**Practice Guidance for Legal Planning Meetings and Care Proceedings**

**March 2022**

*This guidance explains the purpose and process to follow when presenting a case at a Legal Planning Meeting*

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1. **Purpose of a Legal Planning Meeting**
   1. The purpose of the Legal Planning Meeting (LPM) is to consider whether the threshold for initiating care proceedings is met and if so whether care proceedings should be issued or if the case should enter the Public Law Outline process (PLO).
   2. Whether the decision is to initiate proceedings or enter PLO the Legal Planning Meeting will formulate a plan in that context. This will include consideration as to assessments; whether to seek an interim order or key terms to an agreement for working with the family.
   3. The Legal Planning Meeting is chaired by the Deputy Director of Children’s Services, in their absence it will be chaired by a Head of Service. It should be attended by the allocated social worker, social work team manager, service manager, case and court progression manager, a member of the placements team and a lawyer. Relevant specialist representatives can also attend to provide information, but they may be asked to leave when legal advice is provided; examples could include representatives from education, a mental health worker, the youth offending service or another relevant team member.
   4. The LPM is for children who have not been subject to a legal planning meeting previously and review LPMs being brought by the social work team responsible for the family.
   5. Children will also be referred to the weekly LPM following an ADM decision to revoke a Care or Placement Order. The LPM will consider the basis of the application, the alternative care plan being proposed, and agree the documents required and timescales for the application to be submitted.
2. **Arrangements for Legal Planning Meetings**
   1. Legal Planning Meetings will be held weekly on a Monday afternoon (2pm until 5pm). Prior to any LPM, the social worker should first have a discussion with their manager about whether legal advice is needed. A discussion with the relevant Service Manager to confirm this decision will be needed for the case to be presented at LPM. Once it has been agreed that a Legal Planning Meeting should be held the Social Work Team will be given a 30-minute timeslot in which to attend and present..

* 1. The referral for the LPM must be made via Mosaic (Referral for Legal Planning Meeting) this must be authorised by the relevant Service Manager who should then send to the Legal Planning Meeting Mailbox. The referral must be received by 12pm on the Wednesday in order for it to be presented the following Monday. However, a timeslot cannot be guaranteed, and discretion will be used when arranging the LPM based on the urgency of the situation.
  2. Once the referral has been sent via Mosaic all paperwork for the LPM will need be sent to the designated Business Support Officer (LPM&PPM@richmondandwandsworth.gov.uk) by 5pm on the Wednesday before the case is due to be presented. If **ALL** the relevant paperwork is not received by the deadline it will be down to the Chair of the LPM to decide whether the case is removed from the agenda.
  3. *.*
  4. The following is the list of paperwork required to be sent prior to LPM:

1. Completed Legal Planning Meeting referral form, to include the views of the IRO if the child is looked after.
2. Genogram.
3. Chronology: this must be up to date with significant events only.
4. Most recent Child and Family Assessment, which should incorporate information from MASH, and include relevant results of CAIT police checks.
5. Family Group Conference minutes where this has taken place. Where this has not taken place there should be a clear explanation in the LPM referral form.
6. Any other recent and relevant reports, e.g. school/health/police/psychological or psychiatric reports.
7. A proposed plan or a clear indication that options for a plan have been considered.
8. **Need for Urgent Legal Advice** 
   1. Urgent LPMs may be arranged outside of the Monday afternoon LPM timeslot with the approval of the relevant Service Manager for that service. The referral must still be made via Mosaic and to include as much information as possible. Urgent LPMs will be chaired by the Deputy Director, however, a Head of Service will step in to chair if this is not possible. A decision will then be made as to whether urgent legal proceedings should be initiated, this is likely to either result in an application for an EPO or expedited ICO. The Court and Case Progression Manager will also need to be invited to ensure she is able to track the case and ensure no drift occurs.
9. **Presenting a case at Legal Planning Meeting**
   1. The presenting social worker will be asked by the Chair what brings them to panel and they should set out the facts in summary form, outlining their concerns and explaining what has been done to work with the child and family. Bear in mind that the meeting will be considering, based on the information provided, whether the threshold for initiating proceedings has been met. It will be important to be clear about the following:

* Who has parental responsibility?
* Identity of fathers of children even if they do not have parental responsibility. Fathers should be part of any assessment and if not, the reasons for this needs to be clear and justified.
* The wishes and feelings of children. These should also be evidenced within assessments and if not, the reasons why should be outlined and justified.
* For children who are in care (s.20 or PPO/EPO), the views of the foster carer/kinship carer and allocated IRO should also be presented at the LPM.
* Impact of any concerns on the children.
* The views of the conference chair where applicable.
* Outcome of Family Group Conferences and plans agreed or outcome of Family Meetings to look at alternative carers within the extended family or friends network.
* The views of the parents and significant others in the family network, for example grandparents, aunts and uncles.
* The proposed plan, including what assessments the social work team would be seeking as part of their care plan if threshold is met to enter pre-proceedings or care proceedings and what the proposed care plan would be if the plan is for the child not to be in the care of their parents..
  1. The issues to be considered at the meeting will include the following:
* The reasons for the concerns and the evidential basis for establishing Significant Harm and the Threshold Criteria;
* Why Care Proceedings are necessary - what is their aim, objective and purpose?
* The steps already taken to clarify the issues of concern - i.e. assessment, as well as other medical and other expert involvement;
* The action/decisions already taken and where the decisions were made e.g. Strategy Discussion/Meeting, Child Protection Conference, Core Group meeting;
* The proposed Care Plan for the child, including the proposed placement and any cultural, language and ethnic issues; the need for a Twin Track Plan; consultation with parents and the wider family; whether any family members are available to care for the child on an interim or permanent basis, and if so whether the required checks have been made; the proposals for contact;
* How the proposed Care Plan is to be achieved, including where appropriate arranging a date for the case to be presented to the Fostering Panel or CARE Panel;
* Whether it may be appropriate to instruct any further expert assessments before the commencement of court proceedings - if so, what are the proposed remit of the instructions and the areas to be addressed, who should the assessment be done by and what are the likely timescales?
* Have there been previous Court proceedings in relation to the family? If so, what steps are required to obtain the papers in relation to the case from the Court? or another local authority?

1. **The Threshold**
   1. The role of the local authority legal adviser is to advise about , “is the threshold criteria met and are court proceedings necessary at this stage?” The threshold is set out in section 31(2) of the Children Act 1989:
2. the child concerned is suffering significant harm, or is likely to suffer significant harm; and
3. the harm or likelihood of harm is attributable to
   * 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
   * the child is beyond parental control.

Both (a) and (b) must be met.

* 1. ‘Harm’ concerns ill treatment or the impairment of health or development. Impairment can include suffering as a result of seeing or hearing the ill treatment of another person. Ill treatment can include sexual and emotional abuse. In most cases impairment of health or development is likely to provide the evidence of ‘harm’. Health is defined as physical or mental health; development as physical, intellectual, emotional, social or behavioural development. Where the question of whether harm suffered by a child is significant rests on the child’s health or development, this will be compared with that which could reasonably be expected of a similar child.
  2. In considering whether the harm or likelihood of harm is attributable to the caregiver and is unreasonable, there must be a direct connection between the harm to the child and the care given by the parent/carer.
  3. In a situation of a child being beyond parental control, it is this that has to be demonstrated not who, if anyone is to blame. In these cases, we will need to consider how this will be improved with an order and why an order is necessary to achieve this.
  4. The lawyer will also advise about the legal possibilities for achieving the desired aim and to give a view about the quality of the evidence available.
  5. They will assist the social work team to identify any evidence gaps that need to be met with further work.

1. **Neglect cases**
   1. Where there are concerns about neglect, be prepared with specific details of any health & dental appointments which have been missed and what steps have been taken to follow this up; school attendance percentages and late record; description of home conditions; observations by yourself and/or others of the child's clothing and presentation.
   2. Evidence about the impact on the child or likely impact on the child will be a very important consideration. It is good practice to have had a Family Group Conference to see if support from family and friends can be galvanised to address the neglect and to identify potential alternative living arrangements within the network. Neglect is often about the accumulation of lower-level concerns and these need to be recorded. The importance of a good chronology will be critical.
2. **The plan: pre-proceedings or issue care proceedings?**
   1. Following discussion about the concerns and evidence, the Chair will seek a legal opinion about whether the threshold is met and ask for recommendations about possible legal options. Social Workers will have had discussions with their respective managers prior to the LPM about what they have in mind and whether they are recommending that Wandsworth issue an application for either an Interim Supervision Order (ISO) based on a plan for the child to remain with parents or Interim Care Order (ICO) based on a plan to remove a child from parents; or whether to enter the pre-proceedings stage of the PLO, subject to legal advice.
   2. Key to recommendations will be the degree of risk, impact on the child, the level of co-operation from parents and the impact of delay to the child. Proceedings can be avoided if parents are able to demonstrate their willingness to reduce risk and safeguard the child by working with relevant services to improve their parenting capacity and/or agreeing to a protective placement for the child. Placements may be with relatives, subject to section 20 and regulation 24 (assessment and approval of relatives by the AD), or with approved foster carers under section 20.
   3. However, care must be taken with section 20 arrangements to ensure that there is valid consent in children being looked after and that such arrangements do not last longer than is necessary, bearing in mind that the child is without independent legal advice during this period.
   4. If it is agreed to enter pre-proceedings, a letter before proceedings is to be prepared by the social work team setting out the issues to parents/carers in straight forward language and urging them to seek legal advice. That letter is sent with a list of local Child Care Panel solicitors. The letter invites parents, and their legal representative, to attend a meeting with the social worker and lawyer from the legal department. The meeting should be chaired by the Team Manager.
   5. Before this meeting, the social work team will need to prepare a draft PLO Assessment Plan which will form the basis of discussion at the meeting. This agreement should be presented in draft at the pre-proceedings meeting with the parents. The PLO assessment Plan will be sent to the Allocated Social Worker, via Mosaic as an outcome of the LPM. Where a proposal for an expert assessment is planned, a draft letter of instruction should be prepared as well as enquiries made as to the availability and timescales of preferred experts.
   6. If a decision is made to issue immediate care proceedings, case law makes it clear that the court expects a care plan which is sufficiently firm and particularised for all concerned to have a clear picture of the likely way ahead for the foreseeable future. The court will want to be satisfied that Wandsworth has tried to help parents address problems in a timely way and that family and friends have been considered as possible carers before removing a child to stranger foster care.
   7. If possible, a Family Group Conference/Family Meeting should be held before issuing proceedings. This is good practice because it can inform the legal care plan, it is less frightening for the child and is more likely to be attractive to the court than removal to stranger foster care. In the event of a decision to issue care proceedings immediately, a letter of intent will need to be prepared and shared with the parents.
   8. Letters to parents encouraging them to seek legal advice should include details of the designated lawyer, so that the parents’ lawyers can make contact with the legal team. Please see the Online Procedures Manual for letter templates.
3. **Decisions made at the LPM**
   1. The decision of the LPM will be one of the following:

* Issue planned care proceedings or enter PLO.
* It may be determined that threshold is not met to enter proceedings or PLO.
* It may be determined that threshold is met but it is not considered necessary to commence proceedings and/or PLO at the current time and for the case to be reviewed at a further LPM.
* In exceptional circumstances the decision might be deferred for further information.

**Immediate Issue**

* 1. The following dates will be agreed at the LPM:
* Date for draft letter of intent to issue proceedings for parents to be sent to legal for checking before sending.
* Date for draft statement, including care plan to be sent to legal (time must be included for manager to review and quality assure evidence). The integrated care plan for children should include whether we are seeking removal and the proposed placement. The statement should include details of proposed assessments and experts to be instructed.

**Entering PLO**

* 1. The following dates will be agreed at the LPM:
* Date for the letter before proceedings and draft working together agreement to be drafted, checked and forwarded to legal.
* Date for the pre-proceedings meeting between the Social Work Team, the parents and legal representatives (within 2 weeks of the letter before proceedings being sent).
* Date for midway review to be fixed (within 6 weeks of the first pre-proceedings meeting). At the review meeting a final pre-proceedings meeting should be scheduled within 6 weeks. For those cases going out of timescale, clear management oversight by the relevant Service Manager should be recorded to explain why.

**Deferring decision**

* 1. This should only be done for exceptional reasons and a date to return to LPM will be given by the Chair. It is likely that the cause of a deferring decision may be as a result of lack of information/gathering of evidence. Therefore, it is vital that careful consideration is given to the level of concerns held and what care plan the team may have in mind prior to the case being presented at LPM.

1. **Pre-birth cases**
   1. In pre-birth cases, going into pre-proceedings before the baby is born provides a means for parents to get early legal advice. This can be very helpful in getting fathers on board, underlining the very serious nature of concerns, galvanising family support or potential family placements for assessment prior to birth. If the decision is made to issue proceedings at birth it is essential that all the evidence is prepared well in advance of the EDD so that the application can be issued within 24 hours of the child being born.
   2. In the case of Nottingham City Council v LW and others [2016] EWHC 11 (Fam), [2016] All ER (D) 59 (Mar), a high court case. Mr Justice Keehan identified various failures in that case. As part of his judgement he set out the following basic, but fundamental, steps that are required as a matter of good practice:

* the birth plan should be ‘rigorously adhered to by all social work practitioners and managers and by the local authority's legal department’
* a risk assessment should be commenced immediately upon the social workers being made aware of the pregnancy, and be completed at least four weeks before the due date
* the assessment should be shared with parents and their solicitors forthwith on initial completion, to give them the opportunity to challenge both the assessment of risk and the proposed care plan
* all relevant documentation required for the issue of proceedings should be provided by the social work team to their legal department no less than seven days before the due date
* the legal team should issue the application on the day of birth, and in any event no later than 24 hours after the birth (or the time the local authority is notified), and
* the local authority should seek an initial court date immediately upon issue and provide a best time estimate

1. **Components of the care plan**
   1. It is important that this is agreed at the Legal Planning Meeting because the Chair will be agreeing not just the components of the plan but also the funding. This does not mean you cannot approach the relevant Service Manager/Head of Service for different funding if things change but delay and additional work is reduced if it is all agreed at the LPM.

**11. Recording the decisions from the LPM**

* 1. Notes of Legal Planning Meetings should be circulated to all attendees. These are legally privileged and should not be made available to parents or other parties in any potential proceedings without the permission of the chairperson, Deputy Director or Director.
  2. The allocated Business Support Officer will record the minutes of the LPM on the Legal Planning Meeting episode in Mosaic. These will be sent to the Case and Court Progression manager who will check and send to the relevant Solicitor for their legal advice. Once this has been received the Case and Court Progression Manager will enter the legal advice into the Mosaic episode and seek approval from the chair. They will also add management oversight to case notes. The case note will need to be marked for the chronology to record the significant event on the child or young person’s life.

*Please access the Legal Proceedings Sharepoint site for information and guidance regarding the worksteps in Mosaic -* [*Sharepoint - legal proceedings*](https://richmondandwandsworth.sharepoint.com/sites/Mosaic/SitePages/Legal-proceedings.aspx?xsdata=MDN8MDF8fDU0MDMyMTQ4NGE2NzRjZjFhNWM1ZDc2NjQ4NmNlZDk5fGQ5ZDNmNWFjZjgwMzQ5YmU5NDlmMTRhNzA3NGQ3NGE3fDF8MHw2Mzc3NDU3MjUyMDk4MTE4MTl8R29vZHxWR1ZoYlhOVFpXTjFjbWwwZVZObGNuWnBZMlY4ZXlKV0lqb2lNQzR3TGpBd01EQWlMQ0pRSWpvaUlpd2lRVTRpT2lJaUxDSlhWQ0k2TVRKOQ%3D%3D&sdata=QUxKWUkzdkVYUkFSMC9za3VJUlpFVUF5WHd0VXp6VUZzaGZDYWM1NzhMMD0%3D&ovuser=d9d3f5ac-f803-49be-949f-14a7074d74a7%2CNaomi.Waygood%40richmondandwandsworth.gov.uk&OR=Teams-HL&CT=1641891435107&sourceId=&params=%7B%22AppName%22%3A%22Teams-Desktop%22%2C%22AppVersion%22%3A%2227%2F21110108719%22%7D)