**Legal Advice Meetings**

Protocol and guidance

November 2021

Review May 2022

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12. **Scope of this Document**
13. This document sets out the arrangements for obtaining formal legal opinion on aspects of children’s law **other than** pre-proceedings and care proceedings. These include:
	1. Secure Accommodation Orders
	2. Recovery Orders
	3. Deprivation of Liberty Standards (DOLS)
	4. Termination of Placement with Parent Regulations
	5. Variation or termination of contact where there is a Care Order (not ICO as contact is considered as part of the proceedings)
	6. Requests to be joined in any other proceedings as a party, for example when GCC is designated by the court in another local authority’s proceedings.
	7. This document should be read in conjunction with the following: Legal Planning Meetings - Protocol and Guidance (attach tri- x link here)
14. It sets out arrangements for convening and running **legal advice meetings (LAMs).** In particular it defines purpose, accountabilities, process, participation, documentation and dispute-resolution measures.
15. It provides guidance for social workers and team managers on achieving good quality documentation.
16. **Terminology**
17. **Legal advice meetings** (LAMs) are child-specific meetings convened and recorded as set out below. They are not defined in statutory guidance but are a requirement under Gloucestershire County Council procedures.
18. In Gloucestershire County Council (GCC), the **Legal Gateway Panel** is the regular umbrella meeting framework within which both legal planning meetings (LPMs) and LAMs take place. Each Legal Gateway Panel may include LPMs and LAMs.
19. **Purpose of a LAM**
	1. A LAM is held when it is necessary to consider applying to the court for one of the orders listed above at 1a.
	2. The purpose of a LAM is to obtain legal advice and decide next steps for the child.
	3. In doing this the LAM will evaluate the available evidence and, having regard to the legal advice, help the Head of Service make adecision about whether the grounds for the proposed order are met and if they are, what action to take.
	4. In making a decision about whether or not to proceed with one of the legal steps above, the LAM must consider what is in the best interests of the child. This consideration should include their physical and emotional well-being, their wishes and feelings and those of family and carers.
	5. The final decision of the LAM rests with the relevant head of service, subject to formal escalation, arrangements (see below, section 13).
	6. LAMs should also identify any evidence gaps, clarify whether additional assessments will be required, and consider the longer-term plan for the child.
20. **Requesting a LAM to the legal measures set out above**
	1. When a child’s social worker believes one of these legal measures is necessary in the child’s interests they should discuss the matter with their team manager. This should include a discussion of the evidence for the proposed course of action. The team manager may agree that a LAM is needed, or ask the social worker to gather more information or complete further tasks.
	2. Where the child is in care (care order or interim care order) or accommodated (s20 of the Children Act 1989), the social worker or team manager should consult the independent reviewing officer (IRO). Their views must be considered carefully but accountability for managing the child’s case remains with the team manager.
	3. Once the team manager has agreed that a LAM may be needed, the social worker should complete and collate the necessary documentation as follows.
		1. **Social Worker’s LAM Summary**. This is a key document as it summarises for the Legal Gateway Panel the case for the proposed legal action. It must include basic information about the child and their family and a brief outline of the key factors leading to the proposal for the particular legal action. It needs to tell Legal Gateway Panel succinctly what the big issues are for the child. These should include risk and the impact on the child of the factors leading to the proposed legal action. It should also include a summary of actions taken and their effectiveness.
		2. An **up-to-date** **chronology** showing the evolution of concerns, responses, progress or lack of progress, impact on child, outcomes and decisions. This should include **key events** in the child’s life and their impact. The social worker should not assume that Liquidlogic chronologies will serve the purpose required for LAMs. These may be too long, with too many entries that do not describe key events; or too brief, with key events missing. Significant events from other agencies’ involvement may be salient. These could include for example, evidence of arrests, convictions and other police intelligence, mental health crises and placement breakdowns. It is worth taking time to develop a good chronology as it will save time later.
		3. A detailed **genogram showing a minimum of three generations**. These should show clearly current and past relationships, names, and dates of birth. It is helpful to annotate the genogram to show significant information, such as supportive relationships, domestic abuse risks and if an individual is in prison. This can provide an at-a-glance understanding of significant factors in a child’s life.
		4. An **up-to-date** **single assessment** that clearly shows why it has become necessary to request a LAM.
		5. In emergencies, for example where the proposed legal action is a short-notice Secure Accommodation Order, the Legal Gateway Panel may agree to dispense with some of these documents. In these cases, the social worker’s LAM summary will be critical and may be supported by other documents **where they are relevant**. These could include, for example, a report for a recent statutory review, or the record of that review; medical, parenting, cognitive and DOLS assessments; the child’s current plan; minutes of a strategy meeting or high-risk planning meeting (HRPM). This is not an exhaustive list. The important point is that documents should only be presented when they relate to the need for the LAM and proposed course of action.
	4. The team manager should review the completed documents and satisfy themselves that they are fit for purpose, that is to say that they explain with a clear rationale what is proposed and why. They should review the evidence with their service manager (where applicable). Once satisfied, the team manager and/or service manager should add confirmation of their decision to request a LAM, with a succinct rationale, in the relevant section of the social worker’s LAM summary. A request, with submission of the documents listed above, may now be made to the head of service.
21. **Agreeing a LAM can take place**
22. The decision to convene a LAM rests with the head of service for the team concerned. It must only be delegated to a service manager in exceptional circumstances on a case-by-case basis, and never as a matter of routine.
23. The head of service will read the documents submitted before agreeing that a LAM should take place. If they conclude the documentation does not meet the required standards, they may require revisions and defer their decision about progressing to LAM. Deferment will be for no longer than two weeks. In emergencies the head of service may agree to proceed to a LAM even if the documentation does not meet standards. In such cases, the LAM will need to satisfy itself through discussion that the circumstances require the proposed action.
24. Once the head of service has approved the request for a LAM they will record their decision on the child’s file and forward the documents listed above to the Executive Support mailbox (email cyplpm@gloucestershire.gov.uk);
25. A member of the Executive Support team will then list the child’s case for a LAM at the next Legal Gateway Panel, circulate the documents to members of the panel and log the meeting on the dedicated spreadsheet.
26. The legal adviser will review the documents at this stage and if they believe there are gaps that would prevent full consideration of the evidence they will advise the head of service accordingly. The head of service may decide to delay the LAM to allow for the required changes to be made, or to go ahead if the social worker is able to provide the information in writing or verbally.
27. The case must be presented in a LAM at Legal Gateway Panel within two weeks of the request being approved. Members of the panel must have the documents at least one full week in advance.
28. **LAM: format and roles**
	1. LAMs follow a set agenda. This is found in the Liquidlogic document *Legal Advice Meeting Minutes,* which is intended to capture in a single document some basic information, the agenda for the meeting and the record of the meeting.
	2. **The role of the social worker and team manager** at a LAM is to set out the key issues concerns, highlighting and summarising the key evidence in relation to legal measures proposed. They should expect others at the panel to provide robust challenge and questioning. This is essential as it helps test the strength of the evidence and identify gaps. It is better to find weaknesses in this forum than in court. It also shows why it is important wherever possible to prepare the case and the supporting documentation very thoroughly before a LAM is agreed.
	3. **The role of the local authority legal adviser** is to evaluate the evidence presented by the social worker and team manager, and provide privileged legal advice on whether it is sufficient to conclude there are grounds in law for the action proposed. Their advice will also address the legal options for achieving the local authority’s desired aims for the child. In doing so, they will ask questions, seek clarification and identify areas of concern and gaps in the evidence. Their advice will both support the protection and welfare of children and ensure that the local authority acts within the relevant statutory frameworks.
	4. **The role of the head of service** is to convene and chair the LAM, ensuring that all voices are heard, and to confirm the outcome, including any instructions to the legal adviser. In doing so they must consider carefully the legal advice.
	5. Other participants in the Legal Gateway Panel include as appropriate:
		1. team manager from the Family and Friends Assessment and Support Team;
		2. team manager from the Under 11s Permanence Team;
		3. team manager from the 11 Plus Permanence service;
		4. manager from the Edge of Care Service;
		5. TACS Service Manager or representative;
		6. FGC Team Manager
		7. A clinical psychologist advises the LAM but does not attend.
	6. Their role is to provide advice and challenge from the perspective of their own service remit or professional discipline.

**8. Preparing for and presenting to a LAM – Guidance for Social Workers**

* 1. Prepare well. Be ready and able to say what it is about the child’s story that has led you to conclude a LAM is necessary, what you are proposing and why we need the outcome proposed.
	2. Use the social work LAM summary to structure your input, drawing on evidence from your other documents to support your arguments.
	3. Be clear about the evidence in relation to the legal grounds.
	4. Be clear about the child’s experiences and their impact on the child – actual (concrete evidence) and likely (using research).
	5. Be clear about the interventions and their impact or lack of impact.
	6. Be ready to be challenged and respond to challenge. It’s better to test your case and arguments for the first time in a LAM than in court.
		+ 1. **LAM: Outcomes, Actions and Timescales**
	7. When a LAM has taken place to consider one of the legal measures set out above, there are four possible outcomes.
		1. To apply to the court for the legal measure concerned.
		2. To take no further legal advice at the moment.
		3. To defer decision to a future LAM.
		4. To seek an alternative legal measure.
	8. Where there is a decision to initiate legal action, the LAM must establish a clear timescale that has regard to all the circumstances of the child’s case including any need for urgency.
	9. Decision to defer the LAM to a future Legal Gateway Panel
		1. This decision may be made when the LAM concludes there is a specific reason to hold a further LAM.
		2. It will also be made in all cases where a decision cannot be made at the LAM because there are gaps in evidence presented or relevant information is absent.
		3. In all such circumstances the LAM panel will schedule a further LAM. This should normally be no later than two weeks from the date of the original LAM, but can be at a later date at the discretion of the head of service.
		4. A decision to defer must be recorded with reasons in the minutes of the original LAM and recorded on the LAM panel spreadsheet by the attending legal adviser.
		5. The follow-up LAM will be booked in to Legal Gateway Panel by Executive Support and if possible the same legal adviser will attend.
		6. The social worker will send revised papers that comply with the requirements set out above (4.d) to Executive Support (cyplpm@gloucestershire.gov.uk) no later than three working days prior to the panel date for circulation to panel members.
1. **LAM: Minutes and Tracking Records**
	1. In all cases the head of service must record the outcome of the LAM in Liquidlogic within 24 hours.
	2. The legal adviser will take brief notes of the meeting, recording key points of the discussion and agreed actions. They will enter the minutes in the Legal Advice Meeting Minutes template in Liquidlogic (see above, 6.a). When complete they will pass in workflow to the head of service for authorisation. Once the head of service has authorised them they will notify all other participants that they are available in Liquidlogic. This must be done within four working days of the LAM.
	3. If the head of service for the team who brought the LAM did not chair the meeting, they must be included in the notification that the minutes are available.
	4. The outcome of the LAM will be recorded by the legal adviser on the LAM panel spreadsheet.
2. **Disagreements, escalation and complaints**
	1. Very occasionally there may be a disagreement between the head of service and the legal adviser. Specifically
		1. the head of service may believe it is in the child’s best interests to proceed against legal advice; or
		2. the legal adviser may disagree with the decisions of the head of service in the light of the legal advice.
	2. In such circumstances, the head of service and the legal adviser must discuss the matter with each other urgently, either during or after the LAM, to see if it is possible to resolve it at this stage.
	3. The head of service has no delegated authority to proceed against legal advice themselves.
	4. If it cannot be resolved in this way the head of service can use the following escalation process. This will apply when they believe that on balance the evidence suggests the threshold criteria are met and it is in the child’s best interests to issue care proceedings.
	5. **Stage 1 escalation**.
		1. If either the head of service or the legal adviser wishes to escalate the matter, they will let the other know. They will then notify the designated individual in children’s services (usually an assistant director or independent consultant), the principal lawyer and legal services business partner that they wish to make an escalation.
		2. If the designated individual in children’s services agrees, the head of service will convene a Stage 1 escalation meeting. This must take place as a matter of urgency and in sufficient time to enable the timetable for taking the proposed legal action to be followed, if that is the decision.
		3. The meeting must include designated individual for children’s services, the head of service, the principal lawyer and the legal services business partner. The social work team manager and the lawyer who advised the LAM may also be invited at the discretion of the designated individual for children’s services.
		4. The designated individual for children’s services will consider the evidence and views expressed at the meeting. Possible outcomes are:
			* The original legal advice is revised. In this case the meeting will discuss and agree the next steps in the legal process.
			* The original legal advice is accepted.
			* The legal advice remains unchanged but the designated individual for children’s services concludes the child’s interests are best served by proceeding against that advice. In this case, the matter will progress to a Stage 2 escalation.
		5. A written record of the meeting will be made and added to the child’s record. This will have the status of legally privileged information.
	6. **Stage 2 escalation** – **referral to the service director of children’s services**
		1. If a Stage 1 escalation ends with the designated individual for children’s services believing that to act against legal advice is right for the child, or the principal lawyer and legal services business partner remain concerned about the way forward, they will notify the service director of children’s services and the assistant director of legal services to request a Stage 2 escalation. Again this must be done as a matter of urgency to ensure that timescales required under the various legal provisions can be met.
		2. The service director of children’s services will meet with the designated individual for children’s services and the assistant director for legal services. They may also choose to invite the principal lawyer and the legal services business partner and the head of service.
		3. If the Stage 2 escalation relates to legal advice, it is important to understand that this process is not about challenging the legal advice itself. Rather, it is about considering whether to make a decision to proceed against that legal advice, having full regard to the evidence, legislation and case law and possible risks to the child and the reputation of the Council.
		4. The service director will seek to reach agreement with the senior legal services officers about the way forward. If agreement cannot be reached, the service director will confirm their decision, which may be to proceed against legal advice. If the senior legal officers believe such a decision would be a significant risk to the Council they may choose to ask the director of children’s services (DCS) to review it (Stage 3 escalation).
		5. A written record of the Stage 2 escalation meeting will be made of the legal advice, and the service director’s decision and the reasons for it. This will be added to the child’s record and have the status of privileged information.
	7. **Stage 3 escalation**
		1. The DCS will meet with the service director for children’s services and the assistant director for legal services, consider their respective views and decide whether to confirm the service director’s decision or to overturn it.
		2. **Proceeding against legal advice**Once a decision to proceed against legal advice is finally confirmed, the assistant director of legal services will notify the Council’s monitoring officer.
	8. **Complaints and concerns**
		1. Complaints about the judgement, decision-making, conduct or capability of any party at a LAM should wherever possible be resolved between the parties directly. Where this is not possible the matter should be escalated to service director/assistant director level in the respective directorates and addressed in line with the Council’s normal procedures.