

**Bristol City Council Children and Families Services Legal Panel**

**TERMS OF REFERENCE**

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| **Version** | **Amendments made** | **Date Approved and Authoriser** |
| 1.1 | N/A  | 19.04.24:Caroline Harris – Legal Team ManagerTara Parsons – Head of Service |

**PURPOSE OF LEGAL PANEL**

Bristol City Council’s Children and Families Services Legal Panel is the Panel for approval to initiate legal proceedings or pre-proceedings related to safeguarding (including deprivation of liberty) or establishing permanency for a child in the city. The final decision to initiate pre-proceedings or family proceedings rests with the Head of Service.

The Legal Panel will consider all aspects of the child's circumstances to enable a decision to be made regarding Children’s Social Care's plan of intervention. The Legal Panel ensures that the local authority is applying a consistent threshold to all cases where legal proceedings are being considered.

The Legal Panel will consider all the information available and decide whether to initiate family law proceedings, to include applications for:

* Care Order
* Supervision Order
* Discharge of Care Order
* Revocation of Placement Order
* Order for permission to deprive liberty (Deprivation of Liberty Orders under the Inherent Jurisdiction / Court of Protection)
* Child Assessment Order
* Permission to refuse contact with a child in care
* Forced Marriage Protection Order
* Female Genital Mutilation Prevention Order

The Legal Panel will also make decisions on whether to ratify long-term care arrangements made pursuant to s20 Children Act 1989

The Legal Panel must consider any request to initiate care proceedings. The Social Worker and Team Manager are required to attend the Legal Panel to seek approval for proceedings or the initiation of the Public Law Outline Process (pre-proceedings).

Where urgent cases have been dealt with outside of the Legal Panel process, cases should be brought to Legal Panel for oversight of emergency actions taken and to agree ongoing plans for Legal Proceedings. Where care proceedings have already been issued with Head of Service approval, then the case need not return to panel and can proceed to care planning with the allocated lawyer.

In addition, the Legal Panel will:

* Identify if further evidence is required and how it might be obtained.
* Give case direction regarding the management of the Pre-Proceedings process or alternatives to entering legal frameworks when the panel feel this is not indicated by the evidence.
* Give advice about and approval for the use and application of civil protection orders.

AIMS AND KEY PRINCIPLES

* To increase the consistency and timeliness of decision making in relation to children entering care.
* To reduce the number of unplanned admissions to care.
* To reduce delays in planning for children at risk of ongoing significant harm.
* To improve legal planning by social work teams to reduce delays within proceedings when initiated.
* To promote early permanency.
* To review retrospective decisions where a child has come into a care in an unplanned way (with the exception of homeless 16 and 17 year olds) in relation to Section 20 arrangements, EPO and Police Powers of Protection where the social care team care plan is continuing proceedings to secure permanency and safety for a child. Where care proceedings have already been issued with Head of Service approval, then the case need not return to panel and can proceed to care planning with the allocated lawyer.
* To ensure that the needs of children are central to decision making processes.
* To support the care of children within their families and communities where this is still a viable and safe option and preventing them from entering the care system
* To analyse patterns and trends in order to ensure best practice; inform commissioning intentions and trigger responses from relevant service areas and partner agencies regarding identified practice concerns;
* To promote cost savings by ensuring the best use of resources and to ensure that accommodation, where used, is used appropriately and only to safeguard children at risk of harm.

**DECISION TO PRESENT A CASE TO A LEGAL PANEL**

The decision to present a case to a Legal Panel will be made by a Service Manager with management responsibility for the case, as a result of case discussion with the allocated Social Worker and Team Manager. This decision should be recorded within the child’s case record.

**DOCUMENTS TO BE PRESENTED AT LEGAL PANEL**

Information to be presented at Legal Panel to allow an informed decision to be made must be fully completed with up-to-date information, be quality assured and signed by the team Manager and the Service Manager.

The following documents must be completed in full and made available to the Panel Coordinator by Wednesday at 12pm prior to the weekly Panel. Papers not submitted on time will not be heard unless agreed by The Chair.

* A quality assured draft SWET
* Current social work assessment
* Genogram
* An up to date social work chronology of significant events. The chronology should be confined to the last 2 years unless an event before that time has a current and lasting significance
* Viability or kinship assessments where available and relevant
* The most recent CP plan / CIC review plan and 3rd party reports to conference

When finalised please send all documents to the Service Manager, once it is assured it will need to be forwarded by them to legal.panel@bristol.gov.uk Legal Panel is held on Friday mornings. All papers for the weekly panel held on Friday must be submitted by 12pm on the preceding Wednesday.

**FREQUENCY OF PANEL**

Legal Panel is scheduled to take place on a weekly basis. However, if the welfare of the child requires that a decision is made before the next scheduled meeting, then the relevant Service Manager will discuss the case with the Head of Service and seek approval for urgent proceedings to be initiated. For example, where a decision is required to issue an application for an Emergency Protection Order.

The Principal Social Worker and Chair will work together to agree agenda and prioritisation for Legal Panel meetings where there are multiple requests in a week.

The Children’s Workforce Development Coordinator will send out invitations to Legal Panel on the Thursday for Legal Panel on the Friday.

**PANEL MEETING**

The Team Manager and Social worker should attend the legal panel and present the child’s circumstances and relevant evidence. Each team member attending will be expected to make a verbal summary of the reasons for and content of the request and be prepared to answer any questions from the panel to reflect on and explore the reasons for the request.

The panel is made up of:

* Head of Service (Chair)
* Principal Social Worker
* Legal Services Child Protection Team Leader or Specialist Lawyer
* Kinship Team Manager (as required)
* Notetaker provided by Children’s Workforce
* The Chair may also seek information from and the views of other parties as necessary including an Adoption Manager and Families in Focus Manager.

The final decision of the Legal Panel rests with the Head of Service, considering the advice and guidance of the other members of the panel.

**PROCESS**

Referrals to Legal Panel *should* be completed in the following circumstances – (this is not an exhaustive list):

* It is clear that the protection or welfare of the child cannot be achieved by agreement with the parents / the risks/harm and impact on the child have elevated to the extent that it is thought threshold for proceedings has been met, the threshold for pre proceedings being the same as for proceedings;
* There are risks associated with an unborn baby, where early pre-birth planning is essential, particularly in the case where older children have been removed or there are ongoing proceedings in respect of siblings;
* Consideration is being given to reunification of a child under a Care Order to their parent;
* The current assessment is that the plan for a child will not be viable without a legal order (e.g. a child’s residential school placement is extended);
* The plan for adoption is no longer viable and consideration needs to be given to the Placement Order being revoked;
* A section 37 report has recommended that the LA initiates steps within the PLO, whether pre-proceedings or care proceedings;
* Issue any other court application;
* Ratify plans for children subject to Section 20 arrangements

**The decision to issue care proceedings from pre-proceedings must be made by Head of Service and be clearly recorded on the child’s file.**

Service Managers will lead on the following decision making in partnership with legal colleagues. These decisions will be recorded clearly on a child’s file when:

* Assessment has confirmed that a child’s case can de-escalate from pre-proceedings if the parent(s) have made sufficient progress in addressing the threshold concerns. Decision to be made with Head of Service oversight.
* If the Local Authority should support a family member or connected person to seek a private law order
* In limited circumstances, to extend the period of pre-proceedings (over 16 weeks – 26 weeks). Decision to be made with Head of Service oversight and should it be likely there will be a delay of over 26 weeks, then Head of service will review case with Service Manager/Deputy Service Manager at Permanency Panel (at 22 weeks).

***At Panel, all attendees will have read the paperwork provided.***

The chair will ask the social worker and their manager:

* To provide an update of the current situation.
* The impact of the child’s current living situation
* The impact of assessment process will be discussed.
* Have parents been informed about case being heard at panel
* Has father been informed and included
* What services have been tried/offered

The Panel will discuss and reflect with the Social worker and team manager to consider**:**

* The reasons for the concerns and the evidential base for establishing Significant Harm
* Current risk/complicating factors
* Child(ren) impact analysis
* Consideration of the wider family and whether any family members/connected persons are potentially viable to care for the child on either an interim or permanent basis. Also, whether the required checks and assessments have been completed
* Whether there has been Family Network Meeting recently or in the past.
* The steps already taken to assess the issues of concern – i.e. Single Assessment as well as other medical and other expert assessment
* Review of the actions / decisions already taken and where the decisions were made e.g. Strategy Discussion/ Children and Family Assessment/ Child Protection Conference/ other professional meetings
* Whether it is necessary to instruct any further expert assessment before the commencement of court proceedings – if so, what is the proposed remit of the instruction, who will do it and what are the agreed timescales? (Please note that any expert assessment that is requested outside of panel will need to be agreed by Head of Service)
* Whether there have been previous court proceedings in relation to the family and if so, what steps have been taken to obtain the papers in relation to the family from the court or involved Local Authority?
* Whether Public Law Care Proceedings could be avoided in favour of a private resolution, which might include a Special Guardianship Order or Child Arrangements Order
* Whether Public Law Care Proceedings are necessary and in the child’s best interests, and what would be the purpose of such proceedings, including what orders would be sought, and why Outcomes of Legal Panel Case planning should not be taking place within the Court arena.

The starting point for Legal Panel is therefore that the pre-proceedings process will be completed on all cases where the s31 threshold is met unless there is an exceptional reason. The decision to issue proceedings will only usually be made in circumstances where the child’s safety requires the protection of a legal framework.

It is the aim that at the conclusion of the pre-proceedings process, all assessments, including of family members/connected persons will have been completed and the social worker will be able to advise their Service Manager that court proceedings are required in order to effect the final permanence care plan for the child(ren).

**CASE DIRECTION AT LEGAL PANEL**

Having considered all the information made available, and having considered the legal advice provided, the chair will give the social work team direction on whether to:

* Continue to work to the current plan at the current threshold within the child’s assessed welfare and development timetable. The outcome of Panel might be recommended changes to the plan, reiterating the importance of adherence to the desired outcomes by all involved, and to continue to review the plan through existing processes at specified timescales; or
* Issue a ‘letter before proceedings’ and convene a meeting with parents and their legal representatives to agree what extra support/ assessment/ expectations are required within the child’s welfare and development timetable to prevent the need for the Local Authority to issue proceedings; or
* After the exhaustion of all provisions available support a private law resolution to safeguard and promote the welfare of the child; or
* Issue s31 Public Law Care Proceedings where the threshold criteria are met and the interests of the child require it.
* Provide a view in respect of interim orders.
* Agree proceedings be issued in relation to civil protection orders or deprivation of liberty applications.

Dates will be agreed by which the Quality Assured paperwork will be sent to Legal Services by the social work team.

If the outcome of the Legal Panel is to enter the Public Law Outline and to begin Pre-Proceedings, all relevant actions will be agreed and set out at the Legal Panel Meeting. The Legal Panel Minutes must reflect all actions, timescales for tasks/assessments to be completed and accountability, including who is responsible for each action and the dates agreed for completion; including:

* parenting assessments and plans
* risk assessments
* psychological and/or psychiatric reports or any other external experts
* DNA testing
* hair strand testing
* family meetings
* kinship assessments – viabilities and full assessments
* Collection of further evidence from multi-agency partners e.g.: school, probation

**LEGAL ADVICE GIVEN AT LEGAL PANEL**

The role of the legal representative is to advise about the legal possibilities for achieving the desired aim, thresholds for issuing court proceedings or entering pre proceedings and to give a view about the quality of the evidence provided. The legal adviser will also advise on evidence that might need to be obtained to support an application for care proceedings and advise on legal time frames.

The legal advisor will provide written legal advice within two working days of panel which will be shared with the administrator to update with their minutes and send to the chair who will sign off final minutes with plan to be put on the child’s LCS file and shared with the social work team.

These are legally privileged notes and should not be made available to a third party, the parents or other parties in any potential proceedings.

The social care team is not compelled to accept legal advice but if legal advice is not followed the Service Manager should discuss with the Head of Service and set out the reasons. The Head of Service if the decision maker. The reasons for a change in direction if agreed need to be clearly recorded on the LCS record. Where legal advice is not followed the Chair and relevant Service Manager should consider the risks associated. It should be considered whether in such circumstances there is a need to be for this child and family to be discussed with the Director.

**FOLLOWING LEGAL PANEL**

If the plan is to issue Care Proceedings or if the Pre-Proceedings Process has been agreed, the Senior Lawyer will allocate a Solicitor to the case.

Any new information that comes to light does not need to come back to the Legal Panel meeting but can be discussed further with the social worker, team manager and the allocated solicitor.

During Pre-Proceedings and Court proceedings the solicitor and the social work manager are responsible for escalating and resolving concerns, particularly if the plan agreed at panel is not progressing. If they are unable to do so the matter should be referred to the allocated lawyer’s manager and Service Manager.

If there is drift and delay within pre-proceedings this should be considered fully by the service manager and Permanency panel and a plan to address the delay formulated. This will be recorded on LCS. The Head of Service may direct a case is returned to legal panel if circumstances require this.

**RECORDING OF LEGAL PANEL**

The Children’s Workforce Co-ordinator will be responsible for ensuring that a written record of the meeting is made. The meeting proceedings will be recorded as a formal minute, including request details, brief summary of discussion and outcomes. Legal advice will be added to each record. A review timescale should also be included for each case discussed if appropriate. The record should be checked for accuracy by the chair before being circulated to all attendees.

The panel decision for each child will be recorded on the child’s record within 48 hours of the panel and shared with the social worker and team manager.

The notes of the Panel will also make clear the timescales for actions and completion dates.

**QUALITY ASSURANCE**

To ensure that trends and patterns about the quality of legal practice is monitored and assured the Principal Social Worker will coordinate quarterly quality assurance legal meetings which will be chaired by the Director of Children and Families Services.

Information provided to this meeting will include:

* Data and performance information from Legal Panel on the gateway to legal processes
* Data and performance information from Permanency Panel on the timeliness and quality of pre-proceedings and proceedings
* Data and insights from the Legal team on current proceedings
* Quality Assurance reports of relevant activity
* National and local benchmarking information
* Intelligence and information from services about emerging issues or trends
* Feedback from CAFCASS and IRO Service

The Quarterly Legal QA Meeting will also be responsible for assuring and amending relevant templates used by the local authority for example the SWET or DOLS Application Evidence Templates.