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| **1.3.3 Pre Proceedings and Public Law Outline (PLO) Procedures and Practice Guidance** | Top of FormBottom of Form |

**STATUTORY GUIDANCE**

[**DfE, Court Orders and Pre-proceedings for Local Authorities (April 2014)**](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306282/Statutory_guidance_on_court_orders_and_pre-proceedings.pdf)

[**2013 Protocol and Good Practice Model – Disclosure of Information in Cases of Alleged Child Abuse and Linked Criminal and Care Directions Hearings**](https://knowsleychildcare.proceduresonline.com/pdfs/disclosure.pdf)

**AMENDMENT**

This chapter was reviewed and minor amendments were made throughout in October 2020

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[**Appendix 12: Example Analysis Statement for Court**](https://knowsleychildcare.proceduresonline.com/pdfs/app_12_example_analy_state_court.pdf)

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 **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**](http://trixresources.proceduresonline.com/nat_key/keywords/public_law_outline.html), 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 Pubic 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 (PPP) 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.

 **2.** **Pre-Proceedings**

Heads of Service chair all Legal Planning Meetings (LPM). Team managers request a legal planning meeting either by a case note alert or via supervision with head of service.The Team Manager records the request on a case note on the child’s ICS record. In response, the Head of Service will record on a separate case note the rationale for agreeing or not agreeing the request. The Head of Service, if in agreement with the request, will then alert the PLO coordinator that a Legal Planning Meeting (LPM) has been agreed, the PLO Coordinator will then set up the LPM within the timescales that the Head of Service has recommended in their case note.

**N.B.** . All the relevant documentation in preparation for the LPM should be sent to the PLO Coordinator 2 days in advance of the LPM. If the request is for pre proceedings a draft pre proceedings plan and letters to the parents/carers should also be presented to the legal planning meeting. At

NB The social worker should always include the view of the Child protection and reviewing manager in the legal planning meeting template

At the legal planning meeting legal advice will be given as to whether the threshold criteria is met in accordance with S31 Children Act 1989, if so then a decision will be made about whether the case should be dealt with under the Pre-Proceedings Protocol (PPP) or to issue proceedings. The decision about whether the circumstances merit the use of the pre proceedings process will focus upon:

* Whether the welfare needs of the child/ren are not being met to the extent that a care or supervision order is required in the present or is likely in the future
* Whether the child/ren’s welfare needs can be met to the extent that their welfare does not require immediate intervention, either because of the circumstances, or because support and safeguards reduce the risk.

The pre-proceedings stage 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 (RPPM). Decision to enter into PPP can only be triggered and approved at a LPM or, exceptionally with the agreement of a Head of Service. Decisions to enter into PPP usually occur where the LA’s concerns reach the threshold as set out in the Children Act 1989, but the risk of immediate harm is low and deemed manageable. See [**Appendix 1: Annex to Practice Direction 36C**](https://knowsleychildcare.proceduresonline.com/pdfs/app_1_annex_practice_direct_36c.pdf) for details. The head of service will record on the child’s record/ICS the decision made at legal planning meeting. The PLO Co coordinator will then when finalised will upload the legal planning meeting minutes on the child’s record/ICS

The LPM will consider the case presented in order to:

* Discuss and seek advice about the proposed decision;
* 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:
	+ 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;
	+ The Pre proceedings planand letters to the family, outlining the bottom lines ( what would tip the case from pre proceedings to care proceedings )
	+ Agree if a referral should be made for a family group conference
* 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;
* 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 are to be implemented;
* Further period under PPP and a new review timescale agreed;
* Required changes have not been achieved and parents are informed that authorisation will be sought to issue proceedings.

The Social Worker should ensure, when assessing ‘wider family and environmental factors’ (within the [**children and family Assessment**](http://trixresources.proceduresonline.com/nat_key/keywords/assessment.html)), that consideration is given to the capacity and willingness of the wider family to provide care for the child on a short or longer term basis. At the assessment stage wider family and friends would be considered as either support to the birth family in caring for the child/ren or alternately if this is not successful as alternate carers. Depending on the circumstances, it may be appropriate for this to be achieved under a private law order.

The social worker should record on ICS, using the appropriate case note, that they have discussed with the parent/carers their concerns and the need to escalate to Legal Planning Meeting. The social worker should also provide the parent/carer with a leaflet that can be found on ics useful links, a leaflet that explains the Pre proceedings process as well as a letter that can be taken by the parent/carer to a solicitor.

The initial ‘pre-proceedings meeting’ will agree a plan of intervention; ( the meeting should be recorded on ics, using the pre proceedings case note) this must be written into a clear agreement setting out our goals and expectations, in line with the signs of safety model, signed by both parents and the Local Authority, with clear timescales for review. The Team Manager will chair the meeting and the LA Solicitor will take minutes. The case remains with the Child Protection Social Worker and it is their responsibility to monitor and implement the agreed actions, including the undertaking of any future assessments, including any specialist assessments.

The RPPM will need to determine if the threshold of [**Significant Harm**](http://trixresources.proceduresonline.com/nat_key/keywords/significant_harm.html) has reduced sufficiently to continue to manage the case under the PPP. Careful consideration needs to be given to how this plan interfaces with existing [**Child Protection**](http://trixresources.proceduresonline.com/nat_key/keywords/child_protection_plan.html), or other Plans.

At the review meeting, there are **three** potential outcomes:

* Further period under PPP, and a new review timescale agreed;
* Agreement that the required changes have been achieved and the case can be removed from being managed under PPP If the team are considering that a PP case is moving towards issue it may require bringing back to LPM due to the complexity of the issues and to enhance further analysis and decision making in respect of thresholds. However, if this is not required the Head of Service can reach the decision through individual consultation and agreement. This should be endorsed before the parents and their solicitor are advised of the decision either directly or through the RPPM;
* Agreement that the required changes have not been achieved and the matter should proceed to Court. If the decision at a RPPM is that an application needs to be made for a court order, it is the responsibility of the CP Social Worker to draft the required documentation within an agreed timescale.

If there are disagreements between services, in respect of any application to court, this should be made clear between the Social Worker and/or Team Manager before any review and escalated to the respective Head of Service for a discussion and final decision.

Cases should not move sequentially through [**Child in Need**](http://trixresources.proceduresonline.com/nat_key/keywords/child_in_need.html), Child Protection Plan and pre-proceedings as a matter of course. This can cause delays in decision-making; all decisions should be based on the impact of parenting/care-giving on the child and known risk factors. Professional judgment should be used to determine the appropriate Plan for each child.

A RPPM should be convened every six weeks to ensure there is no drift in the case management and progressing of assessments.

The timescale for the period of pre proceedings must be commensurate with the issues in the case and the risk of harm to the child. Work under pre-proceedings should not exceed six months unless the delay can be properly justified. Reasons for a case exceeding six months must be clearly recorded. Such delay will be exceptional and the minutes of the PPM and the tracker meeting recording will outline the reasoning around the extension of PP.

If during the PPP stage the child or young person (CYP) is identified at risk of Significant Harm, the decision to issue proceedings as a matter of urgency or the CYP being accommodated under [**Section 20**](http://trixresources.proceduresonline.com/nat_key/keywords/section_20.html) of the Children Act 1989, needs to be subject to decisions by the Head of Service and in consultation with the Legal department. In both sets of circumstances the case is no longer considered as being in PP.

In cases where the CYP is subject to Section 20, then delays in issuing proceedings should take into account the removal of the child from the family and consider the guidance set out in the Section 20 policy. There is an internal pre proceedings tracker meeting which is chaired by a Head of Service independent of the pre proceedings to ensure procedures are followed, and there is no drift and to provide additional scrutiny. Any concerns will be brought to the attention of the Head of Service.

**Tracking of Pre Proceedings Cases**

Pre proceeding cases are tracked by the Head of Service for Child in need and Child Protection at a pre proceedings tracker meeting. Individual social workers are expected to attend the meeting fully prepared to give an update about their case. The relevant solicitor is also in attendance at the meeting.The meeting is intended to track and challenge social workers Pre proceedings cases to ensure no drift and delay for children and families.

Team managers should track pre proceeding cases every month, via a social workers supervision, and the supervision record should be recorded in the supervision form on the child’s record/ics

Child protection and review managers should track pre proceeding cases on at least a monthly basis and the tracking should be recorded on the child’s record/ICS. If there are any issues/ elements of good practice these should be referred back to the team manager and social worker.

**Ending Pre Proceedings**

The decision to end pre-proceedings is made at a legal planning meeting, at which the designated pre proceedings solicitor attends and provides the legal advice. As with all LPM’s the meeting is chaired by a Head of Service, and the meeting is requested and arranged via the same process described above. The focus of that decision will be whether the child/ren’s welfare needs are now met in a way that makes it unlikely that a care or supervision order would be required.

Upon a decision being made to end pre proceedings, the family will be notified formlly by a letter signed by the head of service. The legal department will also ensure the letter is shared with the families legal representative,

 **3.** **Process – Public Law Outline (PLO)**

In some circumstances, pre-proceedings are not successful in achieving the desired safety and outcomes for the child and proceedings have to be issued. In most circumstances, this can be discussed and agreed in consultation with the Legal department. However, there are cases when this may need to take the form of a reconvened LPM to ensure the correct threshold applies.

The Child Protection (CP) Social Worker will assume responsibility for completing all the required documentation for the application (see [**Appendices**](https://knowsleychildcare.proceduresonline.com/chapters/p_pre_proceed_plo.html#appendices)). However, good practice and transfer procedures indicate that at this stage the Team Manager from the Children Looked After (CLA) team will be made aware at an early stage, to agree a point of transfer and can jointly advise on the most appropriate [**Care Plan**](http://trixresources.proceduresonline.com/nat_key/keywords/care_plan.html). Therefore both Social Workers and the CP Team Managers will need to attend court, although the long term care planning decision will be determined by the Children Looked After Team Manager once the case has transferred to the CLA Social Worker.

The Safeguarding and Quality Assurance Unit should be alerted by the Child Protection (CP) Social Worker at an early stage, and if the child is subject to a Child Protection Plan, consideration must be made to the timing of statutory reviews.

The Social Worker prepares and collates paperwork for the Court. This will include for example (see [**Appendices**](https://knowsleychildcare.proceduresonline.com/chapters/p_pre_proceed_plo.html#appendices) for full details):

* Statement of Evidence – under the revised PLO arrangements (to include a Genogram);
* [**Chronology**](http://trixresources.proceduresonline.com/nat_key/keywords/chronology.html);
* The ‘Letter before Proceedings’;
* Children and families and Parenting Assessment;
* Other relevant documents e.g. minutes of [**Child Protection Conferences**](http://trixresources.proceduresonline.com/nat_key/keywords/child_prot_conf.html), any Family & Friends Viability Assessments;
* Available independent evidence from other involved agencies.

The CP Social Worker will undertake the Initial Court Care Plan and the Request for Placement form to the Access to Resources Team (ART). The Interim Care Plan, statements and Chronology must be agreed and signed by their respective Team Manager before sending to the Legal department for filing.

If no interim order is granted, and the child remains at home but the Section 31 application remains before the court for final determination, then case responsibility will remain with the CP teams.

If no interim order is granted, but the child is accommodated under Section 20 and the substantive application remains before the court, case management remains the responsibility of the CP Team until the CYP’s long-term care plan is one in Local Authority care.

 **4.** **Need to Issue Proceedings Immediately**

If it is decided that the concerns about the welfare of the child are such that it would be inappropriate to delay going to Court, then the authorisation that Care Proceedings should be initiated rests with the Senior Manager.

 **5.** **Emergency and Police Protection Orders**

The Social Worker and their Team Manager will take the lead in respect of work around [**Emergency Protection Orders**](http://trixresources.proceduresonline.com/nat_key/keywords/emerge_prot_order.html) (EPOs) liaising with the Legal Department and [**Police Protection**](http://trixresources.proceduresonline.com/nat_key/keywords/police_protection.html) (‘PPOs’) through liaison with Police for child/ren being taken into Police Protection.

 **6.** **The Length of Care Proceedings and Care Planning**

The introduction of the 26 week time limit in care proceedings is introduced by the amendments to the Children Act 1989.

The timetable for the proceedings is set having particular regard to the timetable for the Child. Care proceedings is essentially separated into three key stages as detailed in [**Appendix 3: Stage 1 Issue and Allocation – day 1 and day 2; Stage 2 Case Management Hearing; Stage 3 Issues Resolution Hearing**](https://knowsleychildcare.proceduresonline.com/pdfs/app_3_stage_123.pdf):

* Stage 1. Issue and Application;
* Stage 2. Case Management hearing;
* Stage 3. Issue Resolution Hearing.

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:

1. The planned return of the child to their family;
2. A plan to place (or explore placing) a child with family of friends;
3. Alternative care arrangements; and
4. 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. See [**Appendices 4, 5 and 6**](https://knowsleychildcare.proceduresonline.com/chapters/p_pre_proceed_plo.html#appendices) for details. 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 of time needs to be clearly recorded on the face of the court order.

A Care Plan is defined by Section 31A of the Children Act 1989. The court in scrutinising the full detail of the Care Plan will consider core components which will conclude:

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

There is a local Protocol for Disclosure of Inadequate Agency Practice.

Where a Judge has concerns as to the above or other concerns in relation to Child Protection from any relevant agency, the Judge should consider whether it is appropriate to do the following:

1. Upon notice to all parties, file a short report dealing with the inadequacies as perceived by the Judge;
2. Send such a report to the Director of Children’s Services;
3. Ask that the same be sent to the Chair of the Local Safeguarding Children Partnership with a view to considering the need for training and/or system modification and/or such other appropriate steps to address the relevant issue;
4. If the concerns relate to an agency other than Children and Young People’s Services, a copy of the report should also be sent to the Chief Officer of that Agency or organisation/Children’s Trust Board.

If such a report is sent, a copy should also be sent to the Designated Family Judge for Cheshire and Merseyside.

 **7.** **Preparing Final Evidence and Care Planning**

All evidence the Local Authority wishes to rely upon in court must be evidenced base, analysing all the possible options whilst providing clear conclusions and recommendations. (It is suggested [**Re—A (A child) judgement by James Munby (President of the Family Division)**](https://www.judiciary.gov.uk/wp-content/uploads/2015/02/re-a-child-2.pdf) is read.)

Please refer to Appendices 9 and 10 re evidence and analysis tool to be used in all cases.

**Appendices**

[**Appendix 1: Annex to Practice Direction 36C**](https://knowsleychildcare.proceduresonline.com/pdfs/app_1_annex_practice_direct_36c.pdf)

[**Appendix 2: PLO Pre-proceedings Checklist**](https://knowsleychildcare.proceduresonline.com/pdfs/app_2_plo_pre_proceed_checklist.pdf)

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**End**

**COVID-19:** [**tri.x resource on Coronavirus (COVID-19).**](https://www.proceduresonline.com/resources/covid19/)