

***West Sussex Care Proceedings Practice Guidance***





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1. **Public Law Outline – Care Proceedings Timescales for Commencement**

**MOSIAC**: Gateway Referral completed by Social Worker, signed off by Team Manager and Service Manager

Straight After LGM a Permanency Planning Meeting to be held (chaired by GM)

Permanency Planning Co-ordinator to be invited.

Legal Gateway Meeting/Internal Planning Meeting held decision to issue care proceedings

CPA or IRO to be updated on outcome of LGM *(if relevant)*

**MOSIAC**: PLO Bookings Admin select Next Action: ‘Care Proceedings’ and send to social worker

Social worker completes ‘Letter of Intent’, QA by Team Manager and sent to Legal Advisor within 3 days of LGM

Discussion with Placement Finding Team to advise of need of placement and referral made *(if required).*

Letter of Intent signed by Service Manager.

Social Worker hand delivers Letters of Intent within 5 days of LGM

Views of IRO gathered for initial statement and care plan *(if relevant)*

Social worker completes SWET, Care Plan, Impact Chronology. All QA’d by Team Manager and sent to Legal Advisor within 7 days of LGM along with all supporting documents.

Referral to Supervised Contact Team made *(if required).*

Service Manager signs initial care plan agreed at LGM prior to application to Court being made.

Application made to the Court by Legal Services within 10 days of the LGM (Day 1)

**MOSIAC**: Letter of Intent (templates on tri.x, Legal Proceedings), SWET, Care Plan, C110A and any other documents filed to the Court uploaded within the step ‘Care Proceedings Tracker’. Please label clearly. Pass to Team Manager

Next Actions: Case Management Hearing

1. **Social Worker Timeline for Care Proceedings**
2. **Social Worker Timeline for Care Proceedings**

Day 1

Application sent to the court for issue

Family/friends to be assessed identified *(if not already done at earlier stage)*

By Day 5 - 10

Potential interim care order/interim supervision order hearing, if required

Notification of Legal Change to Placement finding with 24hrs of order being made

Review Family Network Meeting to be held.

**MOSIAC**: Case Management Hearing – details of hearing entered in step. Any directions for the local authority to be added. Court Orders to be uploaded in to step when received. Please label clearly

Next Actions: Order granted to be chosen. Pass to Team Manager

Legal Status Change (PFT Duty)

Further Case Management Hearing

ADM date to be booked

Permanency Planning Meeting to be held (chaired by PM)

By Day 18

Case Management Hearing

Assessments undertaken

**MOSIAC**: Further Case Management Hearing, if required, – details of hearing entered in step. Any directions for the local authority to be added. Court Orders to be uploaded in to step when received. Any directions complied with from previous hearing to be updated with dates added. Any completed assessments including expert assessments to be uploaded into the step. Please label clearly. Pass to Team Manager

Next Actions: Final Care Planning Meeting

And/or Further Case Management Hearing (depending on next hearing type)

And/or Issue Resolution Hearing (depending on next hearing type)

Parallel Planning – looking at all options available to the child

Work to have been completed, for example:

* Social work assessments
* Together or Apart assessment
* Expert evidence
* Kinship assessments
* Health assessments
* Statements re: family finding
* CPR
* Re. BS Analysis

By Week 13

ADM papers finalised, checked and sent to ADM Panel

Final Care Planning Meeting to be held

By Week 13/14

**MOSIAC**: Final Care Planning Meeting held – Social worker: completes document and sends to PLO Meeting Bookings, five days prior to the meeting. PLO Meetings booking completes document and finishes step.

Next Actions: Complete

Local Authority final evidence prepared by social worker

* Quality assured by TM
* IRO views received and included
* Sent to Legal 3 days prior to filing
* Care Plans signed by Service Lead.

ADM Decision Made

By Week 15

IRO provided with all evidence within the proceedings and the SW final evidence for views to be provided.

Local Authority final evidence filed:

* Final Statement
* Final Care Plan & contact proposals
* Adoption welfare checklist
* Re. BS Analysis
* CPR
* ADM Decision

By Week 16

**MOSIAC**: All final evidence uploaded into mosaic step when completed.

By Week 20

Issue Resolution Hearing

**MOSIAC**: Issue Resolution Hearing – details of hearing entered in step. Any directions for the local authority to be added. Court Orders to be uploaded in to step when received. Any directions complied with from previous hearing to be updated with dates added. Any completed assessments including expert assessments to be uploaded into the step. Please label clearly.

Pass to Team Manager

Next Actions:

Further Case Management Hearing

or Final Hearing

Notification of Legal Change to Placement finding with 24hrs of order being made

By Week 26

Final Hearing

**MOSIAC**: Final Hearing – details of hearing entered in step. Court Orders to be uploaded in to step when received. Any directions complied with from previous hearing to be updated with dates added. Any completed assessments including expert assessments to be uploaded into the step. Please label clearly. Pass to Team Manager

Next Actions:

Order granted to be chosen.

Legal Status Change (PFT Duty)

1. **Introduction**

The purpose of this protocol is to offer guidance to social workers about the West Sussex process when concerns about children are such, that legal advice has been sought and the decision from the Legal Gateway Meeting is to issue care proceedings.

The Best Practice Guidance for the Public Law Working Group makes it clear that we are all charged with considering how children and young people may:

1. safely be diverted from becoming the subject of public law proceedings.
2. once they are subject to court proceedings, best have a fully informed decision about their future lives fairly and swiftly made.

Care proceedings are the option of last resort and must be necessary and proportionate. Care proceedings should only be initiated where the safety and welfare of the child demands it, and the legal threshold is met.

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 is met. The Threshold Criteria must also be met for those case that enter pre-proceedings.

*A court may only make a care order or supervision order if it is satisfied*

*(a) that the child concerned is suffering, or is likely to suffer, significant harm; and*

*(b) that the harm, or likelihood of harm, is attributable to;*

*(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him; or*

*(ii) the child’s being beyond parental control.*

*(*[*section 31(2), Children Act 1989*](https://www.ccinform.co.uk/legislation/children-act-1989-14/section-31-care-and-supervision-orders/)*)*

It is important that (where appropriate and safe) the Public Law Outline pre-proceedings process is undertaken with all families before a decision is made to commence care proceedings. The decision to commence care proceedings without undertaking the Public Law Outline pre-proceedings process should be made in circumstance where the child’s safety requires the protection of the legal framework and where the agreement of the relevant Head of Service has been obtained.

This protocol will refer to all persons with a parental responsibility as parents / carers and will refer to child as singular but is to be interpreted as plural where relevant.

1. **Decision to Commence Care Proceedings**

The decision to enter into care proceedings is made at a Legal Gateway Meeting by a Head of Service or at an Internal Planning Meeting with Legal Services, should the case already be within pre-proceedings (please refer to [West Sussex Legal Gateway Guidance](https://proceduresonline.com/trixcms1/media/7224/west-sussex-legal-gateway-guidance.pdf) and [West Sussex Pre-Proceedings Guidance](https://proceduresonline.com/trixcms1/media/7225/west-sussex-public-law-outline-pre-proceedngs-guidance.pdf)). The Head of Service, and Advanced Social Worker, Permanence Team should be invited to attend an Internal Planning Meeting should the decision to commence care proceedings be required, or Head of Service agreement should be sought prior to the Internal Planning Meeting and the Permanence Team informed.

If consideration is being given to issuing proceedings in an emergency or urgent situation then a Legal Gateway Meeting should be convened but this can be booked outside of the Legal Gateway Meeting slots, please refer to the LGM guidance as to the process (on Tri.X)

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| **Frequency**  | When required |
| **Key membership to attend the Internal Planning Meeting**  | Head of Service (chair), Team Manager *(Service Manager if required or if Team Manager is not available),* Allocated Social Worker, Allocated Legal Representative, and Advanced Social Worker, Permanence Team. |

1. **First Permanency Planning Meeting**

The first Permanency Planning meeting will be held immediately after the Legal Gateway Meeting if care proceedings are to be commenced. If the case is already within the pre proceedings process the first Permanency Planning Meeting will take place after the Internal Planning Meeting. If a child is already the care of the local authority under section 20 a subsequent Permanency Planning Meeting should be held. (See [Permanence Planning - Practice Guidance](https://proceduresonline.com/trixcms1/media/6683/permanency-practice-guidance-august-2020.pdf))

1. **Letter of Intent**

The letter of Intent will be drafted by the social worker (see letter template at Appendix 2: Letter of Intent), quality assured by the team manager and sent to the legal advisor for their oversight within 3 working days. Once the letter before proceedings has been checked by the legal advisor it will be signed by the service manager and hand delivered to the parents/carer by the social worker. The Legal Workflow on the child’s file will be completed detailing the letter has been delivered with a copy of the letter uploaded in the episode.

The Letter of Intent must be sent to the parents and everyone with parental responsibility and is the formal notification that an application to the court is being made. On each occasion at the Legal Gateway Meeting or the Internal Planning Meeting there should be a decision made based on legal advice as to who should receive the letter of intent.

The letter of intent will advise the parent/carer to obtain legal advice and that they are entitled to this free of charge. An up-to-date list of relevant solicitors in the local area who specialise in childcare cases should be sent with the letter. The up-to-date solicitors list should be obtained from Legal Services, it is important not to use old lists as these can become out of date quickly.

A letter of intent should be sent in all cases where possible. If the decision is made to issue proceedings on an urgent or emergency basis the parent/s should be told of the intention to issue proceedings as soon as possible and provided with the list of solicitors. If there are safeguarding concerns regarding providing a parent with notice of the application this should be considered at the Legal Gateway Meeting.

1. **Issuing Care Proceedings – Documents Required**

The Social Work Evidence Template (SWET), care plan and other social work documents identified at the Legal Gateway Meeting or Internal Planning Meeting must be sent to legal services within seven working days of the Legal Gateway Meeting or Internal Planning Meeting.

The following documents must be attached to the application filed with the court on Day 1:

* The social work Chronology;
* The social work statement and Genogram – including any early identification of Connected Carers;
* Any current assessment relating to the child and/or the family and friends of the child to which the social work statement refers and on which the local authority relies, including the child’s welfare and developmental timetable;
* The care plan;
* Birth Certificate or child’s identity papers if a non-UK national; and
* Final Pre- Proceedings Assessment Plan (if issuing following a period of pre-proceedings)

Other documents will be added to the bundle as appropriate for each case

All documents must be uploaded on to the child’s file within the Legal Workflow with a clear case note recording that ‘Application has been made to the Court’.

1. **Review Permanency Planning Meeting**

Held after the first Case Management Hearing (by day 18). (See [Permanence Planning - Practice Guidance](https://proceduresonline.com/trixcms1/media/6683/permanency-practice-guidance-august-2020.pdf))

1. **Final Care Planning Meeting**

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| **Frequency**  | Week 13/14 of all Care Proceedings |
| **Key membership** | Head of Service (chair), Team Manager *(Service Manager if required or if Team Manager is not available),* Allocated Social Worker, Allocated Legal Representative, Advanced Social Worker, Permanence Team Fostering/Adoption Worker and Internal staff who have undertaken assessments, if appropriate, e.g. SGO Assessor, CFIS. PLO Meeting Bookings will minute take. |

All the evidence that will be available to the court should be provided to the meeting via the child’s file: all parenting assessments, expert witness opinions, psychiatric and psychological assessments of the child and the parents and assessments of family members. The evidence will be reviewed by the meeting and final care plans determined. The rationale for the plan, the evidence relied upon, a full consideration and analysis of the options for the permanency of the child will be discussed to assist with the preparation of the final evidence and plan. See Final Care Planning Meeting guidance for further information.

1. **Agency Decision Making**

When entering care proceedings and parallel planning for a child’s future the social worker will need to book a date for the Agency Decision Maker (ADM) to make a decision about adoption as a care plan for the child. The request for an Agency Decision Maker slot should be made following the case management hearing at day 18. In order to book a date for a decision an email should be sent to ACDAdoptionPanelAdmin@westsussex.gov.uk. The social worker will need to provide the child’s details, name of the legal advisor and dates of any Issue Resolution Hearing (IRH) or Final Hearing, if known. In addition, confirmation will be needed that an Adoption Medical has been booked or completed in respect of the child.

The Panel Administrator will discuss available dates and inform you of the submission date for all required paperwork which is usually 3 weeks before the date of your decision. All core documents should be tasked to the Adoption Panel Clerk on Mosaic and additional documents sent by emailed to ACDAdoptionPanelAdmin@westsussex.gov.uk

The Agency Decision Makers decision should be available prior to the filing of final evidence. For further guidance around ADM booking and requirements contact that Panel Administrator.

1. **Children’s Guardian (CAFCASS)**

The social worker will ensure that they have open discussions with the children’s guardian throughout the course of the care proceedings. It is a requirement that the social worker speaks to the children’s guardian at least once every six weeks to discuss progress or any difficulties. Should there be a significant event the children’s guardian should be informed at the earliest opportunity. All discussions with the children’s guardian must be recorded on the child’s file.

1. **Conference and Reviewing Officer Views**

If a child is looked after, the views of the Conferencing and Reviewing Officer must be obtained prior to the social workers final evidence being filed and will be required for the Agency Decision Maker. The Conference and Reviewing Officer should have access to all the Court documentation. The Independent Reviewing Officer will provide the social worker with their views to be inserted into the social worker’s evidence. The Conference and Reviewing Officer will require 48 hours to review the evidence and provide their views. The social worker is to ensure that the Conference and Reviewing Officer is aware of the dates for filing evidence and when they will receive the evidence for their views to be provided.

1. **Social Work Final Evidence**

The final evidence and care plan will be presented on the final social evidence template in good time for quality assurance and approval. It should be sent to the team manager within seven days of the filing date – it will then need to be sent to the allocated legal advisor five days before the filing date with the Conference and Reviewing Officers views included and the Agency Decision Maker decision, if appropriate.

1. **Compliance with Directions**

Filing dates will be directed by the court within Case Management Orders. These are court directions, judicial orders and must be complied with. All Case Management Orders must be placed on the child’s file and the social work team must adhere to the order in its care planning and case work, meeting all directed deadlines. To do otherwise is unlawful and unprofessional and can cause unnecessary delays for a child.

If a worker becomes aware, they will not be able to comply with an evidence deadline they should let their team manager and allocated legal advisor know the reasons for this as soon as possible so that the court and parties can be informed, and permission sought for an extension. Any extension or change to the timetable must be approved by the court.

1. **26 weeks and Special Guardianship Orders/Connected Carers**

The 26 week time limit is set out in statute and must be complied with. A case can only be extended beyond 26 weeks by the Judge where there is good reason to do so and consideration has been given as to the impact on the child’s welfare of the extension.

Best Practice Guidance regarding the use of Special Guardianship Orders was published in March 2021 by the Public Law Working Group. The guidance reiterates the need for thorough and comprehensive assessment of potential connected carers. The guidance provides for consideration of placement with prospective special guardians on an interim basis, particularly where there is a limited pre-existing relationship, to help develop the relationship between the carer and child. As such, where the final care plan is for a child to be placed with a connected carer under a Special Guardianship Order and the child is not already placed with the carer, consideration may need to be given to seeking to place the child on an interim basis with the proposed carer and requesting an extension to the proceedings so as to enable the placement to be tested out and fully assessed. As stated in the guidance:

*The focus will always be on welfare and the fundamental requirement for a robust, evidence-based assessment. That will be the guiding factor as opposed to the statutory timescale of 26 weeks.*

The testing out of a placement in this way should also help inform the support plan and reduce the need for a supervision order at the conclusion of proceedings. As per the best practice guidance unless there are strong and clear reasons for doing so a supervision order should not be made alongside a special guardianship order.

**Case Management Checklist**

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| **Pre-Proceedings**  |
| Pre-Proceedings Checklist |
| Annex Documents are the documents specified in the Annex to the Application Form which are attached to that form and filed with the court:* Social Work Chronology
* Social Work Statement and Genogram
* The current assessments relating to the child and/or the family and friends of the child to which the Social Work Statement refers and on which the LA relies.
* Care Plan
* Birth Certificate or Identity Papers if child is a non-UK national
* Final Pre-Proceedings Assessment Plan is proceedings being issued following a period of pre-proceedings
* Index of Checklist Documents
 | Checklist documents (already existing on the LA’s files) are 1. Evidential documents including –
* Previous court orders including foreign orders and judgments/reasons
* Any assessment materials relevant to the key issues including capacity to litigate, section 7 and 37 reports
* Single, joint or inter-agency materials (e.g., health and education/Home Office and Immigrational Tribunal documents);
1. Decision-making records including –
* Records of key discussions with the family
* Key LA minutes and records for the child
* Pre-existing care plans (e.g., child in need plan, looked after child plan and child protection plan)
* Letters Before Proceedings

Only checklist documents in (a) are to be served with the application formChecklist documents in (b) are to be disclosed on request by any partyChecklist documents are not to be – * Filed with the court unless the court directs otherwise; and
* Older than 2 years before the date of issue of the proceedings unless reliance is placed on the same in the LA’s evidence

Evidence in support of directions sought –* Evidence in support of any directions sought by Day 2 should be filed with the court and served with the application form.
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| Stage 1 Issue and Allocation  |
| Day 1 and Day 2 (see interpretation section) |
| On Day 1 (Day of Issue):* The LA files the Application Form and Annex Documents and sends copies to Cafcass/CAFCASS CYMRU
* The LA notifies the court of the need for an urgent preliminary case management hearing or an urgent contested ICO hearing where this is known or expected
* Court officer issues application

Within a day of issue (Day 2):* Court considers jurisdiction in a case with an international element
* Court considers any application for directions on expectations from notification or automatic part status rules and issues any directions for or related to further hearing
* Court considers initial allocation to specified level of judge, in accordance with the Allocation Rules and any President’s Guidance on the distribution of business
* LA serves the Application Form, Annex Documents and evidential Checklist Documents on the parties together with the notice of date and time of CMH and any urgent hearing
* Court gives standard directions on Issue and Allocation including:
* Checking compliance with Pre-Proceedings Checklist including service of any missing Annex Documents
* Appointing Children’s Guardian (to be allocated by Cafcass/CAFCASS CYMRU)
* Appointing solicitor of the child only if necessary
* Appointing (if the person to be appointed consents) a litigation friend for any protected party or any non-subject child who is a party, including the OS where appropriate
* Identifying whether a request has been made or should be made to a Central Authority or other competent authority in a foreign state or a consular authority in England and Wales in a case with an international element
* Filing and service of a LA Case Summary
* Filing and services of a Case Analysis by the Children’s Guardian
* Filing and serving the Parents’ Response
* Sending a request for disclosure to, e.g., the police or health service body
* Filing and serving an application for permission relating to experts under Part 25 on a date prior to the advocates meeting for the CMH
* Directing the solicitor for the child to arrange an advocates’ meeting no later than 2 business days before the CMH
* Listing the CMH
* Court considers any request for an urgent preliminary case management hearing or an urgent contested ICO hearing and where necessary lists the hearing and gives additional directions
* Court officer sends copy Notice of Hearing of the CMH and any urgent hearing by email to Cafcass/CAFCASS CYMRU.
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| Stage 2 – Case Management Hearing |
| **Advocates Meeting** (including any litigants in person)No later than 2 business days before CMH (or FCMH if it is necessary) * Consider information on the Application Form and Annex documents, the LA Case Summary, and the Case Analysis
* Identify the parties’ positions to be recited in the draft Case Management Order
* Identify the parties’ positions about jurisdiction, in particular arising out of any international element.
* If necessary, identify proposed experts and draft questions in accordance with Part 25 and the Experts Practice Directions
* Identify any disclosure that in advocates’ views is necessary
* Immediately notify the court of the need for a contested ICO hearing and any issue about allocation
* LA advocate to file and draft Case Management Order in prescribed form with court by 11a.m. on the business day before the CMH and/or FCMH
 | **Case Management Hearing**CMH: Not before day 12 and not later than day 18. A FCMH is to be held only if necessary, it is to be listed as soon as possible and, in any event, no later than day 25* Court gives detailed case management directions, including:
* Considering jurisdiction in a case with an international element,
* Confirming allocation
* Drawing up the timetable for the child and the timetable for proceedings and considering if an extension is necessary
* Identifying additional parties, intervenors and representation (including confirming that Cafcass/CAFCASS CYMRU have allocated a Children’s Guardian and that a litigation friend is appointed for any protected party or non-subject child)
* Giving directions for the determination of any disputed issue about litigation capacity
* Identifying the key issues
* Identifying the evidence necessary to enable the court to resolve key issues
* Deciding whether there is a real issue about threshold to be resolved
* Determining any application made under Part 25 and otherwise ensuring compliance with Part 25 where it is necessary for expert(s) to be instructed
* Identifying any necessary disclosure and if appropriate giving directions
* Ensuring compliance with the court’s direction.
* If a FCMH is necessary, directing an advocates’ meeting and Case Analysis if required
* Directing filing of threshold agreement, final evidence and Care Plan and responses to those documents for the IRH
* Directing a Case Analysis for the IRH
* Directing an advocates’ meeting for the IRH
* Listing (any FCMH) IRH, Final Hearing (including early Final Hearing)
* Giving directions for special measures and/or interpreters and intermediaries
* Issuing the Case Management Order
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| Stage 3 – Issue Resolution Hearing |
| **Advocates’ Meeting** (including any litigants in person)No later than 7 business days before the IRH * Review evidence and the positions of the parties
* Identify the advocates’ views of –
* the remaining key issues and how the issues may be resolved or narrowed at the IRH including the making of final orders
* the further evidence which is required to be heard to enable the key issues to be resolved or narrowed at the IRH
* the evidence that is relevant and the witnesses that are required at the final hearing
* the need for a contested hearing and/or time for oral evidence to be given at the IRH
* LA advocate to –
* notify the court immediately of the outcome of discussion at the meeting
* file a draft Case Management Order with the court by 11a.m. on the business day before the IRH
 | **Issues Resolution Hearing (IRH)**As directed by the court, in accordance with the timetable for the proceedings* Court identifies the key issue(s) (if any) to be determined and the extent to which those issues can be resolved or narrowed at the IRH
* Court considers whether the IRH can be used as a final hearing
* Court resolves or narrows the issues by the hearing evidence
* Court identifies the evidence to be heard on the issues which remain to be resolved at the final hearing
* Court gives final case management directions including:
* Any extension of the timetable for the proceedings which is necessary
* Filing of the threshold agreement or a statement of facts/issues remaining to be determined
* Filing of –
* Final evidence and Care Plan
* Case Analysis for Final Hearing (if required)
* Witness templates
* Skeleton arguments
* Judicial reading list/reading time, including time estimate and an estimate for judgment writing time
* Ensuring Compliance with PD27A (the Bundles Practice Direction)
* Listing the Final Hearing
* Court issues Case Management Order
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| **Review / Contacts / References** |  |
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# **Implementation Plan**