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## **Leicestershire Procedure for - Pre-proceedings Guidance**

### **Applies to- All Children**

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## 1. What is Pre - Proceedings?

*The Public Law Outline: Guide to Case Management in Public Law Proceedings* came into force with effect from 6th April 2010. This followed on from previous statutory guidance for local authorities effective from 2008, which resulted from the Review of the Child Care Proceedings System in England and Wales. A Pilot Scheme of a revised Public Law Outline (PLO) was phased-in between 1st July 2013 and 7th October 2013 and ran until 21st April 2014. A revised Public Law Outline was then introduced on 22 April 2014.

The Public Law Outline sets out streamlined case management procedures for dealing with public law children's cases. The aim is to avoid care proceedings if possible and for those cases where proceedings are necessary, identify and focus on the key issues for the child, with the aim of making the best decisions for the child within the timetable set by the Court, and avoiding the need for unnecessary evidence or hearings.

As well as the Court-set timetable, the case management tools also involve the case management documentation to be filed by the local authority and other parties, (including case summaries and a schedule of proposed findings), advocates' discussions/meetings, a Case Management Hearing and an issues resolution hearing before the final hearing.

Under the revised section 32(1)(a) of the Children Act 1989 (introduced by section 14 of the Children and Families Act 2014), care and supervision proceedings must be completed 'without delay, and, in any event, within twenty-six weeks beginning with the day on which the application was issued' unless the case is exceptional.

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

Vital to the Public Law Outline is the use of pre-proceedings and work completed prior to proceedings. This is 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.

Usually, when PLO is initiated, the child has been subject to a Child Protection Plan but insufficient progress has been made. Where the social worker feels that the risk of harm to a child is so great, or the case is so urgent, a decision may be made that the case should go straight to court and the pre-proceedings work does not take place. This guide, however, will focus on this extremely important pre-proceedings work.

#### What should pre-proceedings work include?

When it is decided that pre-proceedings work with the family will take place, there are specific things that need to happen from the date of the decision. These are:

- Letter Before Proceedings
- Pre-Proceedings Meeting
- Period of change— this is the time for the parents to make the necessary agreed changes to reduce the concerns. Support is provided by the local authority and progress is monitored by them through for example child protection core group meetings and conferences and is set out in the trajectory.
- Pre-Proceedings Review

The key activities in pre-proceedings work are:

- To fully explore voluntary arrangements before an application to the Court is made

- To look within the child's extended family network – using the Family Network Meetings– to determine whether the child can remain within their family, and whether this could prevent the child being looked after
- To complete assess parents' capacity to meet their child's needs
- Complete any assessments as deemed necessary by all parties – within planned timescales
- To provide advice and support
- All work will be set with clearly defined expectations of all

## 2. The Process of Pre-proceedings

A decision to commence pre-proceedings can be made at the Child's Decision-Making Panel (CDM) (see associated guidance). Prior to a case being presented at CDM, it is expected that there is a discussion about the case held between the social worker, team manager and service manager. This can be in the form of a case discussion, discussion in supervision, or could be via holding a Key Decision Discussion.

The Public Law Outline states that the local authority should hold a legal planning meeting to obtain legal advice about a case when they remain concerned about whether a child is at risk of significant harm and improvements and changes are not being made via the current intervention. Guidance states that this should be attended by the child's social worker, relevant social work managers, and the local authority lawyer. At the meeting, a decision should be made in principle about whether the threshold criteria have been met. The local authority should then decide, based on a robust analysis of the level of assessed risk, 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 whether proceedings should be initiated immediately. The meeting should also identify any evidence gaps, clarify whether additional assessments will be required, and consider what would be a suitable draft care plan for the child. Within Leicestershire County Council, the functions of a legal planning meeting, set out above, take place at the *Child Decision Making Panel* as a formal meeting and decision-making forum.

If the decision is taken at the Child Decision Making Panel to undertake a formal pre-proceedings process, then this process will be commenced. Legal advice will be given regarding Threshold (ie, for pre-proceedings or issuing care proceedings). Cases that entre pre-proceedings are cases where the concerns are so serious that if parents do not engage with the pre-proceedings process, then an application will be made to the court.

When the decision is made to entre pre-proceedings at Child Decision Making Panel, discussions are held regarding the actions needed and length of review.

See flowchart which explains the process of decision making around pre-proceedings and proceedings (appendix 4).

### 3. Letter before Proceedings

To commence pre-proceedings, the Local Authority must write a formal letter to notify parents. This is the Letter Before Proceedings. This letter is to be written by the locality team, either by the team manager or the social worker and be approved by both. The letter is then to be sent to legal services to approve prior to this being shared with parents. This letter should be sent within **5 working days** of the decision being made to commence pre-proceedings. A letter should be written for all parents, and all persons with parental responsibility.

Parents need to receive this letter allowing a **minimum of 5 working days**, between receiving the letter and the date of the pre-proceedings meeting.

This letter should be shared and discussed with parents and importance of seeking legal support made clear. It should include a list of solicitors for parents. Parents will need to be told that they do not have to pay for a solicitor and this will be free (if they hold Parental Responsibility).

This letter should be clearly written, jargon-free, and provide details of the concerns in a succinct way.

This letter will invite them to a Pre-Proceedings Meeting. This meeting should take place **within 3 weeks** of the decision to commence pre-proceedings.

This letter should follow the agreed format – please see appendix 1.

If the decision has been made to issue care proceedings directly, and not have a period of pre-proceedings, then a Letter of Intent to Issue should be written and sent. Please see appendix 2.

#### 4. Trajectory plan

A trajectory plan needs to be developed to make clear the work and actions needed as part of pre-proceedings. This is to ensure that progress remains on track and that any drift can be noted and addressed.

This trajectory must be prepared and ready before the pre-proceedings meeting and shared with the parents at this meeting. Within the meeting, parents need to be given opportunity to suggest changes/additions to this trajectory.

This trajectory should be able to take many of the actions from the child protection plan, however, making them specific and time-limited for the period of pre-proceedings.

This trajectory needs to include expectations of parents, social worker and children's services staff, and other professionals. This trajectory will outline all actions, assessments, services and support that will be included in the pre-proceedings period. This trajectory should be signed by parents, the social worker, and team manager as a form of written agreement.

The trajectory should use the template as a basis – please see appendix 3.

This trajectory includes a signature page for parents, the social worker and team manager, and thereby functions as a written agreement.

This trajectory should set out the work needed from the first meeting to the review meeting. If progress is not being made and trajectory is not where it should be between **week 6 – 8**, there should be a discussion between the social worker and team manager as how to proceed.

An amended trajectory may be needed after the first pre-proceedings review meeting, if pre-proceedings are extended.

## 5. Pre-proceedings Meeting

The purpose of the meeting is to identify whether it is possible to reach agreement about what needs to happen to protect the child from harm, so that court proceedings can be avoided and therefore, what is being proposed as part of this pre-proceedings process.

The meeting should be chaired by the Team Manager or Senior Practitioner and attended by the child's social worker and a legal representative for children's services.

This meeting is also attended by parents and their legal representative.

A decision will need to be made as to whether the meeting is held jointly for parents, or separately. This will depend on the case itself and whether parents are separated or presenting as a couple. Each parent should have their own solicitor.

If parents attend the meeting without a solicitor, they should be advised of how important this meeting is and that a solicitor is essential to give them independent advice. Options are then to re-arrange the meeting for another date, giving the parent time to seek a solicitor, or continuing with the meeting but without any legal representative's present (ie, children's services legal representative would not attend the meeting either). This decision will depend on the case itself.

Formal minutes should be produced of the meeting. At present, it is proposed that these should be taken by the team's social work co-ordinator. This is currently under review but is agreed in principle. If they are not available, a request should be made

to business services staff and if they are not able to assist, then request should be made to legal services. Minutes should follow the template (appendix 6). Minutes should be circulated **within 7 working** days of the meeting. Once written, the minutes should be sent to the Team Manager and Social Worker to check and confirm that they are an accurate representation of the meeting. The social worker or team manager is to then forward the minutes to the legal representative to circulate. Business support staff should upload the document onto the child's Mosaic file.

This meeting should follow the set agenda (appendix 5). The meeting is to make clear the safeguarding concerns regarding this child, what support is being offered and what the parent needs to do to reduce the concerns in the form of the trajectory plan. All actions needed should be discussed in this meeting, including any expert assessments or reports – such as DNA testing, cognitive assessment, medical disclosure, or other reports.

At the end of the meeting, a review pre-proceedings meeting must be booked. *This should take place within no more than 12 weeks*, however, the timeframe should be specific to the case, so therefore a review could be booked for 6 weeks or 8 weeks or 12 weeks depending on the case.

## 6. Best practice within pre-proceedings

### Involvement of Family and Friends

It is incredibly important that information about family members and friends is sought within pre-proceedings. This is so that viability assessments can be completed of alternative carers for the children, in case care proceedings are issued or accommodation is needed. This is also so that we can ensure that there is a family network and safety network around the child and family.

Parents should be asked to provide information at the pre-proceedings meeting of family members and friends (if this information is not already known).

Arrangements must be made for a family network meeting to bring the family support together to create a safety network during pre-proceedings. This should

take place **within 4 weeks** and be included in the trajectory plan. Decisions also need to be made regarding which family members viability assessments should be completed of.

Viability assessments need to be completed within the pre-proceedings period. If positive, assessments need to progress to a full kinship assessment via the kinship team (see associated guidance for kinship assessments).

It is appreciated that it is sometimes difficult to gain this information from families; however, it is vital that we continue to try to do this. Tools such as genogram's or other associated family finding tools can help (see tools and information on the learning hub about finding family networks).

See appendix 7 for an example of a letter that could be given to family members.

### Assessment of Parents

During this time, we should be assessing parents' ability to safely meet the needs of their children against what the worries are. Consideration needs to be given as to what form of assessment is needed – ie, is this by a social worker or support and assessment worker, is this a full parenting assessment or a specific targeted parenting assessment (please see the East Midlands Parenting Assessment Framework Guidance).

It should be considered if additional information is needed from other professionals such as mental health professionals or GP. If so, consent should be sought from parents during the pre-proceedings meeting and signed paper consent given.

It should be considered if additional assessments are needed of parents – this could include expert assessments such as psychiatric or psychological assessments, DNA testing or drug testing. If these expert assessments are required, they need to be agreed and approved at Child Decision Making Panel or by the relevant Service Manager. They should then be proposed to parents during the pre-proceedings meeting and their consent sought. If consented to,

legal services will approach experts and write the letter of instruction and arrange this through parents' solicitor.

It is important to consider if the parent has any learning needs or needs in relation to their understanding of the concerns or Children's Services involvement. If there are concerns regarding this, consideration needs to be given to a cognitive assessment. When thinking about parents' understanding needs you could ask questions such as: do you have a diagnosis of learning disability or difficulty, did you have additional help or support in school, are you able to read and/or write, do you have difficulty remembering information. As a worker, you also need to consider your interactions with the parent and their past presentation. This cognitive assessment can be completed if you think a parent lacks capacity, and/or if you are questioning their level of understanding. Again this needs to be discussed at the pre-proceedings meeting and parents' consent sought.

#### Information From Professionals

It is important during pre-proceedings to regularly contact other professionals for their views and information that they can share. For some cases, legal services may give advice that it would be beneficial to have a statement from some involved professionals, such as a health visitor, setting out their concerns. If so, legal services can assist in taking this statement if information of the professional is provided to them.

#### Involvement of Both Parents

All parents with parental responsibility must be included in pre-proceedings and must be invited to a pre-proceedings meeting, even if they do not currently have care of the children.

If a parent, such as a father does not have parental responsibility, however, the parents are clear that person is the child's father, then they also must be included and invited to a pre-proceedings meeting. If the father does not have parental

responsibility, consideration will need to be given as to how much information can be shared with this father. Advice should be sought from legal services.

If the mother refuses for the father to be contacted (yet CFS know his contact details), advice should be sought from legal services.

If the mother refuses to provide information for the father so it is not possible to contact him, continued conversations will need to be held during pre-proceedings to emphasise the importance of involvement of the father in the hopes that the mother may then change her mind.

Steps must be taken by Children's Services to try and find information about parents if they are not known.

Any person with parental responsibility must be included and invited to a pre-proceedings meeting, this may include a family carer who has parental responsibility via an order such as a Child Arrangements Order or Special Guardianship Order.

#### Section 20 accommodation

For some cases, pre-proceedings may include Section 20 accommodation for a child. Please see associated guidance on Section 20 accommodation for further information. Section 20 accommodation should be agreed at Child Decision Making Panel as part of the pre-proceedings plan, or by the relevant Service Manager.

If this is for a foster care placement then a Decision to Seek Accommodation step must be completed on Mosaic.

If this is for a family placement, a viability assessment must be completed and approved by the relevant locality service manager, kinship team manager, and then Regulation 24 approval given by Head of Service. A Decision to Seek Accommodation step must also be completed on Mosaic.

Parental consent is needed for Section 20 accommodation and therefore this should be discussed and agreed at the pre-proceedings meeting. If there is more than one person with parental responsibility, consent is needed from all parties with parental responsibility.

### Direct Work with the Children

It is important that direct work with the children continues through pre-proceedings so they understand what is happening (appropriate to their age and stage of development). This could be through individual sessions with the children and/or words and pictures. It is important that workers can review and monitor the lived experience of the children and how this changes, or not, during pre-proceedings.

Please see Best Practice Tip List for summary of areas to consider (appendix 9).

## **7. Review of Pre-proceedings**

Pre-proceedings should be closely monitored and actions progressed as set out in the trajectory plan. Pre-proceedings status is when there are serious concerns about the welfare of a child in their parents' care, where the Local Authority are actively considering issuing care proceedings. For this to be the case, threshold needs to be met in terms of the legal definition of significant harm under the public law outline.

If a parent does not engage with pre-proceedings process, as threshold has been met, the case should be so serious as to needing care proceedings being issued. A decision to issue care proceeding due to non-engagement should be made via the Child Decision Making Panel or by the relevant Service Manager.

If there is critical incident during the time of pre-proceedings, it may be necessary to issue care proceedings as an emergency or bring the review meeting forward. All such decisions should be made via the Child Decision Making Panel or by the relevant Service Manager.

At the pre-proceedings review meeting, a decision can be made to end the pre-proceedings process due to reduction in the concerns, to extend the pre-proceedings

for a further period, or to issue care proceedings. Pre-proceedings should be in place for a short time-limited period, and should ideally last no longer than **16 weeks**. Local Guidance states that pre-proceedings should be in place for a **maximum of 6 months** (26 weeks). If pre-proceedings is being extended, it should be considered how long this extension should be and what work needs to take place for the pre-proceedings to either be ended if the concerns are mitigated, or for the case to be issued.

Pre-proceedings are also reviewed at Child Decision Making Panel by reviewing the PLO tracker.

## **Appendix 1 - Template letter before proceedings**

***\*\*Remove all writing in red before sending this to the parent\*\****

**FIRST CLASS**

**PLEASE DO NOT IGNORE THIS LETTER**

**TAKE IT TO A SOLICITOR NOW**

Date:

My ref:

Your  
ref:

Contac  
t:

Phone:

Email:

Dear [parent and/or full name(s) of all people with parental responsibility]

**Re: LEICESTERSHIRE COUNTY COUNCIL CONCERNS ABOUT *insert name(s) of child/ren* – LETTER BEFORE PROCEEDINGS**

I am writing to let you know how concerned Leicestershire County Council has become about your care of your **child/ren**. I am writing to tell you that Leicestershire County Council is thinking about starting Care Proceedings in respect of **[name(s) of child/ren]**. This means that we may apply to Court and **[name(s) of child/ren]** could, if the Court decides that this is best for **him/her/them**, be taken into care.

A legal meeting was held on the XXX and the outcome of this meeting was to arrange an important meeting to discuss this with you.

### **HOW TO AVOID GOING TO COURT**

We are so worried about your **child/ren** that we will go to court unless you are able to improve things. There may be things you can do which could stop this happening. We have set out in this letter the concerns that we have about **[name(s) of child/ren]** and the things that have been done to try to help your family.

### **AN IMPORTANT MEETING ABOUT WHAT WILL HAPPEN NEXT**

Please come to a meeting with us to talk about these concerns on **[date and time]** at the **[insert name of office]**. The address is **[address]**. Please contact your social worker on **[tel.no.]** to tell us if you will come to the meeting.

At the meeting we will discuss with you and tell you what you will need to do to make your child safe. We will also talk to you about how we will support you to do this. We will also make clear what steps we will take if we continue to be worried about **[name(s) of child/ren]**.

**Take this letter to a solicitor and ask them to come to the meeting with you. The solicitor will advise you about getting legal aid (free legal advice). We have sent with this letter a list of local solicitors who work with children and families. They are all separate from the Local Authority. You do not have to bring a solicitor to the meeting, but it will be helpful if you do.**

***Information your Solicitor will need is:***

Local Authority Legal Contact:

Address:

Telephone:

### WHAT WILL HAPPEN IF YOU DO NOTHING

If you do nothing we will have to go to Court. If you do not answer this letter or come to the meeting, we will go to Court as soon as we can to make sure *[name(s) of child/ren]* are safe.

### YOUR WIDER FAMILY OR FRIENDS

Our concerns about *[name(s) of child/ren]* are very serious. If we do have to go to Court and the Court decides you cannot care for your *child/ren*, we will first try and place them with one of your relatives, if it is best for your child to do this. However, we will only be able to place the *child/ren* with your relative or friend, rather than in foster care, if you provide us with full information now about who your relatives are and how to contact them so we may assess them. At the meeting we will want to talk to you and your solicitor about who might look after your child if the Court decides that it is no longer safe for you to do so. It will assist if you bring names and contact details to the meeting.

### WHAT ARE CHILDREN'S SERVICES WORRIED ABOUT?

*Outline the concern simply and in plain English without jargon. Please keep this short and succinct with key points.*

### WHAT CHILDREN'S SERVICES HAVE DONE TO TRY TO HELP

*Set out what help has been given, by who, when*

### WHAT YOU HAVE TO DO SO THAT WE WILL NOT GO TO COURT:

1. Confirm that you will come to a meeting to talk about these concerns. Please try to bring a solicitor with you.
2. Continue to see and work with your social worker *[insert name]* and allow *him/her* to see *[name(s) of child/ren]*
3. At the meeting you will be asked to talk about how *[name(s) of child/ren]* will be kept safe, with our help and we will agree a clear plan with you about how this will be achieved over a number of weeks.

**We look forward to seeing you at the meeting with your solicitor on [date]. If you do not understand any part of this letter, please contact your social worker [name] on [tel. no.]. Please tell your social worker if you need any help with child care or transport arrangements in order to come to the meeting, and we will try to help.**

Yours sincerely

[name]

Team Manager

Local office/service

cc Social Worker - name

Legal Team - name

Enc:

List of Law Society Children Panel Solicitors

## Appendix 2 - Template Intent to Issue

**\*\*Remove all writing in red before sending this to the parent\*\***

**FIRST CLASS**

**PLEASE DO NOT IGNORE THIS LETTER**

**TAKE IT TO A SOLICITOR NOW**

Date:

My ref:

Your  
ref:

Contact:  
t:

Phone:

Email:

Dear [parent and/or full name(s) of all people with parental responsibility]

Re: LEICESTERSHIRE COUNTY COUNCIL CONCERNS ABOUT *insert name(s) of child/ren*

I am writing to let you know how concerned Leicestershire County Council has become about your care of your *child/ren*. I am therefore writing to let you know that ***we are going to Court to try to make sure [name of child(ren)] is/are safe.*** This could mean that [name of child(ren)] will be removed from your care. You will soon receive a copy of our application to the Court and other important documents, which set out the key issues.

Please come to a meeting with us to talk about these concerns on *[date and time]* at the *[insert name of office]*. The address is *[address]*. Please contact your social worker on *[tel.no.]* to tell us if you will come to the meeting.

### **AN IMPORTANT MEETING ABOUT WHAT WILL HAPPEN NEXT**

At the meeting we will discuss with you our concerns and discuss with you our plans to apply to court and what we are recommending should happen as part of the court proceedings to make sure your child is safe. This will include discussing where we will be recommending that your child should live and how often we will be recommending that you should see them each week, during this time.

**Take this letter to a solicitor and ask them to come to the meeting with you. The solicitor will advise you about getting free legal aid so you will not need to pay. We have sent with this letter a list of local solicitors who work with children and families. They are all separate from the Local Authority.**

#### ***Information your Solicitor will need is:***

*Local Authority Legal Contact:*

*Address:*

*Telephone:*

#### **YOUR WIDER FAMILY OR FRIENDS**

Our concerns about *[name(s) of child/ren]* are very serious. If the Court decides you cannot care for your *child/ren*, we will first try and place them with one of your relatives or friends, if it is best for your child to do this. However, we will only be able to place the *child/ren* with your relative, rather than in foster care, if you provide us with full information now about who your relatives are and how to contact them so we may assess them. At the meeting we will want to talk to you and your solicitor about who might look after your child if the Court decides that it is no longer safe for you to do so. It will assist if you bring names and contact details to the meeting. You can provide these to the social worker, before the meeting, as soon as possible.

### WHAT ARE CHILDREN'S SERVICES WORRIED ABOUT?

*Outline the concern simply and in plain English without jargon. Please keep this short and succinct with key points.*

### WHAT CHILDREN'S SERVICES HAVE DONE TO TRY TO HELP

*Set out what help has been given, by who, when*

***We look forward to seeing you at the meeting with your solicitor on [date]. If you do not understand any part of this letter, please contact your social worker [name] on [tel. no.]. Please tell your social worker if you need any help with child care or transport arrangements in order to come to the meeting, and we will try to help.***

Yours sincerely

*[name]*

Team Manager

Local office/service

cc Social Worker - *name*

Legal Team - *name*

Enc:

List of Law Society Children Panel Solicitors

## Appendix 3 – Trajectory Template

### Pre-proceedings Trajectory

This trajectory is to set out what needs to be achieved during the period of pre-proceedings.

This period starts on the XXXX. A formal review has been arranged for the XXX.

Week	Objective	What needs to happen?	By Who?	Reviewed
<b>If all actions are completed and progressed then trajectory to continue</b>				
	-			

**Once this trajectory is completed another may be put in place depending on progress.**

Contingency:

- If actions are not completed within this trajectory, progress will not continue.
- Changes may be needed due to personal circumstances or unforeseen events - if this happens, there must be clear communication and agreement between the parties.

This document and actions have been agreed by all parties. This is not a legally binding document, however, expectations are that all parties adhere to this plan. If this does not take place, legal advice may be sought.

Signed.....

Date..... (parent)

Signed.....

Date..... (parent)

Signed.....

Date..... (social worker)

Signed.....

Date..... (team manager)

-

## Appendix 4- PLO flowchart



~WRO0000.pdf

## Appendix 5 - Agenda for Pre-proceedings Meetings

### Agenda for Pre-proceedings Meeting

1. Introductions
2. Explain the purpose of the meeting i.e. either (a) to give notice that the Local Authority will be commencing care proceedings (if this is an intent to issue meeting) or (b) to give notice that concerns are serious and that a period of pre-proceedings will be commenced and that proceedings will be issued if the concerns do not diminish.

#### Either

3. Confirm parent(s) have received the pre-proceedings letter and had the opportunity to read the same & consider with their legal representative (if they have decided to instruct someone) and give the parents an opportunity to respond or explain in detail through the concerns the Local Authority have and give parents an opportunity to respond.
4. Explain what the Local Authority expects from parents, for example that there will be an expectation that the parents engage with a time-limited assessment and avoid (or demonstrate) certain behaviours during the period of pre-proceedings and what support the local authority will provide. This will be through the proposed Trajectory plan for pre-proceedings. Go through this trajectory plan. Ask for parents to make suggestions or additions. All parties to sign the trajectory plan.
5. If applicable, explain the need for any specialist assessment, for example a cognitive assessment by a consultant psychologist and seek confirmation of whether the parent(s) will consent to such an assessment.

6. Highlight the need for details of the extended family and friendship to be given so that the local authority can ask whether any alternative carer is put forward and so that the local authority can make its own enquiries in this regard (even if parents indicate that they object). Details to be provided within this meeting or within **7 working days**. A family group meeting will be arranged, if one has not already taken place, **within 4 weeks**.
7. Specify and agree a clear timetable for any assessment and review (including the date of the next decision making meeting and review pre-proceedings meeting). The chair should make clear the importance of the parents providing the local authority with information as early as possible given:-
- the local Pre-Proceedings Protocol timescales of a maximum six months in pre-proceedings; and
  - should proceedings be issued the Public Law Outline 26 week timetable may mean that the Court could decide to discount any alternative carers put forward late on in proceedings

<b>Other actions needed</b>			
DNA testing required and agreed	Yes Yes	No No	Referral to be made by :
Concerns re cognitive ability/capacity	Yes	No	Referral for assessment to be made to / Report sought from :
Parenting Assessment	Yes	No	Undertaking:
Health reports	Yes	No	Referral for assessment to be made to / Report sought from
History of Police involvement	Yes	No	Annex request to be made pursuant to sharing protocol by
Psychological/Psychiatrist	Yes	No	Referral to: Referral to be made by : Obtain Report by [date]

Drug/Alcohol Services	Yes	No	Referral to:  Referral to be made by :  Obtain Report by [date]
Domestic Abuse Services	Yes	No	Referral to:  Referral to be made by :  Obtain Report by [date]

8. Give parent(s) and their representatives an opportunity to ask questions or make comments.
9. Confirm that a written plan of action/minutes will be produced and circulated within 7 days of meeting

## Appendix 6 – Pre-proceedings Minutes Template

### MINUTES OF PRE-PROCEEDINGS MEETING ON [DATE]

#### Important notice

These minutes were prepared by XXX (insert name of minute taker) and have been agreed by the legal representatives of the local authority and the relevant parent in the knowledge that this document will be filed in any future court proceedings and that it must be a true and accurate reflection of discussions which took place.

<u>Attendees</u>	
<u>Participant</u>	<u>Name</u>
<b>Social Work team manager (Chair)</b>	
<b>Social worker</b>	
<b>Local Authority legal representative</b>	
<b>Mother</b>	
<b>Legal Representative for mother</b>	

<b>Father –</b>	
<b>Legal Representative for father –</b>	
<b>Apologies/non-attendance by parent of legal representative (and reasons)</b>	

1. Introductions were given.
2. An explanation was provided by the social work team manager of the purpose of the meeting (i.e. [the meeting was to confirm that the local authority would be issuing care proceedings and the timescales were **xx.xx.xx**] [the purpose of the meeting was to confirm that the local authority had significant concerns regarding **xx**, and so was entering a period of pre-proceedings and that it was considering issuing care proceedings unless **xx** improved within the following period of time **xx**]).

**Either**

3. The social work team manager asked for (and received) confirmation that the parent(s) have received the pre-proceedings letter and had the opportunity to read the same & consider with their legal representative (if they have decided to instruct someone) and have understood it. The parent(s) were given the opportunity to respond and **[responded as follows / did not respond]**.

**Or**

3. The social work team manager explained in detail:-
  - a. the local authority's concerns as follows **xx**
  - b. the support provided to date to assist the parent(s)/mitigate the risks to the child(ren) as follows **xx**

and gave the parents the opportunity to respond [and they did not respond / responded as follows **xx**]

4. **The social work team manager explained the Local Authority's expectations as follows:-**
  - a. that there will be an expectation that the parents engage with a time-limited assessment and avoid (or demonstrate) certain behaviours during the period of pre-proceedings as follows **xx**
  - b. that a specialist assessment will need to be completed and the type of assessment is **[eg a cognitive assessment by a consultant psychologist]**

- c. that details of the extended family and friendship are needed so that the local authority can ask whether any alternative carer is put forward and so that the local authority can make its own enquiries in this regard (even if parents indicate that they object) and it was explained that providing details of extended family members at this early stage can avoid delay for the child(ren) and the risk that if proceedings are issued the Court may not be prepared to consider late requests for assessment of family members if this would be outside of the child's timescales. This information to be provided during the meeting or within 7 working days. A family group meeting, if this has not been held already, will be held within 4 weeks.
5. Parent(s) responses (including any alternative carers put forward) were
6. **Written plan** – the details of the plan moving forwards, including timescales for assessments and review were discussed as follows:-
  - a. xx
  - b. xxAll parties to sign the trajectory plan.
7. Any other matters discussed.

## Appendix 7 – Family Letter



Date

Ref

Your Ref

Contact

Phone

Fax

email

Dear XXXX

Re: CHILDREN'S NAMES XXX

This letter is to inform you that Children's Service are currently involved with the above named children.

Children's Services are involved in the lives of children when there are significant concerns regarding their safety and well-being. At present there are concerns relating to the welfare of the above named children.

We are asking for family members to come forward to help and be part of a support network for the children. This would mean that we would want to meet you to talk to you about how you can be involved in the children lives to help and support the family. We will be holding a family meeting on the XXXXX.

We are also asking for family members to come forward to be assessed as alternative carers for the children. This means that we would assess you to determine if the children could reside in your care if a court decides that the children cannot remain residing with parents. This could be short-term or long-term. To do this, we would need to complete an initially a viability assessment to find out more about you, to discuss the concerns in the case, and determine if it is an appropriate

placement for the children. If this is positive, there would be a full assessment completed called a Connected Carers assessment. If the children were to move to your care, you would receive help and support from Children's Services.

It is really important in care planning for the children within your family that decisions are made for them in a timely way. If you would like to be involved in any way, please contact Children's Services at the earliest opportunity. If contact is not received from you, we will be lead to believe that you are not available to assist in this matter.

If you would like to contact me for any questions about this, please do.

Regards,

Social Worker

**Children and Family Service**

**Leicestershire County Council,**

**Telephone:**

**Jane Moore, Director of Children and Family Service**

**[www.leics.gov.uk](http://www.leics.gov.uk)**



## **Appendix 8 – Best Practice Tip List**



Pre-proceedings  
Top Tips.pdf

## **Appendix 9 – Local Pre-proceedings Protocol**



JUDICIARY OF  
ENGLAND AND WALES

**HIS HONOUR JUDGE CLIFFORD BELLAMY**  
DESIGNATED FAMILY JUDGE FOR LEICESTER

**LEICESTER and LEICESTERSHIRE PRE-PROCEEDINGS PROTOCOL<sup>1</sup>**

1. **Introduction** - This protocol relates to the area of Leicester and Leicestershire, the area covered by the Designated Family Judge for Leicester. In this protocol this is referred to as 'the region'. It should be read alongside the Leicester *Practice Guide: The use of section 20 of the Children Act 1989 in the context of child protection*.
2. The protocol is based on the principles set out in the revised *Volume 1 of the Children Act 1989 Guidance and Regulations* published in April 2008 and in *Preparing for Care and Supervision Proceedings* published in August 2009.
3. **Purpose** - This is a protocol for social workers and their supervisors in the region. 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. Such cases will include, for example, those involving alcohol/substance misuse, neglect, emotional abuse, parental learning disabilities.
4. This protocol does not relate to cases which require urgent court intervention (i.e. where the issue of proceedings cannot await the completion of assessments due to the particular needs of the child or the risk of harm that arises, for example as a result of significant non-accidental injury).
5. 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. The protocol will be reviewed from time to time.

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<sup>1</sup> This protocol is based on the pre-court proceedings protocol for Bristol.

6. It is acknowledged that some of the expectations set out in this protocol will only be effective if parents engage with the pre-proceedings stages, for example by agreeing to undergo assessments and by providing details of family members who may wish to be assessed as long-term carers for the child.
7. **Key Principles** - This protocol is founded on the following key principles relating to cases where immediate intervention by court order is not necessary: -
  - a) In order to achieve completion of care proceedings within 26 weeks from the date of issue it is important that local authority pre-proceedings work is undertaken effectively, thoroughly and without unnecessary delay. Where a Local Authority intervenes within a family:
    - i) the potential need for proceedings to be issued will always be kept under review by the Local Authority;
    - ii) there will be a clear and analytical approach to the issues that bring about that intervention;
    - iii) the need to avoid delay in resolving issues relating to children will be taken as a principle of significant importance;
    - iv) the holding of any necessary legal planning meetings will not be delayed.
  - b) The case of any child accommodated for three months under section 20 of the Children Act 1989 as a result of child protection concerns shall be referred to a legal planning meeting unless:
    - i) there are clear and substantial reasons why the continuation of out of court intervention is in the interests of the child[ren] concerned;
    - ii) those reasons are agreed in writing with senior management within the Local Authority;
    - iii) a clear and analytical plan is identified for further action.
  - d) The timescale for intervention outside court proceedings should not exceed a maximum period of six months from the date of any first legal planning meeting unless:

- i) there are clear and substantial reasons why the continuation of out of court intervention is in the interests of the child[ren] concerned;
    - ii) those reasons are agreed in writing with senior management within the Local Authority;
    - iii) a clear and analytical plan is identified for further action.
  - d) Where possible, all identified assessments are to be completed in advance of the commencement of the court proceedings.
  - e) Where assessments are undertaken 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 additional assessments if persuaded that it is *necessary* to do so in order to dispose of the proceedings justly).
  - f) Parents must be clear about what is expected of them to improve their parenting, clear about the timescales in which they must improve their parenting and clear about the consequence of failing to improve their parenting.
  - g) Family members will have been identified and alternative family/other adult carers will have been assessed (as a minimum, through viability assessments) before the issue of any proceedings.
  - h) Where several family members are identified the local authority will, in consultation with the parents/carers, determine the order in which those family members shall be assessed. It is for the local authority to determine how many family members shall be assessed at any one time.
8. **The social work practice by which cases come before the court** – The main stages that lead to the issue of proceedings are:
- a) the Local Authority becomes involved with a family and provides services and where necessary considers convening a family meeting/family group conference as a means of identifying any available potential carers amongst the wider family and friends of the

children and of their existing carers in the event the parents or current carers cannot continue to care for them;

- b) 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;
- c) a decision is made to do one of three things:
  - (i) issue care proceedings immediately;
  - (ii) 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.
  - (iii) not issue proceedings.

9. **Pre proceedings assessments** – Save where urgency does not permit and/or where parents do not co-operate, all evidence upon which Children's Services rely must be prepared in advance (including alcohol and drug testing, DNA testing, parenting assessments focussed on the issues, and relevant disclosure from all third party agencies). Any *necessary* expert assessments must be commissioned prior to proceedings having regard to the issues and to the need to obtain the consent of the carers.

10. Before issuing proceedings Children's Services must have:

- a) identified any learning disabilities and/or any other disability prior to proceedings. A parenting assessment must take such disability into account;
- b) identified and completed all relevant assessments in relation to extended family members and friends; the initial social work statement must record the outcome of such assessments;
- c) prepared a chronology and genogram; the chronology must provide a succinct summary of the significant dates and events in the child's life in chronological order, a running record up to the issue of proceedings, to include in particular details of previous child protection plans of

child/siblings, the number and dates of agency referrals; the nature of current concerns and the length of time each child has been the subject of active social work involvement;

- d) provided evidence of the wishes and feelings of the child[ren] concerned; in all cases Children's Services must identify the needs of each child (including, where the child suffers from serious illness or disability, up to date medical evidence as to the nature of the illness or disability and its likely impact on the child's future care needs), the likely impact on the child of any change in her circumstances, the timetable for each child in the context of the significant harm to which that child has already been exposed or is likely to be exposed, and identify realistic options;
- e) paid particular attention 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 and purpose of any assessment;
  - (iv) the need for a clear and succinct analysis of the issues that have brought about Local Authority intervention; and
  - (v) the timescale for the children concerned.

11. **Legal planning meeting** - Prior to the legal planning meeting the Local Authority social work team must ensure that those who are to attend the meeting are provided with copies of relevant documentation including, in particular, such of those documents referred to in the Pre-Proceedings Checklist set out in the Family Procedure Rules 2010 Practice Direction 12A as are already in existence.

12. **Letter before proceedings** – 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:

- a) clearly setting out what the concerns of the local authority are; and

- b) what the local authority's expectations and timescales are for the parents/carers to address those concerns.
13. Pre-proceedings letters must be sent in all cases where a pre-proceedings meeting is to take place.
  14. **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 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). The Local Authority will produce a written plan of action within a week of the meeting and will send that plan to the parents and to their solicitors.
  15. Minutes must be taken of every pre-proceedings meeting in order to provide an open and transparent record of the meeting. The minutes must be sent out within 7 days to those who attended 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 promptly 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.
  16. **Proceedings** - The social worker's statement must be prepared in accordance with the locally agreed template and must contain all of the information required in the Family Procedure Rules 2010, Practice Direction 12A. It must contain 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 Annex documents required by the Public Law Outline must be filed with the court at the time of issuing the proceedings.
  17. If it is intended that after the issuing of proceedings an application will be made for permission to obtain expert evidence 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 be made in compliance with Part 25 of the Family Procedure Rules 2010.

18. If medical 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.
19. If police records are required they must be requested before the first hearing. Any such request must comply with the requirements of the *2013 Protocol and Good Practice Model: Disclosure of information in cases of alleged child abuse and linked criminal and care directions hearing*.
20. When the Local Authority legal department receives instructions to issue proceedings it must immediately notify Cafcass of the intention to issue. On receipt of such notice, Cafcass must initiate the procedure for the allocation of the case to an identified children's guardian.

Updated January 2016

## **Appendix 10 – Good Practice Examples**

Letter Before Proceedings (anonymised)



Example of letter  
before proceedings.

Intent to Issue Letter (anonymised)



Example Intent to  
Issue Letter.pdf

Trajectory (anonymised)



Example Pre  
Proceedings Trajectory



Example  
pre-proceedings tra

## **Appendix 11 - Associated Documents**

Department for Education, 2014. Court orders and pre-proceedings  
For local authorities.



Statutory\_guidance\_  
on\_court\_orders\_anc

ADCS. LA Pre-proceedings Practice: Good Practice Essentials



PLO-Pre-proceedings  
-practice\_diagramAD

Trowler, I., 2018. Clear Blue Water Report.



Sheffield\_Solutions\_  
Clear\_Blue\_Water\_Fu

Gov, 2011. Family Justice Review: Final Report



family-justice-review  
-final-report 2011.pd