



<b>Briefing for:</b>	Joint meeting of Children's Safeguarding Policy and Performance Advisory Committee and Corporate Parenting Advisory Committee
<b>Title:</b>	Briefing on Case Management in Public Law Proceedings in the Family Court
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## **1. Introduction**

In order to safeguard and promote the welfare of children the Local Authority may seek legal orders through the courts via Public Law Proceedings in the family courts.

Haringey currently has an average of 600 Looked After Children and over 300 children subject to Child Protection Plans. Over 300 of these children are the subject of public law proceedings, 156 proceedings. In the past 18 months the number of proceedings issued by local authorities has increased by over 17%. The full cost of court fees are £4,825 per set of proceedings.

A child becomes a Looked After Child if they are in voluntary care – accommodated, they are remanded to the care of the Local Authority or they are subject of a care order.

In most instances local authorities apply to the court for care and supervision orders, there are emergency orders and specific orders which are used in certain circumstances such as an Emergency Protection Order.

A care order gives the Local Authority parental responsibility, parents do not lose their parental responsibility, the emphasis should be that the Local Authority work in partnership with the parents. A care order lasts until the child reaches 18 unless an application to discharge it earlier is made.



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A supervision order specifies the role and responsibilities of the social worker; the Local Authority does not acquire parental responsibility, which remains solely with the parent. The order lasts up to 12 months.

Child care cases are managed through the courts under a protocol for case management known as the Public Law Outline (PLO). The aim is to manage the case and avoid delay.

## **2. Thresholds for applications for care and supervision orders**

When applying for a care order the Local Authority must evidence that the threshold has been met. The court may not make an order unless satisfied that the threshold conditions are met:

(a) the child concerned is suffering significant harm, or is likely to suffer significant harm;

and

(b) the harm or likelihood of harm is attributable to,

- (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him; or
- (ii) the child is beyond parental control.

If the threshold criteria are met the court must go on to the welfare checklist:

(a) the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);

(b) his physical, emotional and educational needs;

(c) the likely effect on him of any change in his circumstances;

(d) his age, sex, background and any characteristics of his which the court considers relevant;

(e) any harm which he has suffered or is at risk of suffering;

(f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;

and

(g) the range of powers available to the court under this Act in the proceedings in question

## **3. The main principles underlying court case management and the overriding objective in Public Law Proceedings are—**

(1) **Timetable for the Child:** each case will have a timetable for the proceedings set by the court in accordance with the Timetable for the Child;

(2) **Judicial Continuity:** each case will be allocated to one or not more than two case management judges (in the case of magistrates' courts, case managers),



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who will be responsible for every case management stage in the proceedings through to the Final Hearing and, in relation to the High Court or county court, one of whom may be - and where possible should be - the judge who will conduct the Final Hearing;

(3) Main Case Management Tools: each case will be managed by the court by using the appropriate main case management tools;

(4) Active Case Management: each case will be actively case managed by the court with a view at all times to furthering the overriding objective;

(5) Consistency: each case will, so far as compatible with the overriding objective, be managed in a consistent way and using the standardised forms;

### **3.1 The Timetable for the Child**

The “Timetable for the Child” is defined by the rules as the timetable set by the court in accordance with its duties under the 1989 Act and shall-

(1) take into account dates of the significant steps in the life of the child who is the subject of the proceedings;

(2) be appropriate for that child. The court will set the timetable for the proceedings in accordance with the Timetable for the Child and review this Timetable regularly. Where adjustments are made to the Timetable for the Child, the timetable for the proceedings will have to be reviewed. The Timetable for the Child is to be considered at every stage of the proceedings and whenever the court is asked to make directions whether at a hearing or otherwise.

The steps in the child’s life which are to be taken into account by the court when setting the Timetable for the Child include not only legal steps but also social, care, health and educational steps.

Examples of the dates the court will record and take into account when setting the Timetable for the Child are the dates of-

(1) any formal review by the Local Authority of the case of a Looked After Child;

(2) the child taking up a place at a new school;

(3) any review by the Local Authority of any statement of the child’s Special Educational Needs;

(4) any assessment by a paediatrician or other specialist;



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- (5) the outcome of any review of Local Authority plans for the child, for example, any plans for permanence through adoption, Special Guardianship or placement with parents or relatives;
- (6) any change or proposed change of the child's placement;

#### **4. Action to reduce delay**

The following extract from Reducing Unnecessary Delay in Care and Supervision Proceedings, Local Performance Improvement Groups Guidance (October 2010) highlights the complexity and challenges for reducing delay for children and ensuring the system is efficient:

*“Causes of delay are complex, such as the unnecessary commissioning of expert reports (and subsequent delays in receiving them), late identification of family members and the limited availability of parties, including Cafcass guardians, to attend sittings as offered. There is no single agency responsible for delays and all have a part to play in delivering solutions. Benefits of a cross-system approach of this kind were highlighted by Lord Laming...”*

In Haringey the Looked After Children's Service has been restructured and has a dedicated court team which is responsible for most of the children in proceedings. Managers from Children and Families meet regularly with colleagues from Legal services to provide oversight to case management processes and respond to emerging themes and issues.

Arrangements are in place for liaison with the courts, but the proposal for Local Performance Improvement Groups, which would be multi-agency and linked to local courts, would provide a forum to deal with issues which arise locally.

The core membership of a local group ideally should include representatives from HMCS, Cafcass, the LSC, a representative from each Local Authority and where possible local legal practitioners.