**Pre-Care and Care Proceedings Protocol for**

**Greater Manchester**

**Social Work**

**Guidance Pack**

This protocol relates to Local Authorities operating within the areas covered by the Designated Family Judge for Manchester

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**1 Introductory notes from the Designated Family Judge for Greater Manchester**

This protocol, developed by an interdisciplinary team, is an important step towards greater consistency and effectiveness in the approach of social workers and their legal representatives in the crucial work which is undertaken prior to the issue of care proceedings, and subsequently as those proceedings unfold. The President of the Family Division, Sir James Munby, has repeatedly placed emphasis upon the significance of Local Authority pre-proceedings work.

*“Work done by the local authority in the period pre-proceedings – front loading – is vital for two quite different reasons. Often it can divert a case along a route which avoids the need for proceedings. When that is not possible, and proceedings have to be commenced, work done beforehand will pay rich dividends later on. A case presented in proper shape on Day 1 will proceed much more quickly and smoothly than a case which reaches the Court in an unsatisfactory state……. On occasions urgency will necessarily trump readiness, but very often it need not”*

If care proceedings are issued, the family judiciary in Greater Manchester will have an expectation that this protocol will have been followed unless there is good reason to the contrary , for example, a situation of genuine urgency.

The protocol certainly does not contemplate or encourage any drift or delay in decision making for vulnerable children. The judiciary will be astute to identify cases where the issue of care proceedings has been delayed beyond a timescale which is justified by the requirements of this protocol or the child’s welfare, particularly cases where children are accommodated pursuant to s20 of the Children Act 1989.

I warmly commend this protocol to you.

**HHJudge Lesley Newton**

**Designated Family Judge for Greater Manchester**

**2 Context and aim of the pan-Manchester pre proceedings protocol**

***“Work done by the local authority in the period pre-proceedings - front loading- is vital for two reasons. Often it can divert a case along a route which avoids the need for proceedings. When that is not possible, and proceedings have to be commenced, work done beforehand will pay rich dividends later on.”[[1]](#footnote-1)***

This protocol has been developed to support social work practice across the region. The purpose is to provide social workers and their managers, and other practitioners, with a set of guidance notes and practice tools to support practice prior to, and throughout, the process of a care proceedings application.

The aim is to ensure that when care proceedings are necessary that social work practitioners come to Court with a clear evidence base, having completed work during the pre-proceedings stage, including any early help support that has been offered. By doing this we will ensure the Court process is smooth, with proceedings concluding in a timely manner, usually that being within the statutory 26 week timescale.

The protocol outlines the work that must be completed by the local authority prior to the initiation of Court proceedings in chronic / multi issue cases. However the protocol goes further than some other regional protocols in that it intends to provide guidance for other social workers and practitioners supporting a child and family at an earlier stage of preventative support, and to social workers following the actual initiation of care proceedings.

This protocol has been drafted in conjunction with discussions with representatives from the local bar, family solicitors, lawyers and senior social work managers from each of the local authorities, with input from CAFCASS, with a view to providing a consistent approach to support and assessment of families outside of Court proceedings, in cases where care proceedings are a real possibility.

This Protocol is intended to supplement the guidance given in the revised Public Law Outline. It is aimed to be a useful guide and reference point for practitioners in the hope that the Manchester Family Courts will be in a stronger position to complete care proceedings cases justly within 26 weeks, as a result of the work conducted pre-proceedings. It is intended to improve the quality of social work assessments and plans submitted to Court in such cases, so that social workers can demonstrate expertise in their own professional field.

1. **The role of early help and prevention in supporting families**

Local authorities across the region recognise the importance of early help support and intervention. There is an agreed North West Early Help Strategy and most local authorites have developed a local early help offer/strategy.

The obvious aim of early help is to support families at a lower level of need, as and when problems emerge, in order to avoid such problems escalating to the point that statutory intervention is required.

Sadly there will always be cases where families are unable to meet children’s needs, despite a range of early help services, and these cases will escalate to the attention of social care and social workers, and may result in the use of the pre proceedings protocol or actual issuing of a care proceedings application.

It is therefore important that multi agency staff supporting children and families do so in a way that will primarily support that child and family, but that will also provide the beginnings of an evidence based picture within the child’s identified welfare and development timetable should the situation not improve and statutory intervention subsequently become necessary.

All local authorities have established early help common processes and it is crucial that lead professionals across the multi agency partnership use these processes when providing early help support and services to children and families.

The use of the Common Assessment with a clearly defined plan is an important tool for guiding multi agency early help responses. It is also an invaluable part of evidence when concerns continue to enable social workers to reflect on the history of the child’s lived experience in cases where it proves necessary to demonstrate an evidential base when entering pre proceedings or care proceedings processes.

Where concerns for a child escalate beyond the remit of early help common assessment processes the continuum for offering support enters into a statutory framework of Child in Need (Section 17 of the Children Act 1989) or Child Protection (Section 47 of the Children Act 1989). Local authorities will generally try to support children and their families by planning interventions in line with these statutory duties and child’s timeframe prior to embarking on pre-proceedings processes outlined within this protocol.

1. **When is it appropriate to follow pre proceedings processes?**

A decision to intervene legally in a child’s life is a significant one which will have major consequences for that child and their family. It is crucial that any decision to do so is based on clear, evidenced-based assessment and care planning, which demonstrates what attempts have been made to manage the risks and support the child to remain in their family outside of care proceedings.

The local authority will follow pre proceedings processes in cases where more immediate intervention by Court order is not necessary.

Where the local authority’s assessment/decision making concludes that the child’s safety demands immediate protection, local authorities must issue proceedings without the pre-proceedings process having been followed. Unless the child’s safety demands an application for an Emergency Protection Order, the local authority will issue an application for an Interim Care Order on notice to the parents.

**5 Decision making and management oversight**

Each local authority will have established arrangements for local decision making in regards to the following of pre proceedings processes and issuing of care proceedings, which includes access to legal advice to consider if ‘threshold’ is met and to reach a decision regarding the most appropriate way forward.

In classic ‘slow burn’ neglect cases it will be expected that pre proceedings processes will be followed. It is however imperative that local authorities ensure robust monitoring and ongoing oversight of these cases within the child’s identified welfare and development timetable to avoid any unnecessary drift for the child. Local authorities will develop sufficient tracking systems to monitor these children, ensuring timely decision making and management with IRO oversight where care proceedings are subsequently required.

During pre-proceedings processes local authorities should arrange a family meeting to consider family support that is available to the child and their parent/carer, including the possibility of alternative care should the need arise through either informal Friends and Family Care arrangements or more formally where the decision is ultimately taken by the local authority to place the child elsewhere. In this regard, local authorities, in full knowledge of the wealth of case law available in this usually contested area of a child’s journey to permanence should be very clear on what is and what is not a “private arrangement” in consideration of the individual facts and circumstances of the case.

A local example of a Court tracker used in one of the local authorities is provided for use if other local authorities find it useful .

Once the decision has been taken to issue care proceedings it has been agreed locally that the local authority will send an early alert to CAFCASS. A template that local authorities may wish to use for this alert is provided here.



1. **Letter before proceedings and pre-proceedings meetings**

There is consensus between the Local authorities that in “slow burn” cases (as opposed to “crisis” cases) that the aim will be to have pre-proceedings meetings at a much earlier stage of the process where of course threshold is met, to allow the parents to have access to legal advice when there is a greater chance of changes being made within the child’s identified timeframe and sustained following any intervention or assessment discussed at the meeting, so enhancing the prospects of avoiding the need for later proceedings.

A ‘letter before proceedings’ is the trigger for non-means; non-merits tested publicly funded legal advice and assistance. Letters before proceedings **will therefore need to identify to parents that the local authority is considering the possibility of care proceedings if a plan cannot be developed to address the concerns identified about their parenting**. This does not make proceedings inevitable, but will have the effect of triggering entitlement to pre proceedings legal advice, and will enable parents to have the benefit of legal representation at the ‘pre-proceedings meeting’ in which the need for any additional expert assessment and the letter of instruction for such expert assessment is discussed.

The letter before proceedings will state what concerns need to be addressed by the parent and what support will be provided by the local authority and other agencies to help. The letter will also identify the need for family members to be identified, as possible sources of support or as alternative carers if the parents cannot make the changes identified as necessary in a timescale that meets the needs of the child or in accordance with the child’s timetable.

The letter before proceedings will invite the parents (and where appropriate an identified family member/friend) and their legal representatives to a pre-proceedings meeting with the local authority social worker and their legal representative. The meeting will be chaired by the local authority.

The pre-proceedings meeting provides a face to face opportunity to set out very clearly the position of the local authority in respect of existing concerns which have been identified; identify any improvements the local authority considers are needed in the parenting of their children; and have a discussion regarding the plan needed to assist the parents and address any deficits in parenting already identified. The concept of an outcome focussed strategy - setting out clear goals as to what a parent is expected to achieve and by when to alleviate concerns, and avoid the need for care proceedings being triggered, identifying what support is needed to avoid reaching that benchmark, and how it is to be monitored and tested - should underpin this process. The timescale for the child is to be clearly identified within this meeting, and it is important that the child’s voice, in terms of their wishes and feelings, is considered within the meeting. Social workers may benefit from completing a Child Impact Statement in advance of the meeting to provide analysis of the child’s assessed needs and timescales.

Specifically the pre proceedings meeting will identify any additional assessments proposed by the local authority, and the terms of the instruction will be considered with the parents (and their representatives).

The meeting must also identify as constructively as possible to the parents the need to identify family and friends for the purposes of evaluating their capacity to offer support to the parents, and/or as potential alternative carers for the child, in the event this becomes necessary because the parents are unable to address the concerns identified by the authority.

The minutes should provide an open and transparent record of measures required to improve the children’s circumstances, and the offer of assistance by the local authority, and partners/family members. The child, where age and developmentally appropriate, should be informed of the outcome of the meeting by the social worker.

Where additional assessments of the parents or child/ren are required the agreed letter of instruction will be copied to the parents and any legal representatives.

Where children are subject to a pre proceedings process local authorities must consider whether it is necessary to follow child protection processes also, this is in acknowledgement that the threshold of significant harm has been reached and a multi-agency co-ordinated child protection plan will ensure the co-ordination of essential services alongside the information and expectations issued to the parents arising from the pre proceedings meeting.

1. **Social work practice pre proceedings**

When concerns are increasing for a child it is important that local authorities structure their work effectively, co-ordinating their own evidence and those of partners of the work that has been completed prior to the actual issuing of care proceedings, to avoid where possible the necessity of those care proceedings. Local authorities will need to monitor progress made to avoid drift for the child during this pre-proceedings phase.

Local authorities will need to evidence to the Court work that has been undertaken during this pre-proceedings phase, including;

1. Work with the child and family with an aim of bringing about improvement and change and to avoid the need for care proceedings (utilising additional multi agency plans)
2. Undertaking thorough and complete social work assessments, with the social worker as the ‘expert’, which do not merely measure parenting in a vacuum but robustly look at how interventions and support have brought about change, which consider parenting strengths as well as weaknesses, the needs of the family?
3. Where appropriate have commissioned independent expert reports outside of the Court process in a consistent and transparent manner
4. Conducting “Meeting Before Proceedings” meetings with the parents and their legal representatives at an early stage of the process

1. Have worked with the family to identify and evaluate and assess where necessary at this earlier stage the potential for family and friends to offer support to the parents or to act as possible alternative carers for the child

**8 The Local authority ‘expert’ Social Work Assessment**

Once a child becomes known to children’s social care, as either a child in need, child subject to a child protection plan, or indeed as a looked after child, it is crucial that a clear, evidence based, social work assessment is undertaken. This should be seen as part of a continual assessment process and should not ‘start over’ the assessment process that has already been completed at an early help stage. Having also identified the child’s welfare and development timetable will avoid drift and delay.

Social Workers in establishing what their factual basis to assess from is, should always consider any common assessment process and multi agency planning that has taken place, and the statutory social work assessment should draw from, and build upon this. The social worker must read the child’s file and historic information and must make reference to previous assessments, and the known history of the case which may have included previous Court proceedings. The assessment must include awareness of what has been tried in the past and also must include information from other local authorities if the child has lived in other areas. Preparing a good quality chronology throughout these initial stages is vital.

By working in such a joined up way social workers will begin to build an evidence base in all cases where, should the need for pre proceedings or care proceedings processes arise, there is a clear analytical assessment, planning and reviewing process evident within the case. In this way social workers can easily gather evidence that will be crucial to timely planning for the child in the event of escalation of concerns.

Where families are asked to co-operate with local authority assessments it is essential that the social worker conducting them is able to demonstrate real expertise in their field, and that the assessment process is transparent, fair, and evidenced. In the event that Court proceedings are still required in order to protect the child, the structure for assessments of the family under the Protocol will provide reliable, evidence based analysis and assessment, which demonstrates real expertise, and be capable of proper Court scrutiny. In this way repetition of the same or similar assessment work within proceedings, with the ancillary cost to the timetable for the child, can be avoided.

When assessing a child’s needs social workers must be mindful of the child’s wishes and feelings alongside their need for permanence;

* A good social work continual assessments will clearly tell the child’s story, the skill of the social worker being to ‘step into the child’s shoes’ in order to understand and tell that individual child’s daily lived experience;
* A good social work assessment will begin with consideration of a child’s need for permanence, social workers must ‘think permanence’ in respect of each and every child they work with.
* Consideration should be given to using tools such as child impact statements and peer researched materials within the assessment process

Each of the Manchester local authorities has designed a model of social work assessment and intervention that have the principles of the Protocol in mind. Assessments will follow a structured model common to that local authority, and staff will receive training on delivering the model of assessment and intervention.

There will be a stand-alone social work assessment document prepared for each family, which will be submitted to the Court in the event that proceedings are required. This will constitute the primary social work analysis in the case at the point of issue, and will refer to all interventions and assessments which have informed the social work analysis.

Nothing in the Protocol developed between the authorities should suggest that where families are asked to engage in social work assessment, or additional assessment independent of the allocated social worker, care proceedings are inevitable. The primary aim of social work conducted outside of Court is to avoid the need for issuing of proceedings arising at all, wherever possible.

1. **The use of ‘expert’ assessments during the pre-proceedings phase**

***“Social workers may not be experts for the purposes of Part 25 of the Family Procedure Rules 2010, but that does not mean that they are not experts in every sense of the word. They are, and we must recognize them and treat them as such.”[[2]](#footnote-2)***

The Court will in turn recognise that pre- proceedings work includes the capacity for specialised assessment and intervention, and that local authorities can provide “cogent expert pieces of analysis at the point of issue, with reference to accepted bodies of research”. Therefore, where the Protocol is adhered to the necessity for external instruction will reduce; indeed experts will only be commissioned where the need arises outside of the social work remit.

It is recognised that there will however be the occasional case where it is necessary and appropriate for the local authority to work with partner agencies, and occasionally ‘experts’ from the private, voluntary and independent sector. This will include alcohol and drug testing, DNA testing, if necessary specialised parenting assessments focussed on the issues, and any other relevant assessment from third party agencies.

Save where urgency does not permit, all evidence upon which the Local authority relies must be prepared in advance.

**10 Involvement and evaluation of wider family**

Identification and engagement of the non resident birth father(s) and wider maternal and paternal families can play a critical role in promoting positive outcomes for the children concerned, and reducing delay.

As part of social work conducted prior to issuing any proceedings local authorities will request parents to provide details of family members who can offer support, assistance and possibly alternative homes for the children, at an early stage, and wherever practical shall meet with such persons and provide suitable assessments of any person wishing to be considered as a carer prior to the issue of proceedings.

Family Meetings/Conferences should be considered and if appropriate held prior to proceedings as a useful tool in the identification of potential friends/family carers, and the provision of support to the parents from the wider family.

In the event that a full formal Family Group Conference is not appropriate to convene and/or cannot take place or has not taken place, this should not prevent the social worker exploring with the parents the options for them to receive support, advice and guidance from family members, and to explore whether family members might offer the children a home either in the short or long term.

In all cases a comprehensive genogram should be drawn up. It should be formulated both on the basis of information already known to the local authority and as part of the process of proactively considering with the parents the need for early identification of sources of support and potential alternative carers.

Where it is known that some elements of the family are no longer in contact with each other, or that there is a schism in the relationships of the wider family, this should be identified and the implications considered by the social worker.

If it is already clear before the letter before proceedings that the parents are refusing to share wider family details then this should be specifically raised as a point of issue both within the letter before proceedings, and also at the meeting before proceedings.

In the event that parents remain unwilling to identify wider family and friends, or share their contact details, they will be requested to give clear cogent reasons for not doing so, bearing in mind the social worker should have already identified directly with the child who is important in their lives and why, alongside the level contact the child has had or is having with those identified. It is recognised that there can be some rare circumstances in which the communication with some individuals about a family’s circumstances may pose an unacceptable risk to the wellbeing of the child and family.

In the event that parents do not provide cogent reasons for refusing to identify family and friends for potential evaluation they will be advised by the social worker that their approach to this issue will form part of the local authority’s evidence in the event the matter goes to Court. They will also be advised if care proceedings are issued the Court will expect them to identify potential alternative carers by Day 12 of the proceedings, if they wish the Court to consider an alternative to foster carers or adopters where this is the plan of the authority.

Wherever it is practicable to do so within the child’s identified timescales and needs for permanence local authorities will seek to conduct assessments of any family and friends putting themselves forward as potential alternative carers prior to the issue of proceedings. Local authorities will have screening processes to identify appropriate family members to assess.

**11 Further expectations prior to issue**

Where the local authority concludes that care proceedings are likely to be necessary to protect the child in the child’s timescale prior to any decision to institute proceedings, the Local authority will consider carefully all of the assessments and evidence obtained. Where it is considered safe for the child to do so a review pre-proceedings meeting will be held to which the parents and their legal representatives will be invited.

At the point of issue there should be a clear analysis by the local authority social worker as to capacity of the carers for the child to change and to sustain change, within the timetable for the child (having regard to the timetable for each child in the context of the significant harm which the child may have already experienced). Such capacity can only be tested by the setting by the local authority of appropriate and reasonable goals prior to proceedings being issued, and identifying the support that the parents would reasonably need to reach those goals. Identifying the right support and the right goals will be in most cases the best way of testing whether a parent has the capacity to provide good enough care and to make necessary changes.

**12 Expectations of local authorities upon the issue of proceedings**

***“A case presented in proper shape on day 1 will proceed much more quickly and smoothly than a case which reaches the Court in an unsatisfactory state”[[3]](#footnote-3)***

This element of the Protocol is in addition to any national expectations promoted by the National Family Justice Board or the revised Public Law Outline.

Whenever it is safe to do so and consistent with the child’s timetable care proceedings should not be issued until the local authority has prepared to a satisfactory standard all the Annex Documents required under the revised PLO to be filed alongside the application form.

The initial social work statement in all ‘slow burn’ neglect cases will follow a standardised model.



In essence, the local authority evidence will be more structured, more focussed on intervention and outcomes and contain more analysis and conclusions about the recommended way forward. The statement should outline what are the issues in this case together with the realistic options for the child, including an analysis of what other options have been considered, and why that course has not been followed.

The social work statement will specifically refer the Court to the overarching social work assessment document concluded prior to the issue of proceedings. The social work assessment document will provide the evidential detail demonstrating how over time the social worker has reached the more succinct analysis contained in the initial statement.

Where the interim care plan proposed is for separation of the child from their parents, the initial social work statement should outline the impact on the child of such separation and consider the implications on the family of this.

In a case where there is a sibling group, the hope is that the group will be placed together. However if this is not possible, the initial statement must explain why, consider and explain the plan in the light of this and specify the arrangements for inter-sibling contact (in addition to contact with parents).

The local authorities will file an up to date chronology. Local authorities recognise that they need to produce chronologies which are pertinent and purposeful, contain sufficient but succinct information about key events, and give a fair and balanced account so as to fulfil the requirements of the revised PLO.

In preparing for the first interim hearing local authority lawyers will proactively consider how to promote effective compliance with the timetable of the case following issue.

Where further evidence or information is identified by the local authority as being required following care proceedings being issued (police records, medical records, DNA testing, drug testing), this should be identified to the local authority lawyer and set out in the accompanying case synopsis provided to the Court by the local authority advocate.

The local authorities will work with the other advocates in the case to identify as soon as practicable where any further expert assessment may be required and justified under the Experts Practice Direction. It is however anticipated that adherence to this Protocol will reduce the number of further assessments needed post proceedings.

**13 Social work role throughout ensuing care proceedings**

If the Local authority have effectively ‘front loaded’ the care proceedings the actual Court process should be both smooth and timely.

Cases will generally be presented where the local authority is clear of the evidence base with a thorough understanding and rationale of the child’s protection and permanency needs.

Care proceedings should therefore conclude in a timely manner, within the statutory 26 weeks.

It is imperative that the local authorities have robust decision making frameworks to analyse any further work undertaken during care proceedings in order to make timely decisions regarding the recommended final care plan that places the child at the centre of decision making. The local authority must consider all available family arrangements to care for the child prior to making any decision for permanent separation, especially where adoption plans are being considered. Local authorities should be mindful of R BS when formalising final care plans.

The majority of the social work evidence will have been provided prior at the point of issuing of proceedings, however it is incumbent upon the Court to request any additional social work assessment and evidence as required to enable a decision to be made regarding the child’s future.

Where further social work statements are required the same principles are required, statements must be analytical, succinct and focussed on the key issues. An example final social work statement template is embedded here. 

A stand alone final care plan must be prepared, setting out how the local authority intends to meet the child’s needs, including issues pertaining to placement provision, health care, education and importantly contact with birth relatives. The independent reviewing officer role is crucial here, and it is vital they are in agreement with the final care plan, or where they are not that the Court is made aware of any areas of disagreement.

The local authority must plan effectively to ensure decisions are made in a timely manner to enable local arrangements for the ratification of any adoption plan for instance to be in place at the necessary time prior to the IRH.

1. Sir James Munby, President of the Family Division: View From the President’s Chambers(2) [↑](#footnote-ref-1)
2. Sir James Munby, President of the Family Division: View From the President’s Chambers(2) [↑](#footnote-ref-2)
3. Sir James Munby, President of the Family Division: View From the President’s Chambers(2) [↑](#footnote-ref-3)