

# Public Law Outline

## Pre-proceedings

### Pre-proceedings Checklist

Annex Documents are the documents specified in the Annex to the Application Form which are to be 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
- Index of Checklist Documents

Checklist documents (already existing on the LA's files) are –

a. 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 Immigration Tribunal documents);

b. 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 form

Checklist Documents in (b) are to be disclosed on request by any party

Checklist 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 (see Stage 1 table below).

Evidence in support of any directions sought by Day 2 should be filed with the court and served with the application form.

## 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 exceptions from notification or automatic party 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 for 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 service 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.

## Stage 2 – Case Management Hearing

<b>Advocates' Meeting</b> (including any litigants in person)	<b>Case Management Hearing</b>
No later than 2 business days before CMH (or FCMH if it is necessary)	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

<ul style="list-style-type: none"> <li>● Consider information on the Application Form and Annex documents, the LA Case Summary, and the Case Analysis</li> <li>● Identify the parties' positions to be recited in the draft Case Management Order</li> <li>● Identify the parties' positions about jurisdiction, in particular arising out of any international element</li> <li>● If necessary, identify proposed experts and draft questions in accordance with Part 25 and the Experts Practice Directions</li> <li>● Identify any disclosure that in the advocates' views is necessary</li> <li>● Immediately notify the court of the need for a contested ICO hearing and any issue about allocation</li> <li>● LA advocate to file a draft Case Management Order in prescribed form with court by 11a.m. on the business day before the CMH and/or FCMH</li> </ul>	<ul style="list-style-type: none"> <li>● Court gives detailed case management directions, including: <ul style="list-style-type: none"> <li>— Considering jurisdiction in a case with an international element;</li> <li>— Confirming allocation</li> <li>— Drawing up the timetable for the child and the timetable for the proceedings and considering if an extension is necessary</li> <li>— 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)</li> <li>— Giving directions for the determination of any disputed issue about litigation capacity</li> <li>— Identifying the key issues</li> <li>— Identifying the evidence necessary to enable the court to resolve the key issues</li> <li>— Deciding whether there is a real issue about threshold to be resolved</li> <li>— Determining any application made under Part 25 and otherwise ensuring compliance with Part 25 where it is necessary for expert(s) to be instructed</li> <li>— Identifying any necessary disclosure and if appropriate giving directions</li> <li>— Giving directions for any concurrent or proposed placement order proceedings</li> <li>— Ensuring compliance with the court's directions</li> <li>— If a FCMH is necessary, directing an advocates' meeting and Case Analysis if required</li> <li>— Directing filing of any threshold agreement, final evidence and Care Plan and responses to those documents for the IRH</li> <li>— Directing a Case Analysis for the IRH</li> <li>— Directing an advocates' meeting for the IRH</li> <li>— Listing (any FCMH) IRH, Final Hearing (including early Final Hearing)</li> <li>— Giving directions for special measures and/or interpreters and intermediaries</li> <li>— Issuing the Case Management Order</li> </ul> </li> </ul>
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### Stage 3 – Issues Resolution Hearing

<b>Advocates' Meeting</b> (including any litigants in person)	<b>IRH</b>
No later than 7 business days before the IRH	As directed by the court, in accordance with the timetable for the proceedings

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| <ul style="list-style-type: none"> <li>● Review evidence and the positions of the parties</li> <li>● Identify the advocates' views of – <ul style="list-style-type: none"> <li>— the remaining key issues and how the issues may be resolved or narrowed at the IRH including by the making of final orders</li> <li>— the further evidence which is required to be heard to enable the key issues to be resolved or narrowed at the IRH</li> <li>— the evidence that is relevant and the witnesses that are required at the final hearing</li> <li>— the need for a contested hearing and/or time for oral evidence to be given at the IRH</li> </ul> </li> <li>● LA advocate to – <ul style="list-style-type: none"> <li>— notify the court immediately of the outcome of the discussion at the meeting</li> <li>— file a draft Case Management Order with the court by 11a.m. on the business day before the IRH</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>● 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</li> <li>● Court considers whether the IRH can be used as a final hearing</li> <li>● Court resolves or narrows the issues by hearing evidence</li> <li>● Court identifies the evidence to be heard on the issues which remain to be resolved at the final hearing</li> <li>● Court gives final case management directions including: <ul style="list-style-type: none"> <li>— Any extension of the timetable for the proceedings which is necessary</li> <li>— Filing of the threshold agreement or a statement of facts/issues remaining to be determined</li> <li>— Filing of – <ul style="list-style-type: none"> <li>○ — Final evidence and Care Plan</li> <li>○ — Case Analysis for Final Hearing (if required)</li> <li>○ — Witness templates</li> <li>○ — Skeleton arguments</li> </ul> </li> </ul> </li> <li>● — Judicial reading list/reading time, including time estimate and an estimate for judgment writing time <ul style="list-style-type: none"> <li>— Ensuring Compliance with PD27A (the Bundles Practice Direction)</li> <li>— Listing the Final Hearing</li> </ul> </li> <li>● Court issues Case Management Order</li> </ul> |
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