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Care and Supervision Proceedings, Legal Gateway Meetings and the Public Law Outline

**NOTE**

For applications for Emergency Protection Orders, see [**Applications for Emergency Protection Orders Procedure**](https://www.proceduresonline.com/surrey/cs/p_app_emer_prot_ord.html) in.

**N.B.** Any changes in a child's legal status as a result of court proceedings must be recorded on the electronic database.

**RELATED CHAPTER**

[**How to Arrange a Legal Gateway Meeting and Accessing Legal Advice Including Urgent Duty Line Procedure**](https://www.proceduresonline.com/surrey/cs/p_legal_planning_meetings.html)

**RELEVANT GUIDANCE**

[**Public Law Outline (2014)**](http://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12a)

[**Statutory Guidance for Local Authorities on Court Orders and Pre-Proceedings (2014)**](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306282/Statutory_guidance_on_court_orders_and_pre-proceedings.pdf)

[**Best Practice Guidance: Support for and work with families prior to court proceedings**](https://www.judiciary.uk/wp-content/uploads/2021/03/Prior-to-court-proceedings-BPG-report_clickable.pdf)

[**Best Practice Guidance: Application and Case Management**](https://www.judiciary.uk/wp-content/uploads/2021/03/Application-and-case-management-BPG-report_Clickable.pdf)

[**Protocol and Good Practice Model: Disclosure of Information in Cases of Alleged Child Abuse and Linked Criminal and Care Direction Hearings (October 2013)**](https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/protocol-good-practice-model-2013.pdf)

[**Practice Direction 25B - The Duties of an Expert, the Expert's Report and Arrangements for an Expert to Attend Court**](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-25b-the-duties-of-an-expert%2C-the-experts-report-and-arrangements-for-an-expert-to-attend-court)

See [Appendices](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) for Surrey templates.

**1. Introduction**

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 has been met.

Under the [**Public Law Outline (2014)**](http://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12a) and the Children and Families Act 2014, there is a 26-week time limit for the completion of care and supervision proceedings. '*In no case can an extension beyond 26 weeks be authorised unless it is 'necessary' to enable the court to resolve the proceedings 'justly'. Only the imperative demands of justice – fair process – or of the child's welfare will suffice'*.
[**(Re - S (A Child) {2014} EWCC B44(Fam) (para 34)**](https://www.bailii.org/ew/cases/EWCC/Fam/2014/B44.html).

See also: [**Section 8.3, Extensions to the Timetable for Proceedings**](https://www.proceduresonline.com/surrey/cs/p_care_supervis_plo.html#Extensions).

This places an increased emphasis on pre-proceedings work and the quality of Assessments.

Where adoption is the permanence plan for the child and no Care Order has been made, combined Care and Placement Order applications should be made, so that decisions can be made swiftly. Where there are on-going Care Proceedings, the Placement Order application should be submitted as soon as the agency decision maker decision has been made. The court may make both orders, which would ensure that the child remains protected should the Placement Order be revoked (as the Care Order would automatically be reactivated).

Placement Order applications are not subject to the 26 week time limit, but other than in exceptional circumstances should be made in advance of the Final Hearing for the Care Order application so that both applications can be considered and determined at that hearing. The application must clearly state why the parents cannot parent the child, what other realistic permanence options have been considered and rejected, and why adoption is the only permanence option that meets the needs of the child (see also [**Documents Library**](https://www.proceduresonline.com/surrey/cs/p_care_supervis_plo.html)).

**2. Pre-Proceedings**

2.1 Principles

Work done in the period pre-proceedings is vital for two reasons:

* It may divert a case along a route which avoids the need for proceedings;
* When that is not possible, and proceedings have to be commenced, the preparatory work will facilitate the smooth running of the case.

Pre-Proceedings work includes:

* Early help – see [Continuum of Support for Children and Families Living in Surrey](https://surreyscb.procedures.org.uk/zkyqqt/managing-individual-cases/continuum-of-support-for-children-and-families-living-in-surrey);
* Assessments and meeting assessed needs (see [**Assessments Procedure**](https://www.proceduresonline.com/surrey/cs/p_assessment.html)).

For cases which result in court proceedings, the information generated by the Assessment will be expected to form the central part of evidence that supports an application for a care or supervision order, and will include, as appropriate, primary evidence from the agencies involved. Additional parenting capability assessments (where there is a specific need for specialist expertise in order for a decision to be made as to threshold and the need for proceedings) should be commissioned at the pre-proceedings stage.

Family Group Conferences and the identification and assessment of Connected Person carer placements, if appropriate (**NOTE**: identification of carers should focus on the child's interests, not on parents' approval/disapproval).

* Helping families to engage early - this engagement should include early, direct and clear written communication with the parents, setting out the local authority's specific concerns, outlining what needs to be done to address those concerns and indicating the possibility of proceedings if the situation does not improve within an identified timescale. It is important that throughout this period, the child (subject to their age and understanding) is kept aware of what is being proposed and that their views are heard. This may include by way of an advocate for children and/or for parents where there are issues of capacity (see [**Capacity Guidance**](https://www.judiciary.uk/family-justice-council/resources-and-guidance/capacity-and-competence/));

(See also the [**Good Practice Guidance on Working with Parents with a Learning Disability (2007)**](https://www.bristol.ac.uk/media-library/sites/sps/documents/wtpn/2016%20WTPN%20UPDATE%20OF%20THE%20GPG%20-%20finalised%20with%20cover.pdf));
* Legal Gateway Meetings – see also below and [**How to Arrange a Legal Gateway Meeting and Accessing Legal Advice including Urgent Duty Line**](https://www.proceduresonline.com/surrey/cs/p_legal_planning_meetings.html).

Sir James Munby, former President of the Family Division, set out in 'The Process of Reform: the revised PLO and the Local Authority' the expectations of the local authority in relation to pre-proceedings work. He recommended that:

* Local authority lawyers be involved, advising and assisting their social work clients, at an early stage;
* A properly organised Legal Gateway Planning Meeting is invaluable and can be the key to achieving timely outcomes to Care Proceedings;
* The employment of a local authority case manager is vital. The case manager works directly with social workers and managers, with the intention of improving the quality of social work Assessments and statements presented to court. The aim is that statements are purposeful, concise and clearly lay out the work that has been undertaken up to that point. The Case Manager works in a coaching role to help social workers produce high quality statements and to be explicit about the impact of delay on each individual child.

2.2 Legal Gateway Planning Meetings

Before a decision can be made to initiate Care or Supervision Proceedings, a Legal Gateway Planning Meeting should be held - see below and [**How to Arrange a Legal Gateway Meeting and Accessing Legal Advice including Urgent Duty Line**](https://www.proceduresonline.com/surrey/cs/p_legal_planning_meetings.html).

At the Legal Gateway Meeting, a decision will be made in principle about whether the Threshold Criteria have been met and whether:

* It is in the best interests of the child to provide a further period of support for the family with the aim of avoiding proceedings; or
* Proceedings should be initiated immediately.

Information presented to a child protection conference should inform the decision-making process but it is for the local authority to consider whether it should initiate proceedings.

See below and [**How to Arrange a Legal Gateway Meeting and Accessing Legal Advice including Urgent Duty Line Procedure**](https://www.proceduresonline.com/surrey/cs/p_legal_planning_meetings.html).

**3. The Surrey County Council Pre-Proceedings PLO Protocol including Legal Gateway Meetings**

Document Templates referred to within this Protocol are available via the [Documents Library](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5).

3.1 Introduction

The pre-proceedings process places specific responsibilities on the Local Authority bringing applications, particularly prior to the commencement of care proceedings.

There is a statutory duty to follow the pre proceeding process unless there are immediate safeguarding concerns which mean that the child cannot be protected while the pre-proceedings PLO process takes place.

The pre proceedings process should provide an opportunity to assess the family prior to making any application to Court and provide an opportunity to genuinely work in partnership with the family in order to address and support identified needs in order to avoid court proceedings.

3.2 Principles underpinning the Pre-Proceedings phase of the PLO

* First and foremost, the child’s welfare is paramount.
* The child’s views must be heard.
* Managing and mitigating needs whilst working with the child and their family is key.
* Work with the child and their family requires a collaborative approach to co-producing plans and to positively support change.
* A partnership approach employing the existing skills, knowledge and resources of all partners and agencies involved with the family is vital.
* Accurate and timely recording is vital as are clear communications with the family.
* Court proceedings must be necessary and proportionate, an option of last resort, be clear why this application, why now.
* Timeliness and minimising delay are important.
* The aim should be to complete the process within a maximum of 16 weeks, and wherever possible in a shorter timeframe, informed by the individual child(ren)’s needs and the assessed level of need.

If in doubt all practitioners working in the system should always refer back to these principles.

3.3 Decision to Initiate the Pre-Proceedings phase of the PLO

It Is not always right or proportionate, to arrange a legal gateway/planning meeting just because the necessary threshold is met. Where one is needed, the meeting should be held in a timely way to consider the available information and decide the best course of action to protect the child’s welfare.

The decision to progress to a Legal Gateway Meeting (LGM) will be made by the Service Manager following a pre-LGM discussion with the social work team, the outcome of which will be recorded on LCS by the Service Manager.

The LGM request will be sent to Business Support (**sesta@surreycc.gov.uk**, **nesta@surreycc.gov.uk**, swlegaladmin@surreycc.gov.uk nwsta@surreycc.gov.uk) within 5 working days of the decision to progress to an LGM, using the [LGM Booking Form.](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5)

The Business Support Team will book the LGM into one of the next available date and time which may be in any area across the County. The Service Manager must liaise with Business Support to arrange a meeting and be organised within 10 days of the LGM being agreed to be held.

PART A of the Legal Gateway and Booking Form should be completed by the social worker and quality assured by the team manager prior to meeting and forwarded with the documents listed below to the Childcare Legal Team – **legal.childcare@surreycc.gov.uk** 3 working days prior to meeting

* Updated Chronology.
* GCP2 where relevant
* Family Program in progress(workbook)
* FGC minutes
* C&F Assessment completed in the last six months;
* Other relevant assessments;
* Care plan or a clear indication that options for a plan have been considered;
* Any Supporting documents evidencing concerns – e.g., police notifications;
* A Genogram.

The LGM should be chaired by a suitably senior manager and participants must agree on the specific issues, needs and mitigating factors of relevance.

Factors to be considered:

* What is the lived experience of the child and impact on their wellbeing?
* How long have children’s social care been involved with the family?
* What support has been offered to the family and how have they engaged with this offer?
* What assessments have been completed?
* Have changes already been made by parents to mitigate the identified need factors?

If the legal threshold is met and attendees agree to initiate pre-proceedings then a tailored plan of action [Pre-Proceedings PLO Plan Template](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) should be agreed, including:

* Any continuing support or any additional direct work with the child during this period?
* Any further support or direct work which could be offered to the family to mitigate identified needs?
* How needs and/or positive changes in this period will be tracked?
* What expert assessments that are required, including who is being assessed, why, plus duration?
* Wider family members to be consulted to offer support or be assessed as alternative carers?

If the legal threshold is met and there is considered to be an immediate safeguarding concern requiring that proceedings are issued immediately, the pre-proceedings PLO process need not be followed.

Following the LGM the Assistant Director will make the decision in respect of a recommendation to enter PLO or proceedings within **48 hours.**

If the decision is to do so, the Local Authority will send to the parents/those with Parental Responsibility either:

[A letter before proceedings](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) which states that proceedings are being contemplated; or

[A letter of issue](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) which states that proceedings are being initiated without following the pre-proceedings process due to immediate safeguarding concern.

The proposed PLO letter, PLO Plan and safety plan discussed at the LGM is written by the social worker and sent to the Team Manager within 24 hours of the meeting. The Team Manager will send all these documents to legal who will return within 48 hours. Legal will return all the documents to the Service Manager for signing, returned to the social worker who will hand deliver the letters and forms within 4 working days after the LGM - to the PLO Meeting with parents and solicitors; this will fall in our 10 day timeframe.

The time period for the pre-proceedings phase of the PLO will start **10 working days** after the Initial LGM is held,

All assessments to be undertaken of the parents within the pre-proceedings process will be considered in advance of the pre-proceedings meeting in order to avoid delay and to ensure that the meeting is as effective as possible. Proposals for parenting assessments shall be prepared in advance together with draft Letters of Instruction to experts. Experts can only be instructed within the pre-proceedings process with the prior approval of the Assistant Director. Letters of instruction will be drafted in conjunction with Legal Services.

[The letter before proceedings](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) will be reviewed by a lawyer and approved and signed by the Service Manager prior to being sent to the parents. Letters to parents will be sent via recorded delivery or hand delivered. There may be some circumstances where it is appropriate to instruct a process server to serve the parents with the letter.

Best Practice would be to ensure that the parents understand the contents of the letter and have an opportunity to discuss it prior to the pre-proceedings meeting. Where a parent may lack capacity or has learning needs, consideration should be given as to whether a discussion involving an advocate/and or legal representative should take place before sending out this letter. Where English is not the first language of one or more parents then interpretation services must be considered and recorded.

A list of solicitors who undertake public law children matters must be provided to the parents, a PLO parents pack and a map/directions to the office location where the meeting is being held. For a remote meeting, Business Support will set up a MS teams meeting or telephone conference. The parents must be given at least **5 clear working days’ notice** of any pre-proceedings meeting to ensure that they have sufficient time to obtain legal representation.

3.4 Expectations under the Pre-Proceedings Process

* . The PLO brings together a series of steps that ensure the professionals working with children and their families explore all of the realistic opportunities to achieve the best outcome for the relevant children.
* It’s important that practitioners both view and approach this phase not simply as a procedural step to court: pre-proceedings are an intervention in themselves and act as the final chance to manage need by supporting change.
* Every effort should be made to improve outcomes for the child as safely as possible. It also serves to ‘narrow the issues’ if entry to court is required.
* Pre-proceedings may not always secure the required changes. Where all other options have been explored and issuing is the only safe option, the courts will benefit from the work that has been undertaken during pre-proceedings.
* There should be clear communication with the family about identified concerns and the expectation of all of those who are involved in the process, including clear timescales to prevent drift is vital.
* It is crucial that the parents clearly understand this process, what is expected of them, how the LA will work with their family and agree plans. It is important to consider any support parents might need to understand the nature of the LAs concerns e.g., advocacy or interpretation services. Older children will also need support to understand this process.
* The pre-proceedings phase should be no longer than 16 weeks but this is dependent on a myriad of factors, from the child’s needs to the number of professionals involved and a shorter timescale may be appropriate.
* It is important that social workers keep a clear, accurate record of the agreed plan and the status of assessments in progress and/or outcomes to inform future decision-making processes. [Link to the Pre-Proceedings PLO Plan template](https://proceduresonline.com/trixcms2/surreycs/doc-library/%22%20%5Cl%20%22collapse1_5)
* Outcomes should be clearly recorded at the end of the PLO process - escalation to court, an extension to continue working with the family or ‘stepping out’ of the process if sufficient progress has been evidenced. The deciding factor must always be the immediacy of harm.
* If the assessed immediacy of harm increases at any stage during the pre-proceedings process, the Assistant Director may decide that the process should end and an immediate application to Court should be made.

3.5 The Pre-Proceedings Meeting

Team Managers will chair the initial pre-proceedings meetings and will finalise the record of the meeting. The proforma Pre-proceedings meeting agenda should be used for all pre-proceedings meetings. [(Link to pre-proceedings meeting agenda)](https://proceduresonline.com/trixcms2/surreycs/doc-library/%22%20%5Cl%20%22collapse1_5)

All PLO meetings will have minutes taken by business support. The chair of the meeting will approve the minutes and forward to Legal Services for distribution to the parent’s legal representatives within 10 working days of the PLO meeting.

3.6 The Pre-Proceedings Proforma

Surrey has adopted a pre-proceedings plan proforma. [(Link to pre-proceedings PLO plan template)](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) which will be completed at the initial pre-proceedings meeting and reviewed throughout the process.

* It is a record and reminder of the issues of concern and the work that is being undertaken. When necessary, this can be referred to in discussions with parents.
* Its simple layout and format allows the family an opportunity to become involved and invested in the support and assessment.
* It puts into sharp focus the necessary elements that must be reviewed at each review. This is particularly important when considering the progress.
* It is a living document which records the changes that have been identified and it ensures the evidence that is gathered is relevant and fresh if proceedings are contemplated.
* It is important evidence of the work that has been undertake if proceedings are issued. This should be filed with the application to the court.
* If proceedings are issued, it avoids duplication of work particularly (expert) assessments that have already been undertaken.

3.7 Monitoring and Review of Pre-Proceedings Process

Families in the pre-proceedings process will be reviewed together with the parents and their legal representatives no later than at **7 weeks**. The date for the review meeting is set at the initial pre-proceedings meeting and will be recorded in the PLO template. It is understood that more than one PLO may be required, for example if a parent is not responding to a specific action, but this can be agreed on a case-by-case need.

A Local Authority lawyer will only attend the review meetings if the complexity of the matter requires attendance at subsequent meetings.

The social work team will hold an internal review meeting with the Local Authority lawyer by no later than **week 14** of the pre-proceedings process in order to review the assessments undertaken and consider the progress and the proposed outcome of the pre-proceedings process.

There may be some circumstances where the pre-proceedings process cannot be concluded within **16 weeks,** and those cases will be discussed with the Assistant Director prior to the 16-week review and agreed by the Assistant Director **within 72 hours** of the 16-week review, and a management oversight will be added to the child(ren)’s record by the Service Manager. Where the pre-proceedings process has been extended, there will be review meetings held every 4 weeks with the parents and their legal representatives within any extension period.

The decision is to end the pre-proceedings process, should be taken by the Assistant Director and the outcome clearly recorded, a letter will be sent to confirm the decision. The PLO plan will be updated and shared with parents’ solicitors.

3.8 Pre-Proceedings and the PLO process with unborn babies

* Please see [Pre-birth Child Protection Procedure](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) and [Pre-Birth Assessment Timeline](https://proceduresonline.com/trixcms2/surreycs/doc-library/%22%20%5Cl%20%22collapse1_5)
* Pre-proceedings can be initiated for an unborn child and should be held as early as possible, with timescales monitored closely.
* If there is already involvement with the expectant parents, this work must begin as early as possible; the identification of needs, and the provision of support, must happen as soon as possible.
* Some assessments or interventions may not be able to start or finish before birth and specialist medical advice may be required about some of the timings.
* However, the agreement may be completed and agreed prior to the birth.
* If a decision to issue proceedings on birth is made, then draft documents should be ready to send to lawyers prior to birth and parents should be provided with copies at the earliest opportunity.
* Placement options should be considered early on and discussed with parents e.g., parent-and-baby foster placements, so that early permanence is achieved for babies, as appropriate.

**4. Starting Care or Supervision Proceedings**

Before a decision can be made to initiate care or supervision proceedings, the approval of the Assistant Director must be obtained.

Once the decision has been taken to initiate proceedings, the social worker will send the parents/those with parental responsibility a letter of issue which states that proceedings are being initiated – see letter template at [**Appendix 2: Letter of Issue**](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5).

The social worker should prepare the documents that are required to be produced for Court. See Checklist to ensure Proceedings are ready to issue (see [**Section 12, Case Management Checklist and Flowcharts**](https://www.proceduresonline.com/surrey/cs/p_care_supervis_plo.html#case_manag)).

The documents should be reviewed by the Team Manager / Service Manager before being sent to Legal Services for review. Care Plans should be discussed and agreed in principle by the relevant Area Director.

The local authority Legal Adviser will review the evidence and draft statement and care plan to ensure these are compliant with the Court's expectations under the Public Law outline and Family Procedure Rules and suitably analyse the evidence available upon which the local authority's case is founded. He/she may request additional information or advise that amendments are made to the documents prior to the application being forwarded to the Court. The signing and dating of Statements and Care Plans provides confirmation of the truth of the contents and these documents should not therefore be signed or dated until these are reviewed by the local authority Legal Adviser and a final version agreed.

The local authority solicitor will advise the court of the name of the independent reviewing officer and their contact details.

In some cases, the level of concern about a child's welfare may require rapid and sometimes immediate recourse to the courts. Statutory Guidance is clear that where there is an immediate safeguarding need, an application for a Care or Supervision Order should be made without the pre-proceedings stage of the Public Law outline being first followed.

There may not be time for a pre-proceedings meeting and the collation of all documentation prior to such an application. A lack of documentation should never prevent a case being brought to court quickly where this is essential to protect the child's welfare. Such cases should never be the norm, however, and where a particular piece of documentation cannot be supplied immediately, the authority must state on the application form the reasons why it cannot be included and confirm the date when the documents will be submitted to the court.

4.1 Pre-Birth Planning and Proceedings

Considering Care and Supervision Proceedings at a pre-birth stage and when a child is newly born remains challenging for a number of reasons.

A High Court judgment (Nottingham City Council v LW & Ors [2016] EWHC 11(Fam) (19 February 2016)) has sought to provide 'good practice steps' with respect to public law proceedings regarding newly born children and particularly where Children's Services are aware at a relatively early stage of the pregnancy.

From previous judgments it is established that: 'At an interim stage the removal of children from their parents is not to be sanctioned unless the child's safety requires interim protection.' (See also [**Applications for Emergency Protection Orders Procedure, X Council v B Guidance**](https://www.proceduresonline.com/surrey/cs/p_app_emer_prot_ord.html#x_council)).

It continues to be important to ensure for both the child and the parent(s):

* Any hearing should be considered a 'fair hearing' commensurate with Article 6 of the Human Rights Act (the right to a fair trial);
* The fact that a hospital is prepared to keep a newborn baby is not a reason to delay making an application for an ICO, (the hospital may not detain a baby against the wishes of a parent/s with PR and the capability of a maternity unit to accommodate a healthy child can change within hours and is dependent upon demand);
* Where a Pre-birth Plan recommends an Application for an ICO to be made on the day of the birth, 'it is essential and best practice for this to occur'.

Once it has been determined that there is sufficient evidence to make an application for an ICO and removal of a child, any additional evidence (e.g. from the maternity unit) must not delay the issuing of proceedings. Any such information may be 'envisaged and/or provided subsequently'.

**Good Practice Steps**

Where the local authority is considering bringing proceedings after birth, the pre-proceedings process provides an effective framework for social work with the parents before the birth of the child, ensuring fairness by enabling parents to get free, non-means-tested legal advice relating to:

* Pre-birth assessments (see also the [**Surrey Safeguarding Children Procedures, Pre-birth Child Protection Procedure**](https://surreyscb.procedures.org.uk/hkyqsx/procedures-for-specific-circumstances/pre-birth-child-protection-procedure));
* Agreeing arrangements for support of the parents before and after the birth;
* Agreeing arrangements after the baby's discharge from hospital, if required, and
* Assessment of parental care following the birth.

DfE Guidance recommends the Letter Before proceedings is sent no later than Week 24 of the pregnancy. Considerations should therefore be given to convening a Legal Gateway Meeting at week 20.

In all but, 'the most exceptional and unusual circumstances, local authorities must make applications for public law proceedings in respect of new born babies timeously and especially, where the circumstances arguably require the removal of the child from its parent(s), within at most 5 days of the child's birth':

* The Pre-birth Plan should be rigorously adhered to by social work practitioners, managers and legal departments;
* A risk assessment of the parent(s) should be 'commenced immediately upon the social workers being made aware of the mother's pregnancy';
* All Assessments should be completed at least 4 weeks before the expected delivery date;
* The Assessment should be updated to take into account relevant events pre- and post-delivery where these events could affect an initial conclusion in respect of risk and care planning of the child;
* The Assessment should be disclosed upon initial completion to the parents and, if instructed, to their solicitor to give them opportunity to challenge the Care Plan and risk assessment;
* The Social Work Team should provide all relevant documentation (see [**Section 5, Documentation**](https://www.proceduresonline.com/surrey/cs/p_care_supervis_plo.html#documentation)) necessary to the local authority Legal Adviser to issue proceedings and application for ICO:
	+ Not less than 7 days before the expected date of delivery;
	+ The application must be issued on the day of the birth and certainly no later than 24 hours after the birth (or the date on which the local authority is notified of the birth).
* Immediately on issue – or before - the local authority solicitor:
	+ Should serve the applications and supporting evidence on the parents and, if instructed, their respective solicitors;
	+ Should have sought an initial hearing date from the court, or the best estimate that its solicitors could have provided.

**5. Documentation**

5.1 Local Authority Documentation

See also: [**Checklist to Issue**](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5).

Documents to be Filed with the Court

(**Note** that some courts may require electronic submissions. Your legal department will be able to advise).

See [**General Guidance on Electronic Court Bundles**](https://www.judiciary.uk/guidance-and-resources/general-guidance-on-electronic-court-bundles/).

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**](https://www.proceduresonline.com/surrey/cs/p_care_supervis_plo.html);
* 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;
* The care plan;
* Index of Checklist documents.

Documents to be Served on the Other Parties (but not filed with the court)

**On Day 2** the local authority must serve on the other parties (but must not file with the court unless expressly directed to do so) the application form and annex documents as set out above, together with the list of key decision making documents 'evidential checklist documents'. The key decision making documents will therefore need to be provided to the Legal Adviser so that they can be supplied if requested. These are evidential and other documents which already exist on the local authority's files, including:

* Previous court orders (including foreign orders) and judgments/reasons;
* Any assessment materials relevant to the key issues, including capacity to litigate, Section 7 or Section 37 reports;
* Single, joint or inter-agency reports, such as health, education, Home Office and Immigration Tribunal documents.

Documents to be Disclosed on Request by any Party

* Decision-making records, including:
	+ Records of key discussions with the family;
	+ Key local authority 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;
	+ Any issue as to jurisdiction/international element should be flagged with the court.

Principles

The filing and service of documents must focus on what is relevant, central and key, rather than what is peripheral or historical. Local authority materials are expected to be succinct, focused on analysis rather than on history and narrative. Even if there has been local authority involvement with the family extending over many years, both the social work Chronology and the summary of the background circumstances as set out in the social work statement must be kept appropriately short, focusing on the key significant historical events and concerns and rigorously avoiding all unnecessary detail.

**Documents must be recent** - restricted to the most recent, limited to those from the last two years. Documents need not be served or listed if they are older than two years before issue of the proceedings, unless reliance is placed on them in the local authority's evidence.

**Documents must be focused and succinct**.

The social work Chronology is a schedule containing:

* A succinct summary of the length of involvement of the local authority with the family and in particular with the child;
* A succinct summary of the significant dates and events in the child's life in chronological order, i.e. a running record up to the issue of the proceedings, providing such information under the following headings:
	1. Serial number;
	2. Date;
	3. Event-detail;
	4. Witness or document reference (where applicable);
	5. The Chronology should be no more than 10 sheets and sides of A4 text unless specifically directed by the court;
* The social work statement should be no more than 25 sheets and sides of A4 text unless specifically directed by the court. (This is exclusive of exhibits). It is to be limited to the following evidence:
	1. Summary:
		+ The order sought;
		+ *Succinct* summary of reasons with reference as appropriate to the Welfare Checklist.
	2. Family:
		+ Family members and relationships especially the primary carers and significant adults / other children;
		+ Genogram.
	3. Threshold:
		+ Precipitating events;
		+ Background circumstances:
			- Summary of children's services involvement. This must be cross-referenced to the Chronology;
			- Previous court orders and emergency steps;
			- Previous assessments.
		+ *Summary* of Significant Harm and / or likelihood of significant harm which the local authority will seek to establish by evidence or concession.
	4. Parenting capacity:
		+ *Assessment* of child's needs;
		+ *Assessment* of parental capability to meet needs;
		+ *Analysis* of why there is a gap between parental capability and the child's needs;
		+ Assessment of other significant adults who may be carers.
	5. Child impact:
		+ Wishes and feelings of the child(ren);
		+ Timetable for the child;
		+ Delay and timetable for the proceedings.
	6. Permanence and contact:
		+ Parallel planning;
		+ Realistic placement options by reference to a welfare and proportionality analysis;
		+ Contact framework.
	7. Case management:
		+ Evidence and assessments necessary and outstanding;
		+ Any information about any person's litigation capacity, mental health issues, disabilities or vulnerabilities that is relevant to their capability to participate in the proceedings (see [**Practice Direction 3AA - Vulnerable Persons: Participation in Proceedings and Giving Evidence**](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-3aa-vulnerable-persons-participation-in-proceedings-and-giving-evidence));
		+ Case management proposals.

See: [SW Statement Templates for Initial statements.](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5)

The local authority materials must be succinct, analytical and evidence-based. Assessment and analysis are crucial. They need to distinguish clearly between what is fact and what is professional evaluation, assessment, analysis and opinion, and between the general background and the specific matters relied on to establish 'threshold'.

Threshold Statement

'Threshold Statement' means a written outline prepared by the legal representative of the local authority in the application form, of the facts which the local authority will seek to establish by evidence or concession to satisfy the threshold criteria under s31(2) of the Children Act 1989, limited to no more than 2 pages.

Local Authority Case Summary

A document prepared by the local authority legal representative for each case management hearing in the prescribed form. Unless specifically directed by the court, it should be no more than 6 sheets and sides of A4 text. Best Practice Guidance requires that this includes the date and outcome of the FGC/Family Network Meeting.

Final Care Plan

It is important that the Care Plan records information which will help the child, parent or the child's carer understand why decisions have been or are being made.

It should set out:

* The information about the long term plan for the child, including timescales (the Permanence Plan);
* The arrangements to meet the child's needs in line with the child's developmental needs domain of the Assessment Framework (see [**Assessments Procedure, Principles for a Good Assessment**](https://www.proceduresonline.com/surrey/cs/p_assessment.html#principles)):
	+ Arrangements for promoting the child's health, detailing GP and other arrangements, particularly where there is a health condition that requires monitoring or treatment;
	+ Early Years provision and education, detailing the PEP (identifying the resources and services that will meet the child's needs, together with any additional support that has been assessed as required);
	+ Contact arrangements for the child with the parents and others who have Parental Responsibility, together with any other significant people the child has relationships with, (for example a sibling in another placement), detailing the frequency and any support required. Or, where no contact is sought, the reasons for this and why it is not in the child's best interest;
	+ Details of any court orders sought, e.g. section 8; section 34; Placement Order, etc.
	+ Details of any other local authority or voluntary body services and resources that are planned to be taken up by the child or their parent/carer and the reasons for this, together with who will be responsible for the arrangements. Also, to include possible future support the child may be entitled to, e.g. leaving care arrangements;
	+ Details of the Placement Plan and why the placement was chosen and the way in which it will meet the child's needs;
	+ The wishes and feelings of relevant people about the arrangements for the child;
	+ The wishes and feelings of those people about any proposed changes to the Care Plan;
	+ Details of the review of any arrangements made or required, including the name of the IRO and who, or which, agencies will be involved;
	+ Identification of a contingency plan in the event that the Care Plan is not achieved.

The Care Plan will need to be signed by the practitioner completing it, together with the Nominated Officer who has responsibility for agreeing the resources to be made available.

The Care Plan should be no more than 10 sheets of A4 paper and sides, unless directed by the court.

Where the local authority’s final recommendation is for a Supervision Order, a Supervision Order Plan should be prepared **instead** of a Care Plan , using the Surrey Template ( insert link) .

The Supervision Order Plan should set out clearly in plain language:

* The ongoing risk and needs to be met
* What needs to happen to address those risks and needs
* The intended outcomes and how these will be monitored and measured
* The expectations and responsibilities of both the local authority and the family
* How the plan will be reviewed

5.2 Case Analysis

A written (or, if there is insufficient time, an oral) outline of the case from the perspective of the child's best interests prepared by the children's guardian or Welsh family proceedings officer for the CMH or FCMH (where one is necessary) and IRH or as otherwise directed by the court, incorporating an analysis of the key issues that need to be resolved in the case including:

* A threshold analysis;
* A case management analysis, highlighting any gaps in the evidence and additional assessments / actions required, including an analysis of the timetable for the proceedings, an analysis of the Timetable for the Child and the evidence which any party proposes is necessary to resolve the issues;
* An analysis of parenting capacity to meet the child's needs, including any gaps and whether these gaps can be bridged within the child's timescales;
* A child impact analysis, including:
	+ An assessment of the impact on the child concerned of any harm that he or she suffered or was likely to suffer;
	+ An analysis of the ascertainable wishes and feelings of the child and the impact on the welfare of the child of any application to adjourn a hearing or extend the timetable for the proceedings;
	+ Interim Contact needs of the child.
* A contingent, early permanence analysis (by reference to a welfare and proportionality analysis) including:
	+ An analysis of the proposed placements, whether by family member/family friend; adoption; or other long-term care;
	+ The way in which the long-term plan for the upbringing of the child would meet the current and future needs of the child, (including needs arising out of that impact of any significant harm, or likelihood of it);
	+ Contact framework;
	+ Any additional support that the placement will require from partner agencies.
* Whether and if so what communication it is proposed there should be during the proceedings with the child by the court.

5.3 Parents' Response

A document from either or both of the parents containing:

* In no more than two pages, the parents' response to the Threshold Statement;
* The parents' placement proposals including the identity and whereabouts of all relatives and friends they propose be considered by the court;
* Information which may be relevant to a person's capacity to litigate including information about any referrals to mental health services and adult services.

**6. Flexible Powers of the Court**

Although the Public Law Outline sets out a prescribed set of stages, it also provides for flexibility at any stage of the proceedings. Steps, which the court will ordinarily take at the various stages of the proceedings, may be taken at another stage if the circumstances of the case so merit.

The flexible powers of the court include the ability for the court to cancel or repeat a particular hearing, to give directions without a hearing including setting a date for the Final Hearing (or a period within which the final hearing will take place), or to take oral evidence at the Case Management Hearing, Further Case Management Hearing or Issues Resolution Hearing. Where it is anticipated that oral evidence may be required at the Case Management Hearing ('CMH'), Further Case Management Hearing ('FCMH') or Issues Resolution Hearing ('IRH'), the court must be notified well in advance and directions sought for the conduct of the hearing.

Where a party has requested an urgent hearing:

1. To enable the court to give immediate directions or orders to facilitate any case management issue which is to be considered at the CMH; or
2. To decide whether an ICO is necessary.

The Family Procedure Rules require that parents are given three clear days' notice (excluding the day notice is given to the parents and the day of the hearing) of any application for an ICO. The Court may on application supported by reasons for the urgency be prepared to list the hearing on shorter/abridged notice, although such listings can run the risk of the hearing being ineffective due to insufficient time for the parents to find and instruct solicitors and the Guardian to complete his or her initial investigation. In cases of real urgency legal advice should be sought as to the possibility of applying for an Emergency Protection Order.

The court may list such a hearing at any appropriate time before the CMH and give directions for that hearing. It is anticipated that an urgent preliminary case management hearing will only be necessary to consider issues such as jurisdiction, parentage, party status, capacity to litigate, disclosure and whether there is, or should be, a request to a Central Authority or other competent authority in a foreign state or consular authority in England and Wales in an international case. It is not intended that any urgent hearing will delay the CMH.

It is expected that full case management will take place at the CMH. It follows that the parties must be prepared to deal with all relevant case management issues, as identified in [**Stage 2 – Case Management Hearing**](#stage2). A FCMH should only be directed where necessary and must not be regarded as a routine step in proceedings.

**7. Case Management Hearing**

A great emphasis is placed on the first hearing, Case Management Hearing. It is vital that the first Case Management Hearing is effective in order to meet the 26-week deadline.

The first Case Management Hearing should take place not before Day 12 and not later than Day 18.

It is expected that full case management will take place at the Case Management Hearing. The parties must be prepared to deal with all relevant case management issues, as identified in [**Stage 2 – Case Management Hearing**](#stage2). A Further Case Management Hearing ('FCMH') should only be directed where necessary and must not be regarded as a routine step in proceedings.

**8. The Timetable for the Child and the Timetable for Proceedings**

8.1 The Timetable for the Child

The Timetable for the Child is the timetable set by the court which takes into account dates which are important to the child's welfare and development.

The Timetable for the Proceedings is set having particular regard to the Timetable for the Child, and the Timetable for the Child needs to be reviewed regularly. Where adjustments are made to the Timetable for the Child, the Timetable for the Proceedings will have to be reviewed consistently with the aim of resolving the proceedings within 26 weeks or the period of time specified by the court. If proceedings can be resolved sooner than 26 weeks, then they should be.

Examples of the dates the court will take into account when setting the Timetable for the Child are the dates of:

* Any looked after review;
* Any significant educational steps, including the child taking up a place at a new school and, where applicable, any review of a statement of the child's special educational needs;
* Any health care steps, including assessment by a paediatrician or other specialist;
* Any review of local authority plans for the child, including any plans for permanence through adoption, Special Guardianship or placement with parents or relatives;
* Any change or proposed change of the child's placement, including where there is an application for Special Guardianship Order (see [**Timetabling and timescale for full family and Friends Assessments (Family Justice Council)**](https://www.judiciary.uk/wp-content/uploads/2019/05/timescales-for-full-f-and-f-assessment-1-1.pdf));
* Any significant change in the child's social or family circumstances; or
* Any timetable for the determination of an issue in a case with an international element.

Information about these significant steps in the child's life must be provided in the Application Form and the social work statement, and this information must be updated regularly, taking into account information received from others involved in the child's life such as the parties, members of the child's family, the person who is caring for the child, the children's guardian, the Independent Reviewing Officer, the child's key social worker and any Central Authority or competent authority in a foreign state or a consular authority in England and Wales in a case with an international element.

Where more than one child is the subject of the proceedings, the court should consider and will set a Timetable for the Child for each child. The children may not all have the same timetable, and the court will consider the appropriate progress of the proceedings in relation to each child.

Where there are parallel care proceedings and criminal proceedings against a person connected with the child for a serious offence against the child, linked directions hearings should where practicable take place as the case progresses. The timing of the proceedings in a linked care and criminal case should appear in the Timetable for the Child. The time limit of resolving the proceedings within 26 weeks applies unless a longer timetable has been set by the court in order to resolve the proceedings justly. In these proceedings, early disclosure and listing of hearings is necessary.

See also: [**Protocol and Good Practice Model: Disclosure of Information in Cases of Alleged Child Abuse and Linked Criminal and Care Direction Hearings (October 2013)**](https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/protocol-good-practice-model-2013.pdf).

8.2 The Timetable for the Proceedings

The court will draw up a Timetable for the Proceedings with a view to disposing of the application:

* Without delay; and
* In any event, within 26 weeks beginning with the day on which the application was issued.

The court will have regard to:

* The impact which the timetable or any revised timetable would have on the welfare of the child; and
* The impact which the timetable or any revised timetable would have on the duration and conduct of the proceedings.

The court will use the Timetable for the Child to assess the impact on the welfare of the child, and to draw up and revise the Timetable for the Proceedings.

A standard timetable and process is expected to be followed in respect of the giving of standard directions on issue and allocation and other matters which should be carried out by the court on issue, including setting and giving directions for the Case Management Hearing.

8.3 Extensions to the Timetable for Proceedings

Having regard to the circumstances of the particular case, the court may consider that it is necessary to extend the time by which the proceedings are to be resolved beyond 26 weeks, but may do so only if it considers that the extension is necessary to enable it to resolve the proceedings justly. This may be on application or the court's own initiative. Extensions are not to be granted routinely and require specific justification. When deciding whether to extend the timetable, the court must have regard to the impact of any ensuing timetable revision on the welfare of the child.

Applications for an extension should, wherever possible, only be made so that they are considered at any hearing for which a date has been fixed or for which a date is about to be fixed. Where a date for a hearing has been fixed, a party who wishes to make an application at that hearing but does not have sufficient time to file an application notice should as soon as possible inform the court (if possible in writing) and, if possible, the other parties of the nature of the application and the reason for it. The party should then make the application orally at the hearing.

The reason(s) for extending a case should be recorded in writing in the Case Management Order and orally stated in court, so that all parties are aware of the reasons for delay in the case. The Case Management Order must contain a record of this information, as well as the impact of the court's decision on the welfare of the child.

An initial extension may be granted for up to 8 weeks (or less if directed). A further extension of up to 8 weeks may be agreed by the court. There is no limit on the number of extensions that may be granted. If a further extension is granted, the Case Management Order should:

* State the reason(s) why it is necessary to have a further extension;
* Fix the date of the next effective hearing (which might be a period shorter than a further 8 weeks); and
* Indicate whether it is appropriate for the next application for an extension of the timetable to be considered on paper. Extensions should generally be considered at a hearing – this can be by telephone or by any other method of direct oral communication.

**9. Use of Experts**

Rules and Practice Directions relating to expert evidence were put onto a statutory footing by section 13 of the Children and Families Act 2014:

* The test for permission to put expert evidence before the court is that it should be 'necessary to assist the court to resolve the proceedings justly'. This test also applies to permission to instruct an expert and for a child to be examined or assessed for the purpose of the provision of expert evidence;
* There are specific factors which the court should give particular regard to when reaching a decision whether to give permission relating to expert evidence, including:
	+ Any impact which giving permission would be likely to have on the child(ren);
	+ The impact on the timetable and conduct of the proceedings;
	+ The cost;
	+ What other expert evidence is available (whether obtained before or after the start of the proceedings), and whether evidence could be given by another person, such as a social worker or the Children's Guardian.
* An application for permission to instruct an expert should state the questions which the expert is required to answer and the court will give directions approving the questions that are to be put to the expert.

Decisions about commissioning such evidence should be made early in the proceedings, usually at the Case Management Hearing.

**10. Local Authority Final Evidence and Care Plan(s)**

Unless otherwise directed by the Court, the local authority's final evidence and Care Plan should be filed with the Court by Week 19.

* A Care planning meeting should take place no later than Week 17 to review the completed assessments and agree the local authority's proposed care plan for the child(ren);
* Legal advice should be sought from the local authority solicitor who should be invited to attend the meeting;
* Depending on the options under consideration the views of the Fostering and/or Adoption Service should be sought to inform the discussions;
* The views of the IRO should be obtained;
* The social worker should prepare a final Social work statement using the [Final Statement template.](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) This should refer back to the initial statement and will include only updating information as well as the SW analysis based on any further assessments and its final recommendations to the Court. The statement should include a detailed analysis of the realistic options available to the Court and of the relative merits each option, as well as the support that could be provided in respect of each  in accordance with the guidance given by Court Of Appeal in Re B-S Children [2013] EWCA Civ;
* Where the local authority's care plan is for adoption, the reasons for this should be explored in the statement unless the Court directs that a separate report is filed in support of the Placement Order Application. The statement should also address the Adoption and Children Act 2008 Welfare Checklist. The statement should indicate if an Agency Decision Maker decision that the child should be placed for adoption has been obtained and if not, when a decision is anticipated;
* A separate final Care Plan or Supervision Order Plan should be prepared in respect of each child;
* Both the final social work statement and Care/Supervision Order Plan should be forwarded to the local authority solicitor for review 5 days in advance of the filing date;
* The Care/Supervision Plan should be  agreed and signed  by the Assistant Director.

See: [**Special Guardianship Orders - The Family Justice Council: Guidance on Special Guardianship**](https://www.judiciary.uk/wp-content/uploads/2020/06/PLWG-SGO-Final-Report-1.pdf).

* **The importance of the Pre-proceedings stage** (see: [**Section 2, Pre-Proceedings**](#preproceedings));
* **The issue of delay** - there are often tensions with the court 26 week timetable when seeking the best outcome for the permanent placement for the child, particularly with regard to potential applicants: for example, where 'a realistic family carer' emerges late in proceedings; where there has been limited or no contact between the applicant and the child and so the quality of this needs to be assessed; possible training needs for the special guardians; assessments of potential special guardians living in another country.
It is expected a full assessment of potential special guardians will usually require a 3-month time scale and that a Special Guardianship Order may not be made for up to 12 months from the initial Application. However, decisions must be made on a case-by-case basis (see also: [**Timetabling and timescale for full family and Friends Assessments (Family Justice Council)**](https://www.judiciary.uk/wp-content/uploads/2019/05/timescales-for-full-f-and-f-assessment-1-1.pdf));
* **Quality of special guardian reports** - all assessments/suitability reports should comply with the schedule set out in regulation 21 of the Special Guardianship Regulations 2005 (as amended 2016). Where local authorities commission assessments from independent social workers, it is essential that there is clarity about the standard of the assessment commissioned before it is filed;
* **The interim placement of the child** - the identification of family members who, as a result of an initial assessment, are then considered as a prospective Special Guardian will raise a number of issues about the placement of the child in the interim.
These issues will need to be addressed in the interim plan for the child. It must be considered that making an interim placement which does not develop into a long-term placement could have serious implications for the child.
See also: [**Applications for Special Guardianship Orders Procedure**](https://www.proceduresonline.com/surrey/cs/p_app_spec_guard.html).

**11. Good Local Authority Practice During Proceedings**

Throughout the proceedings, the local authority must comply with court directions made regarding the timetabling and conduct of the case and the delivery of additional information and any specialist reports or up-dated assessments relevant to the local authority's case which the court decides are necessary. This additional material should be delivered within the timeframes set by the court. Where compliance becomes problematic the local authority must notify the court without delay and in advance of the deadline and make a formal application for an extension. It is therefore essential that the allocated lawyer is alerted at the earliest opportunity of anticipated delays and provided with the reasons for it and a date by which the assessment/report will be completed.

Both the local authority social worker and the local authority advocate should be in command of the essential evidence and equipped to present this clearly and confidently to the court. The social worker should also be clear on the degree of certainty in the conclusions they have drawn and have to hand the key facts and dates to support their judgements.

Where significant new factors or circumstances bearing on the case emerge late in the proceedings, the local authority (or the children's guardian or parent/ lawyer) will draw these to the court's attention, sharing the information with other parties at the earliest opportunity and seeking to reach a common approach on handling before the next court hearing.

Pending final decisions by the court, children's need for stability and security remains a priority and will be reflected in any interim Care Plans, including plans for contact, which the local authority puts forward to the court. The local authority should ensure appropriate, high quality and stable placements are provided, where necessary, while a child's future is decided.

It is essential that the social worker and the local authority solicitor have regular contact during the course of the proceedings, and that the progress of the case is kept under constant review.

This will include discussion of any disclosure issues, which may need to be the subject of directions by the Court. Any correspondence received by the social worker from solicitors/experts during court proceedings, should be forwarded as soon as possible to the local authority solicitor, together with detailed instructions for the reply.

The social worker must keep the local authority solicitor and children's guardian up to date with any changes in relation to the child during the proceedings, for example, placement, contact, school/education, health. Arrangements **must not** be made for any change to the child's placement without prior consultation with the Children's Guardian.

The Family Court, in the case of [**RE M and N (Children) (Local authority gathering, preserving and disclosing evidence)**](http://www.bailii.org/ew/cases/EWFC/OJ/2018/B74.html) made clear the need for good practice in relation to note-taking and record-keeping, and disclosure of relevant evidence to all parties:

* Social workers/practitioners must make contemporaneous notes which form a coherent, contemporaneous record. The notes should be legible, signed and dated and record persons present during the meeting/conversation in question. The notes should be detailed and accurately attribute descriptions, actions and views etc. Sketches/diagrams may be helpful in establishing the veracity of explanations given, e.g., in relation to how injuries were sustained;
* Formal case-notes based upon these contemporaneous notes must be created as soon as possible in order to reduce the potential for inaccuracy/faulty recall as a result of delay. The original notes should be retained and be available to the court if required. Legal advice should be sought as to the need for disclosure of these notes to other parties in the case. If the notes constitute 'material evidence', then they must be disclosed;
* The local authority must ensure full disclosure of all material evidence to all relevant parties at the earliest opportunity. This includes ensuring that expert witnesses have had sight of one another's evidence – a full picture must be presented to the expert witnesses in the case.

**12. Case Management Checklist and Flowcharts**

12.1 Pre-Proceedings

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| **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;
* Interim 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 & 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.
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12.2 Stage 1 - Issue and Allocation

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| **STAGE 1 ISSUE AND ALLOCATION** |
| **DAY 1 AND DAY 2** |
| 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 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.
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12.3 Stage 2 - Case Management Hearing

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| **STAGE 2 - CASE MANAGEMENT HEARING** |
| **ADVOCATES' MEETING(including any litigants in person)** | **CASE MANAGEMENT HEARING** |
| 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. |
| * 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 the 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 a draft Case Management Order in prescribed form with court by 11a.m. on the business day before the CMH and/or FCMH.
 | 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 the 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 the 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;
* Giving directions for any concurrent or proposed placement order proceedings;
* Ensuring compliance with the court's directions (see: [**Practice Direction 27a - Family Proceedings: Court Bundles (Universal Practice to be applied in the High Court and the Family Court)**](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_27a));
* If a FCMH is necessary, directing an advocates' meeting and Case Analysis if required;
* Directing filing of any 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) as appropriate;
* Giving directions for special measures and/or interpreters and intermediaries;
* Issuing the Case Management Order.
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12.4 Stage 3 - Issues Resolution Hearing

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| **STAGE 3 - ISSUES RESOLUTION HEARING** |
| **ADVOCATES' MEETING(including any litigants in person)** | **ISSUES RESOLUTION HEARING (IRH)** |
| No later than 7 business days before the IRH. | As directed by the court, in accordance with the timetable for the proceedings. |
| * 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 by 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 the discussion at the meeting;
* File a draft Case Management Order with the court by 11a.m. on the business working day before the IRH.
 | * 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 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:
		- 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.
 |

12.5 Public Law Outline 2014 (26 weeks) Flowchart

[**Click here to view the Public Law Outline 2014 (26 weeks) Flowchart**](http://webarchive.nationalarchives.gov.uk/20130128112038/http%3A/www.justice.gov.uk/downloads/protecting-the-vulnerable/care-proceeding-reform/public-law-outline-flowchart.pdf).

**13. Parallel Criminal Investigations**

The [**Protocol and Good Practice Model: Disclosure of Information in Cases of Alleged Child Abuse and Linked Criminal and Care Direction Hearings (October 2013)**](https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/protocol-good-practice-model-2013.pdf) provides guidance and good practice in relation to the disclosure of evidence  between local authorities, the police and the Crown Prosecution Service ('CPS'):

* The local authority should ensure that documents relating to family court proceedings are not included in the files to be examined by the police. Instead, the local authority will provide a list of such documents without describing what they are (e.g. by providing a copy of the redacted court index), in order for the police and/or the CPS to apply to the family court for disclosure;
* The local authority **can** disclose to the police, documents relating to family court proceedings where the police officer to whom disclosure is made is a member of a dedicated child protection unit and/or is exercising powers of police protection under section 46 of the Children Act 1989, and the disclosure is for the purposes of child protection and not for the purposes of the criminal investigation;
* The local authority can disclose to the police, documents which are lodged at court or used in the proceedings which already existed prior to the commencement of the family court proceedings (e.g. pre-existing medical reports);
* The text or summary of a judgment given in the family court proceedings can be included in the files to be examined by the police;
* Where material is disclosed to the police, it cannot be further disclosed to any other parties (e.g. the CPS) for the purposes of the criminal investigation without the express permission of the family court.

**Appendices**

[**Click here**](https://proceduresonline.com/trixcms2/surreycs/doc-library/#collapse1_5) to view the following Appendices (which can be found in the Documents Library):

* Pre-LGM Discussion Agenda and Checklist;
* LGM Booking Form;
* Pre-Proceedings PLO Plan Template;
* Pre-Proceedings PLO Flowchart;
* Pre-Birth Assessment Timeline;
* Letter of Issue;
* Letter Before Proceedings;
* Parents Pack;
* Pre-Proceedings meeting agenda;
* Checklist for Issuing Proceedings 2021;
* Application Form C110a;
* SCS SW evidence Template - Short for urgent applications;
* SCS SW evidence Template - Initial;
* SCS SW evidence template - Final;
* SCS Care Plan Template.
* SCS Supervision Order Plan

**Document last reviewed: January 2024**

**Reviewed by: Jan Freemantle**

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