**Pre-court Proceedings Protocol**

1. **Introduction -** This protocol relates to the area of Bristol, North Somerset, Bath and North East Somerset, South Gloucestershire and Gloucestershire. That is, the area covered by the Designated Family Judge for Bristol and referred to in this protocol as ‘the region’
2. **Purpose -** It is a protocol for social workers and their supervisors in the region. However, it also places mutual expectations on 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 and issues relating to the mental health of children.
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. This protocol is based on consensus, effective discussion and mutuality between the court and the Local Authorities. In the event that it needs to be refined, such refinement will take place following discussions between the court and the Local Authorities.
5. 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. It is essential that there is early identification of other family members and adults who need to be assessed as potential carers of the children in the event that the parents or current carers cannot continue to care for them.
6. It is recognised by the courts and by the Local Authorities that the delay that previously occurred within the court process must not now be transferred to the period outside proceedings. To that end the effect of this protocol on the timeous resolution of issues relating to children (and the question of whether there should be an agreed protocol relating to the duration of accommodation under section 20 of The Children Act 1989) will be kept under review and will be considered by December 2013.
7. **Key Principles -** The protocol is founded on the following key principles relating to cases where immediate intervention by court order is not necessary: -

* It is crucial that the more expeditious court procedure that is now in place should not lead to delay within pre proceedings work. Where a Local Authority does intervene within a family:

1. the potential need for proceedings to be issued will always be kept under review by the Local Authority particularly in cases where children are accommodated pre-proceedings under s20 CA 1989;
2. there will be a clear and analytical approach to the issues that bring about that intervention;
3. the need to avoid delay in resolving issues relating to children will be taken as a principle of significant importance;
4. the holding of any necessary legal planning meetings will not be delayed.

* As a maximum the timescale for the pre proceedings process should not exceed a period of six months from the time of the legal planning meeting at which the decision is made to enter the pre-proceedings process (that process being explained at paragraph 7(iii) b below), unless:
  1. there are clear and substantial reasons why the continuation of that out of court intervention is in the interests of the child[ren] concerned;
  2. those reasons are agreed in writing with senior management within the Local Authority;
  3. a clear and analytical plan is identified for that further intervention.
* All identified assessments (including expert assessments) are to be completed in advance of the commencement of the court proceedings.
* Where 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).
* The Local Authority must ensure that parents are clear about what changes are expected of them to improve their parenting,the timescales in which to make those changes and clear about the consequences of not making such improvements .
* Family members will have been identified by reference to the family tree/genogram and alternative family / other adult carers will have been assessed (through viability assessments) and a Family Group Conference or family meeting considered/convened if appropriate before the issue of any proceedings;
* Where placement outside of the family is a risk, those risks must be clearly identified together with the type of support which the Local Authority could provide to avoid that will be identified and the appropriateness/effectiveness of that support analysed
* Cafcass will be notified as soon as a decision is made by the Local Authority to issue proceedings.

1. **The social work practice by which cases come before the court -** There are the following main stages that lead to the issue of proceedings:
2. The Local Authority becomes involved with a family and provides services;
3. 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;
4. A decision is made to do one of three things:
5. Issue care proceedings immediately;
6. Enter into the pre proceedings process by providing the family or carers with a written explanation by letter of the Local Authority’s concerns, with a ‘pre proceedings meeting’ with the family and carers thereafter.
7. Not issue proceedings.
8. Proceedings are issued.
9. **Pre proceedings assessments –** 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.
10. Children’s Social Work must:
11. Have identified any learning disabilities and/or any other specialist assessments affecting the parents and/or children (including referral to adult services) prior to proceedings and where appropriate commissioned the same. A parenting assessment must take such disability into account and if The Local Authority is unable to allocate resources to undertake such an assessment it must consider resourcing such from outside the authority.
12. Have identified and completed all relevant and full assessments in relation to extended family members identified by the preparation of the family tree/genogram and friends prior to the commencement of care proceedings. The social worker’s first / draft statement must record the outcome of such assessments.
13. Prepare from the outset of its involvement a detailed chronology and family tree/genogram. 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 each child has been the subject of Children’s Social Work involvement (this being a useful tool to analyse any significant harm to which the child has been exposed or has suffered, thereby dictating the timetable and needs of the child).
14. Evidence the wishes and feelings of the children and young people concerned. 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.
15. Pay particular attention to:
    * 1. The protection of the children concerned during the period of assessment;
      2. The services that may need to be provided to the family during that period;
      3. The duration of the assessment;
      4. The purposes of the assessment and a clear and succinct analysis of the issues that have brought about Local Authority intervention;
      5. The timescale for the children concerned.
16. **Legal planning meeting -** Prior to the legal planning meeting the Local Authority social worker team must complete a legal planning meeting request form. All Local Authorities that are party to this protocol have agreed the terms of the legal planning meeting request form and this form is now used by the Authorities within this area. Thereafter that form will be used and its terms will be put into effect; in particular, the documents required by it will be provided.
17. **Letter before pre proceedings meeting–** Where, at a legal planning meeting, the decision is made to arrange a pre proceedings meeting the Local Authority will prepare a letter before proceedings with particular attention to:
18. an analytical approach to the issues that arise;
19. the matters that are identified in the annexed draft statement.
20. Pre-proceedings letters must be sent in all cases where a pre proceedings meeting is to take place.
21. **The pre proceedings meeting** will involve the parents, those with parental responsibility, social workers and legal representatives. It will be chaired by a member of the Local Authority. It will serve as a 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) and the timescales within which those improvements must be made. At the conclusion of the meeting some Local Authorities will produce minutes of the meeting but all Local Authorities will produce a written plan of action within a week of the meeting.
22. Any resultant minutes must provide an open and transparent record of the meeting. The plan of action will set out in clear terms the steps that are required to improve the children’s circumstances and the timescales for such improvement. The plan and any minutes 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 writing.
23. **Proceedings -** If proceedings are to be issued, the annexed template will be used for the social worker’s first statement. It is based on the need for a succinct and analytical account of the reasons for the Local Authority’s intervention. Any proceedings must be issued with an identified objective and must outline the realistic options for the child. The documentation required by the Public Law Outline (as revised) will be filed with the court as provided in that Outline.
24. 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 hearing. Any application within proceedings for expert involvement must comply with Part 25 of The Family Procedure Rules 2010. If medical, police or other third party records are required they must be requested before the first court hearing and, if necessary, an order sought then for their disclosure.
25. 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.