are completed the final Legal Gateway review will consider the recommendation of the Social Worker and Team Manager. In order to conclude the Pre-Proceedings process, the Legal Gateway Panel must have sight of all relevant assessments and documentation.

The Legal Gateway Panel may conclude the Pre-Proceedings Process by stepping down to the Child Protection Plan or agree to issue Care Proceedings.

In exceptional circumstances it may be considered that there is no longer justification for Local Authority involvement with the family. In these cases a final Pre-Proceedings meeting should be held to advise the parents and relevant family members of the outcome of the process and future plans. This should be followed up by a final letter confirming the outcome.

The Social Worker and Team Manager will have considered the progress of the Pre-Proceedings and discussed with their Head of Service in respect of the final recommendation to Legal Gateway Panel. Where Care Proceedings are being recommended the SWET should be started.

Where Care Proceedings are agreed, the Panel will indicate a timescale for the Social Work Evidence Template (SWET) to be completed and filed with Child Care Legal to issue. This will be within a maximum of 5 working days.

The PLO Co-ordinator will track all SWETs being completed and will add the children to the Court Calendar to continue to monitor.

The immediate issue letter will be delivered to the parents within 3 working days unless Legal Gateway agrees otherwise.

The information embedded below includes the up-to-date versions of all documents associated with the Pre-Proceedings pathway.

**Appendices**

|  |  |  |
| --- | --- | --- |
|  | **TITLE** | **DOCUMENT OR LINK** |
| 1 | St Helens PLO Toolkit Link | [PLO Toolkit](https://sthelensgovuk.sharepoint.com/:f:/r/sites/WiderChildrensSocialCareTeam/Shared%20Documents/CSC%20Resources/PLO%20Toolkit?csf=1&web=1&e=lhsEU4) |
| 2 | LGP Terms of Reference |  |
| 3 | Practice Standards including PLO |  |
| 4 | Legal Gateway Professional Consultation Form |  |
| 5 | Assistant Director of Pre-Proceedings over 16 weeks |  |