



**EXETER AND PLYMOUTH CARE CENTRES
INCORPORATING
ALL FAMILY HEARING CENTRES IN DEVON**

Pre- Proceedings Protocol for Devon

1. **Introduction** - This protocol relates to the County of Devon. That is, the area covered by the Designated Family Judges for Exeter and Barnstaple (His Honour Judge Tyzack QC) and for Plymouth, Torbay and West Devon (Her Honour Judge Robertshaw); Devon is referred to in this protocol as ‘the region’
2. **Purpose** - It is a protocol for social workers and their supervisors in the region. It also reflects mutual expectations of the court with the intention of avoiding any unnecessary duplication of pre-proceedings work following the issue of any proceedings. It outlines the work that must be completed prior to the initiation of court proceedings in chronic / multi issue cases. Examples of such cases will be those involving alcohol/substance misuse, neglect, emotional abuse, parental learning disabilities.
3. This protocol does not relate to cases which require urgent court intervention (e.g. where the issue of proceedings cannot await the completion of assessments due to particular needs of the child or the risk of harm that arises).
4. In deciding whether proceedings should be issued, family Meetings / Family Group Conferences must be considered as a means of identifying any available potential carers amongst the friends and family of the children and of their existing carers.

5. **Key Principles** - The protocol is founded on the following key principles relating to cases where immediate intervention by court order is not necessary: -

- All identified assessments are to be completed in advance of the commencement of the court proceedings.
- Where proper assessments are conducted before the issue of proceedings, the Local Authority will not be required to *duplicate* that work during the proceedings (this does not affect the court's power to order any necessary *additional* assessments).
- Parents must be clear about what is expected of them to improve their parenting and clear about the consequence and timescales in which to improve.
- Family members will have been identified and alternative family carers are ruled in / out (through viability assessments).
- Cafcass will be notified as soon as a decision is made by the Local Authority to issue proceedings.

6. **The social work practice by which cases comes before the court** - There are the following main stages that lead to the issue of proceedings:

- i) The Local Authority becomes involved with a family and provides services;
- ii) The social worker or other professional seeks legal advice at a 'legal planning meeting' because proceedings under Parts IV or V of The Children Act 1989 (e.g. care, supervision or emergency protection orders) are contemplated;
- iii) A decision is made to do one of three things:
 - a) Issue proceedings;

- b) Provide the family or carers with a written explanation of the Local Authority's concerns, with a 'pre proceedings meeting' with the family and carers thereafter.
 - c) Not issue proceedings.
 - iv) Proceedings are issued.
7. **Assessments and social work draft statement** – Where, at a legal planning meeting, the decision is made to issue proceedings (and subject to any need for urgent court intervention) or to arrange a pre-proceedings meeting, the social worker will prepare a draft statement. That statement should be drafted prior to issue of the proceedings and prior to any pre proceedings meeting. That draft statement will be based on the template annexed to this protocol.
8. Further, and again subject to any need for urgent court intervention, the Local Authority will complete all necessary assessments prior to the issue of proceedings. In relation to such assessments particular attention will be given to:
- i) The protection of the children concerned during the period of assessment;
 - ii) The services that may need to be provided to the family during that period;
 - iii) The duration of the assessment;
 - iv) The purposes of the assessment
 - v) The timescale for the children concerned
9. **Pre-Proceedings Meetings and Letter** - Pre-proceedings letters should be considered in all cases. It may be appropriate to send the same together with the plan to address issues to parents at the earliest opportunity with a time limited agreement so that for the parents there is availability of legal advice and, if necessary, consent can be obtained (where appropriate) to a specialist assessment. The draft statement must accompany that letter where possible.
10. **The pre proceedings meeting** will involve the parents, carers, social workers and legal representatives. It will be chaired by a member of the Local Authority. It provides face to

face opportunity to set out very clear expectations of the parents in respect of improvements required in the parenting of their child(ren).

11. The resultant minutes must provide an open and transparent record of the meeting and a clear plan of measures required to improve the children's circumstances. The minutes and plan must be provided to the parents and their legal representatives. If, following that meeting a decision is made to issue proceedings, that decision should be recorded in the minutes.
12. **Proceedings** - If proceedings are to be issued, Children's Social Work must issue proceedings with an identified objective, see Practice Direction 12 (A), and must outline what are the issues in the case together with the realistic options for the child. The pre-proceedings documentation (including the draft statement, which will then become the social worker's first statement in the proceedings) must be filed at the time of the application. A short further social worker statement may be filed (if necessary) to include why, following the matters raised in the pre-proceedings statement, it was necessary to issue proceedings and also additional matters that have arisen since the drafting of the first statement.
13. Save where urgency does not permit, all evidence upon which Children's Social Work relies must be prepared in advance (including alcohol and drug testing, parenting assessments focussed on the issues, and relevant disclosure from all third party agencies). Expert assessments must have been commissioned prior to proceedings having regard to the issues and having regard to any consent by the carers. If expert evidence is to be sought after the issue of the proceedings, the identity of the expert must be established and communicated to the other parties in advance of the first court appointment. Any application for expert involvement must comply with Part 25 of The Family Procedure Rules 2010. If medical records are required they must be requested before the first court appointment and, if necessary, an order sought then for their disclosure.
14. Children's Social Work must have identified any learning disabilities and/or any other specialist assessments prior to the commencement of proceedings. A parenting assessment must take such disability into account. It will be very rare to commission specialist assessments where there are issues of consent in the context of

capacity/psychiatric issues. The need for proceedings must be considered immediately in such cases.

15. Children's Social Work must have identified and completed all relevant and full assessments in relation to extended family members and friends prior to the commencement of care proceedings. The social worker's first / draft statement must record the outcome of such assessments.
16. A detailed chronology and family tree must be completed from the outset. The chronology must provide an historical context of significant events i.e. previous child protection plans of child/siblings, number of agency referrals and nature of current concerns. This detailed chronology must identify for how long a child/children have been the subject of Children's Social Work involvement (such being a useful tool to analyse what significant harm, if any, the child has been exposed to or suffered thereby dictating the timetable and needs of the child).
17. The wishes and feelings of children and young people must be clearly evidenced in all assessments and plans. In all cases Children's Social Work must identify the needs of each child in terms of realistic options and in terms of the timetable for each child in the context of the significant harm to which the child has already been exposed or is likely to be exposed.
18. When the Local Authority legal department receives instructions to issue proceedings it must immediately notify Cafcass of that intended issue. On receipt of such notice, Cafcass must initiate the procedure for the allocation of the case to an identified guardian.

Her Honour Judge Miranda Robertshaw
Designated Family Judge for Plymouth, Torbay and West Devon

His Honour Judge David Tyzack QC
Designated Family Judge for Exeter, Barnstaple and East Devon

May 2013