

## Practice Guidance

### Legal Planning Meetings and Care Proceedings in Southwark

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*This guidance explains the purpose and process to follow when presenting a case to Legal Planning Meeting and provides links to supporting guidance prepared and agreed by the South London Care Proceedings Project for social work in public law care proceedings.*

#### 1. Purpose of Legal Planning Meeting

The purpose of a legal planning meeting (LPM) is for the Local Authority (LA) to seek legal advice about a particular case, make decisions about whether to instigate the Public Law Outline (PLO) legal process and formulate a plan in that context. The LPM will decide whether to issue an application to the Family Court for an order, whether to try and work with the family via an agreement with their solicitor or whether to do something else outside the legal arena.

LPMs are chaired by the Head of Service and should be attended by the Social Worker, Advanced Practitioner and/or Practice Group Lead, and a Senior Lawyer. There may also be in attendance a specialist representative, for example mental health/child protection, youth offending service or troubled families. At the regular LPMs held in Sumner House, a representative from finance is usually in attendance.

#### 2. Arrangements

LPMs are usually held every Tuesday (morning) for cases allocated in Assessment & Intervention (A&I) or Safeguarding & Family Support (S&FS) based in Sumner House. The agenda of cases is prepared by designated PCs in Safeguarding, in consultation with the Heads of Service and sent out by Thursday or Friday on the week before the meeting. LPMs are currently arranged on a single case, ad hoc basis, as required for cases held in Care or Children with Disabilities Team.

#### 3. Written case material to be sent to LPM administrator by Wednesday preceding meeting (for A & I and S&FS cases)

1. Completed legal planning meeting form (if this is a review LPM of a case in pre-proceedings, set out any progress or otherwise in relation to the signed working agreement formulated at the meeting with parents and their legal representative and conclusions of any expert assessments commissioned).
2. Genogram  
<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Quick genograms.docx>
3. Up to date chronology  
<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Chronologies practice guidance final 08 04 15.doc>

4. Most recent core assessment, which should incorporate information from MASH, and include relevant results of CAIT police checks.
5. Most recent (only) report to Child Protection Conference and record, if appropriate (last two years only)
6. Any pre-existing care plan (in last two years) – CIN, CP or CLA if appropriate
7. Any relevant Family Group Conference minutes
8. Any other recent and relevant reports, e.g. school/health/police

If this is a review LPM of a case in pre-proceedings:

9. Pre-proceedings written agreement
10. Assessment reports commissioned in pre-proceedings.

#### **4. Communicating with families when concerns escalate**

Communication with families should have been clear and consistent. Any parents where English is a second language should be provided with translations of written letters and documents and meetings should be conducted with an interpreter. Parents with learning difficulties should have an advocate if possible. A parent who is deaf or hearing impaired and using sign language should have a sign language interpreter. Any potential problems about a parent not having the capacity to instruct a solicitor because of mental ill health or learning difficulties should be flagged up within the assessment and this will be discussed in the LPM to consider in relation to the plan. Families can be signposted to independent advocacy from the Family Rights Group.

Take special care with parents who are minors themselves (Under 18s) and if they are also in care, ensure they are signposted to advocacy via Children's Rights Officer.

See DfE/DoH Good Practice Guidance on Working with Parents with a Learning Disability 2007

[Good practice with parents with a learning disability 2007.pdf](#)

#### **5. Presenting a case at panel**

The social worker will be asked by the Head of Service what brings them to panel and they should set out the facts of the case 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, on the basis of the information provided, whether the threshold for initiating proceedings has been met. It will be important to be clear who has parental responsibility and also to be clear about the identity of father/s of children even if they do not have parental responsibility. Fathers should be part of any assessment and if not, the reasons for this need to be clear and justified. The wishes and feelings of children should also be evidenced within assessments and if not, the reasons why not 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, if possible, also be presented at the LPM.

## 6. The threshold

The ultimate question, which needs to be answered, will be “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:

- (a) the child concerned is suffering significant harm, or is likely to suffer significant harm; and
- (b) the harm or likelihood of harm is attributable to
  - (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him; or
  - (ii) the child is beyond parental control.

Both (a) and (b) have to met.

‘Harm’ concerns ill treatment or the impairment of health or development. Impairment includes suffering as a result of seeing or hearing the ill treatment of another person (domestic abuse). Ill-treatment includes 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. (s.31(9)) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, this will be compared with that which could reasonably be expected of a similar child.

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.

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, the LA will need to consider how this will be improved with an order and why an order is necessary to achieve this.

Discussion of the case will identify any evidence gaps that need to be met with further work.

## 7. Neglect cases

With cases of 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 lates; description of home conditions; observations by yourself and/or others of

child's clothing and presentation. Evidence about the impact on the child or likely impact on the child will be a very important consideration. If the child/children have been subject to a child protection plan it is good practice to have had a Family Group Conference to see if family and friends support can be galvanised to address the neglect and to identify potential alternative living arrangements within the network. Neglect is often about the accumulation of low level concerns and these need to be recorded. The importance of a good chronology will be critical (See link to further guidance in section 3 above.)

### 8. The plan – pre-proceedings or immediate issue?

Following discussion about the concerns and evidence, the Head of Service will seek a legal opinion about whether the threshold is met and ask you for recommendations about the care plan. Social Workers and AP/PGLs will have had discussion about what they have in mind in terms of whether they are recommending that the LA 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 at the Panel.

If the LPM is reviewing a case in pre-proceedings then the recommendation may be to issue, to continue in pre-proceedings or to 'step down' from the PLO and work within a child protection or child in need framework.

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/safeguard the child by working with relevant services to improve their parenting capacity and/or agreeing to a protective placement for the child, with relatives, subject to s. 20 and regulation 24 (assessment and approval of relatives by HOS) , or with approved foster carers under section 20.

Formal pre-proceedings will require a letter before proceedings to be prepared by the social work team setting out the issues to parents in straightforward language and urging them to seek legal advice with a list of local Child Care Panel solicitors with a view to attending a meeting involving their solicitor. Before this meeting, the social work team will need to prepare a draft written agreement which will form the basis of discussion at the meeting between the social work team and lawyer and the parent/s and their lawyer.

In recommending that the LA issues care proceedings immediately, case law makes it clear that the court expects a care plan which is sufficiently firm and particularised for all concerned to have a reasonably clear picture of the likely way ahead for the foreseeable future. The court will want to be satisfied that the LA has tried to help parents address problems in a timely way and that family and friends have been considered as placements before removing a child to stranger foster care, if at all possible. A Family Group Conference held before issuing proceedings is good/standard practice because this can inform the legal care plan 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 to this effect will need to be prepared and sent to parents.

Consult the allocated lawyer before sending letters to parents which advises them to seek legal advice so that the parents solicitor makes contact with Southwark's legal team and not directly with the social work team.

## 9. Pre-birth cases

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 placement for assessment prior to birth.

## 10. Components of the care plan

It's important that this is agreed by the Legal Planning Meeting because the Head of Service will be agreeing not just the components of the plan but also the funding. This does not mean you cannot approach the Head of Service for different funding if things change but obviously work is reduced if it is all sorted in the first place.

### a) PLACEMENT

*Are you seeking removal?*

If issuing care proceedings, you need to be clear whether you are applying for a Care Order or a Supervision Order, the important difference being does the child's welfare need the LA to share parental responsibility in order to remove the child from their parents? Seeking removal of a child from their parent/s means the evidence must be compelling and in the case of newborn babies, this is particularly emotive. One of the most significant factors will be if the mother has lost previous children through care proceedings, especially if within the last 2 years. Also if a suitable placement has been identified and assessed under reg 24 within the child/baby's extended family, which can facilitate good and frequent contact, this is more likely to be successful.

*How will risks be managed if the child/ren remain at home?*

If you are not seeking removal, then the risks identified in evidence will need to be managed at home and this will have to be spelt out and may beg the question of whether this would mean pre-proceedings is more appropriate.

*Placements: Residential or mother/parent & baby foster care?*

A residential placement has some advantages –

- time limited – 6 weeks preferable and usual max of 12 weeks
- professional staff to supervise & manage risk incl. contact/fathers where there is DV can potentially be assessed on a day attendance basis while mother a child resident

- parenting assessment completed by placement staff who are used to providing written reports for court
- no expectation of social work support to placement staff
- good at swiftly identifying parents who definitely cannot provide good enough parenting
- specialized placements for parents with particular needs e.g. learning difficulties, mental health problems, personality disorder, teenage mothers

The major disadvantages of a residential placement –

- it can only assess quality of parenting in the context of residential provision so that all residentials require a period of further assessment in the community which is more realistic context
- its not the best setting for young infants and often disruptive to the education of older children
- there must be an exit plan and sometimes residentials disrupt at the point of negative conclusion forcing emergency action which is then problematic
- other families with other problems are also in residence which can lead to more problems

Its important the right unit is used for the particular needs of the case and that placement end dates are timed around court hearings with appropriate exit plans negotiated.

Mother/parent & baby foster care has some advantages-

- likely to have a longer duration than a residential
- a family setting is better for babies where the foster carer can take over if necessary
- a young or vulnerable parent can receive more personal support without distraction of other families
- can provide a stable base of good enough care whilst other assessments are conducted

Main disadvantages of mother/parent baby foster care –

- this is a placement but it is not an assessment because a foster carer cannot be expected to assess although they may contribute observations and information to an assessment via written daily logs
- risks need to be manageable within a family setting. It would be unreasonable to expect a foster carer to manage the risks associated with on-going substance misuse, mental ill health or domestic violence
- foster carers are not likely to be in-house (approved by Southwark Fostering Panel with LBS supervising social workers) and therefore placements will require regular liaison and support with the P & V agency supervising social worker which inevitably means more social work time/collaboration
- may mask deficits of parenting capacity
- there may be other/competing children or young people in the placement

It is very important that there is a clear written agreement about expectations and appropriate recording of daily logs (see exemplars on shared drive under in folder named “Care Proceedings Project”) or click on links below:

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Mother & baby foster placement agreement.doc>

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Mother & baby daily log.doc>

#### *Foster placements for children*

If you are seeking removal and you do not have a kinship option under reg 24, you will need to identify a foster placement first by referral to Southwark in-house fostering duty. Consider the need for continuity of nursery or education and the contact, which the foster carer will need to support. You will need to provide some details for the initial care plan. For guidance on legal plans see shared drive or link below:

[W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Legal Care Plan Guidance Mar 2014 \(initial and adoption final\).doc](W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Legal Care Plan Guidance Mar 2014 (initial and adoption final).doc)

#### *Reg 24 emergency placements with family and friends (s.20 or ICO)*

Where someone has been identified and assessed within the family network, the HOS approves this following completion and this triggers funding and this does not have to be within LPM process. See shared drive or link below:

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Connected persons assessment criteria.docx>

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Regulation 24 Assessment Template 2013.doc>

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Regulation 24 Assessment - guidance notes.doc>

### **b) ASSESSMENT PLANS UNDER THE PUBLIC LAW OUTLINE**

See the guidance below and remember the court will only agree these if necessary. The court is likely to consider that the allocated social worker should be able to undertake parenting assessments, risk assessments and assessments of family and friends for potential SGO.

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Assessment guidance - July 2013 SLCPD.docx>

[W:\Programmes and Projects\Social Work Matters\Principal Social Worker\SLCPD - Questions for Letters of Instruction - final from Ops Group \(2\).docx](W:\Programmes and Projects\Social Work Matters\Principal Social Worker\SLCPD - Questions for Letters of Instruction - final from Ops Group (2).docx)



You may wish to consider the following:

- cognitive and emotional functioning of mother and/or father
- psychiatric assessment of mother and/or father (you may want a psychiatrist who specialises in personality disorder or forensics or substance misuse)
- specialist parenting assessment where one or both parents have a learning disability
- child & adolescent psychiatrist
- multi-disciplinary assessment

In addition, you may wish to recommend:

- DNA testing for paternity
- Hair strand testing for particular drugs and/or alcohol misuse

#### *Family Drug & Alcohol Court (FDAC)*

Where parenting is affected by drug & alcohol misuse, with approval of LPM, and with parents' agreement at a meeting with solicitors, they can be approved for referral to FDAC who will take on both the assessment and intervention required. FDAC do not provide placements although they will make a recommendation about separation as part of their initial assessment. They can work pre-birth and recommend separation or not at birth.

### **c) PARALLEL PLANNING**

#### *Assessing family & friends*

Unless there is a clear-cut contender for SGO assessment at the LPM, and even if there is, it is likely that one or more contenders will emerge for assessment as the seriousness of the situation hits home with any meeting involving lawyers and/or going to court. Potentially the allocated social worker can undertake regulation 24 assessments to serve the purpose of viabilities but if there are workload issues or the allocated worker is focussing on the delivery of a parenting assessment – mother, father, individually and together, then you may need to consider seeking agreement for an Independent Social Worker (ISW) to undertake assessment/s of family and friends. It can be helpful if one ISW does all the contenders as they will have read the material and can give a good overview of the entire network. ISW involvement is most likely if the social work capacity in the team is limited or there is a need for specialist knowledge/skills (“PAMS” for parents with learning difficulties or the need for work to be done in another language).

#### *Early permanence/adoption*

Under the Children & Families Act 2014, local authorities should now consider whether “fostering for adoption” is a suitable option for children coming into care. In the past this has been known as concurrent planning for permanence. It has been very rare because in the past it has involved people who wish to adopt, becoming foster carers and taking foster placements whereby if the child could not return home or go to family members they would then go on to



adopt. Fostering for adoption meets people who are approved as adopters who wish to adopt further children could be considered as foster carers are take on children who they go on to adopt if not returned to birth family.

These situations are likely to be rare however, in view of the amount of pre-birth work undertaken in Southwark and the number of birth mothers would have lost children to adoption through previous proceedings, there is the prospect of new-born infants being placed with older adopted siblings in the event of an ICO, particularly when no further assessments are envisaged. **Any prospect of fostering for adoption should be considered at the very earliest opportunity and referred to Permanence for consideration.**

Representatives from Permanence service are always available for consultation about parallel planning.

#### **11. Template for initial statement and tips for writing your evidence:**

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\2014 May - SL CPP - First statement template.doc>

Follow the guidance in the template. Make sure you do a spell/grammar check. Never repeat information. Be succinct and refer to other documents as appropriate but do not cut and paste from them. Use analysis and do not repeat chronological narrative. Get it proof read by your AP and/or PGL if appropriate before emailing it to the allocated lawyer for legal overview. For the care plan see guidance within template below and adjust as appropriate for your care plan. The guidance notes in this one is for a care plan to separate a new born baby and place in foster care.

[W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Legal Care Plan Guidance Mar 2014 \(initial and adoption final\).doc](W:\Programmes and Projects\Social Work Matters\Principal Social Worker\Legal Care Plan Guidance Mar 2014 (initial and adoption final).doc)

#### **11. Template for final evidence:**

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\MAY 2014 Final Statement template.doc>

Your final statement will need to include an analysis of the advantages and disadvantage of all realistic care plan options including those you are not recommending. This will come in the welfare checklist section. This link will provide guidance to support your thinking on this:

<W:\Programmes and Projects\Social Work Matters\Principal Social Worker\THE WELFARE CHECKLIST post BS.doc>

### **13. Helping children understand care proceedings**

Social workers will need to help children as well as parents and carers understand what is going on at court. You will find helpful material on the RIP website under care proceedings, CAFCASS and also the Family Justice Board and Ministry of Justice. This link might help you identify some of the things which will need to be explained:

[Helping children understand care proceedings.pdf](#)

Prepared and updated by Celia Parker, Principal Social Worker  
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