



THE REVISED PLO: GUIDANCE FOR CAFCASS

- 1) This guidance sets out the requirements for a Cafcass case analysis, which must be produced on the revised PLO Cafcass Case Analysis template.¹
- 2) Later in 2013, we will evaluate the revised PLO template and make any changes needed by the time new legislation about the statutory time limit commences, which will probably be in April 2014.
- 3) All reports must continue to be focussed and analytical.
- 4) This more detailed guidance builds on the framework set out in the Cafcass/ADCS Good Practice Guidance for Family Court Social Work, which is on the Cafcass and ADCS websites.
- 5) Under the revised PLO, a children's guardian will need to start work on the day Cafcass is notified of an application for care or supervision proceedings being issued. It is crucial to find out enough about a specific case in the first 1-2 days to be able to structure the first ten days of work on a case – even though the Case Management Hearing (CMH from now on) should be on Day 12, the guardian's case analysis needs to be with advocates by Day 10, to inform the advocate's meeting.
- 6) As much of the case analysis template should be completed by the CMH as can be. In some cases, where all pre-proceedings work has been carried out to a good standard and the responses to those documents have been filed, it will be possible to produce a final case analysis by the CMH. If this can be done, it must be done. In cases where there is little information to hand by the CMH, the case analysis should analyse the available evidence and point to the limitations of what has been possible by the CMH in the section of the template on case management advice.
- 7) Under the revised PLO, it is possible that guardians will have more than one new case simultaneously allocated, which makes prioritising between them crucial by Day 3. The triage principles set out in the Cafcass Operating Framework should be used, so that a differentiation is made between cases where we need to be highly active immediately and those in which the evidence is less contentious so the role of the guardian is likely to be less demanding and the needs in the case easier to define at the first hearing

¹ The 2008 PLO templates for an initial, interim and final analysis will no longer be available for use within Cafcass. The Cafcass analytical template will still be available for use in private law cases after the first hearing only.

- 8) With more front-loading of work, practitioners may have more than one hearing on the same day or part day so have to prioritise which to attend in liaison with the court. In those they cannot attend, filing an early case analysis is even more crucial, or in more straightforward cases, the child's solicitor should produce a position statement. Oral evidence is a back-stop option but must never become a default position. The child is entitled to have a written record of reasoning behind the Guardian's recommendations. Other parties also have a right to such a written record in order to contest points they disagree with.
- 9) Practical difficulties with court attendance because of the increased expectations on the guardian at CMH's should be raised with court staff and judges as a matter of urgency. Such liaison with courts is a core task for local office case administrators as well as practitioners and their solicitors. Prior agreement about when and how to give evidence is essential, otherwise Cafcass may be judged to be the primary reason why a hearing cannot go ahead or is judged to be ineffective. This is one of our Key Performance Indicators monitored by Ministers and reported to Parliament.

INPUTTING CASE DATA AND CASE INFORMATION

- 10) Insert the usual case details. Guardians should incorporate significant or pivotal meetings, conversations or documents into the relevant sections of their written case analysis.
- 11) All sections of the case analysis should be completed as soon as possible, in the form of a bullet point analysis. Each section should be evidence based, starting with the strongest evidence. Free text should be used to expand and deepen the analysis of each critical point. A maximum two case analyses should be produced. The first is for the CMH. The second is the final analysis, to be filed as soon as possible, and by the IRH/Final Hearing at the latest. If the analysis at the CMH remains fundamentally the same, the update section of the template can be completed for the IRH or final hearing. If change is significant between the two hearings, a new case analysis should be produced.

GUARDIANS AS EXPERTS

- 12) Guardians should analyse issues in a case such as attachment, child development and mental capacity, using their knowledge and experience of working with children and families. Where they reach the limits of their knowledge and expertise and where this knowledge gap is central to analysing and determining the case, the guardian can propose a particular expert is engaged to 'top-up' the overall level of knowledge in the case by answering specific questions. These should be set out in the

guardian's case management advice to the court as well as discussed and agreed between advocates in the normal way.

THRESHOLD ANALYSIS

- 13)** The threshold is often not in dispute, any contest being more likely about contact. The Cafcass research study, 3 weeks in November, published in 2012, was clear that in 85% of cases and in the opinion of guardians, applications were being made appropriately. The focus of the court case is usually not so much on the threshold, but nearly always on what should happen next. The guardian's analysis of the threshold is not the same as the threshold statement agreed or contested between the local authority and the parent/s, but a separate and independent analysis. It is the guardian's analysis of what the child is likely to face without a protective court order. The starting point of a guardian's threshold analysis is a root cause analysis of why a child's needs are not being met, of the significant harm this is causing or is likely to cause, and whether the parenting capacity gap can be bridged or not. Both the risks the child faces and the strengths in the family system should be bullet pointed.
- 14)** The analysis of the problems will frequently revolve around the commonly found issues of neglect or abuse as a result of domestic violence, substance misuse and/or mental health problems. The guardian is also in a position to assess the impact of learning disability on the level of care provided to the child.
- 15)** In a minority of cases, it will not be clear that the child is likely to suffer significant harm in the future.. The local authority may be seeking an 'order for greater authority' to make its work with the parent/s viable, especially if the parent will not engage or is avoidant or is especially hostile towards professionals. Some such cases will reach the threshold of significant harm but, in line with the no order principle, the guardian can recommend that the local authority should continue to work within the parameters of a child protection plan, rather than a court order. Normally, a written agreement would accompany this, in which the parent/s agree to co-operate with the local authority for their child's sake. If the parent/s refuse and if the guardian is concerned that this would expose a child to undue risk of significant harm, a recommendation for an interim or full supervision order or care order should be made in order to guarantee professional oversight of a child's safety whilst remaining at home.

ANALYSIS OF PARENTING CAPACITY

- 16)** On the child's behalf, the guardian should be looking for a level of care that is demonstrably 'good enough' in relation to the child's particular needs, whether a

child is remaining at home, going back home, going to live within the child's extended family or being placed for permanence outside the family network. This is the child's right.

- 17)** The analysis of parenting capacity should focus on whether the care plan for the child (the 'what happens next') will provide physical, emotional and psychological permanence for the child. For the parent/s, the analysis needs to be clear about whether, in the view of the guardian, the parent can bridge any 'capacity gap' between what they are providing to the child and what the child needs. A significant change in lifestyle and behaviour will usually be required and, in appraising the local authority position, the guardian will need to see the clear evidence both in favour of the parent being able to bridge any gap, or not being able to. Vague assertions or promises can never be enough. There must be evidence of a motivation and determination to change, backed up by evidence that change is being practised on a daily basis, and has been sustained for at least 2-3 months. How long change has been sustained before it is a new permanent pattern is often the question, but the court proceedings cannot be extended to test this out, as it should have been tested out in the pre-proceedings stage. What will also matter is the type and extent of support available to the parent/s.

CHILD IMPACT ANALYSIS

- 18)** The child impact analysis is at the heart of the guardian's case analysis. It should cover the child's wishes and feelings, setting those out for the court and parties. It also includes analysis of the impact of the anticipated court process and all related administrative timetables on the child's needs. Analysis of the impact of poor parenting should refer to the evidence of physical, sexual, emotional or psychological injury. Impact could be traumatic (as in much physical or sexual abuse) or cumulative (as in much neglect and emotional abuse). Evidence comes from the child's behaviour, often through observation by professionals or specialist assessments. In the family court, health and education professionals will, if asked, submit a letter or report setting out their observations of a child over a period of time. Such letters or reports are important sources of evidence for the social worker and guardian to analyse. Children can be asked in direct work to express the impact of their family situation on them, or this can be deduced from play or by using customised toolkits for direct work with children. During proceedings, the quality of interim care should be scrutinised in the child impact analysis, given the current length of many interim care placements. Such interim care should be providing the child with a chance to recover from trauma and restore normal growth and development (see ADCS/Cafcass Good Practice Guidance).

EARLY PERMANENCE ANALYSIS INCLUDING THE PROPOSED PLACEMENT AND CONTACT FRAMEWORK

19) The early permanence options (for physical, emotional and psychological permanence) are:

- Safe reunification with one or both parents/and respective partners
- Kinship care
- Long-term (permanent) fostering
- Special Guardianship
- Adoption
- Residential care

20) Good practice in parallel (concurrent) planning demands an assessment for a permanent carer at the earliest possible stage of work in a case where the local authority thinks the threshold for care proceedings is met. The assessment should use a common threshold of 'good enough' care standards for the potential carer, irrespective of whether it is a parent, a relative or a carer outside of the family network, unless the child needs specialist therapeutic or medical care in the placement. This common threshold also means assessing for emotional and psychological permanence irrespective of the child's eventual legal status. This will also give the child the best chance of being placed for permanence and to form a secure and loving attachment based on understanding and meeting the child's needs as early as possible, unless this is not in the child's best interests e.g., the child may need a period of therapy in a bridging placement before being placed with a permanent carer. Potential carers should also be steered towards thinking of themselves as providing satisfactory permanence to a vulnerable child, rather than of becoming one or another type of carer. The need for fluidity in care plans over a period of time, when the lives of carers and children can change out of all recognition within a few years, makes this a more realistic placement strategy. This approach also invites fluidity between a viability assessment and a full assessment of a permanence carer.

21) The care plan analysis should consider the evidence base for the proposed care plan including the placement, the support plan, and the health care and education plans, if the child needs additional support. The proposed contact framework should also be analysed, particularly in relation to how it fits with the early permanence proposal.

22) Guardians must liaise with Independent Reviewing Officers to agree the key issues in the child's Care Plan to support after care proceedings have concluded.

CASE MANAGEMENT ADVICE

23) Case management is everyone's responsibility. So is taking steps to eliminate avoidable delay from a case, so that its duration is justifiable. Both the social worker and children's guardian should adopt a project management approach to casework. They will benefit from business or administrative support to track their cases through the child's journey, to make sure court deadlines and deadlines for services to the child are set and met. The three most successful approaches to case management for social workers emerging from early work to implement the new PLO are

- i) Systematic planning and timetabling of essential pre-proceedings work with the family, both prior to and following the legal gateway meeting
- ii) the use within the local authority of a specialist case manager at team or service manager level to screen and review cases prior to issuing an application for care proceedings; and
- iii) the use of a case tracking system within social work teams, maintained by a business manager – from April 2014, a standardised case tracker will be a core screen within ECMS for use in Cafcass teams and service areas.

24) Case management advice should concentrate on two main issues: gaps in evidence, including where an additional or specialist assessment might be needed, working within the current Practice Direction on the use of experts (FPR Part 25 in force from 31 January 2013); and advice on behalf of the child about what might be needed and by when. To do this well, the guardian should be scrutinising and challenging the local authority's work to ensure a 'culture of urgency' is being applied to the child's situation by all key professionals e.g., is parallel planning being undertaken coherently? The guardian must apply this level of scrutiny to their own work as well. It is permissible for the guardian's own case plan to be included in the case management section of the revised PLO template, if it is appropriate to be shared. An example of where it should be shared positively is if it makes it clear and transparent to the court and parties what the guardian's concerns about case management are, and where they will be targeting their time and effort as a result. Where this is done, it will also be sufficient for internal case planning purposes, rather than documents being duplicated. Where it is not possible or desirable for the guardian to set out their case plan in this way, it should be completed after the CMH using the current stand alone case plan template.

25) Each case must have a case plan, started after the CMH at Day 12. Before the CMH, evidence of case planning must be demonstrated in the contact log, and this should be integrated into the progressive analysis of initial information available to the

guardian, and the lines of enquiry the guardian is pursuing in order to be able to write the fullest possible case analysis for the CMH. After the CMH, case plans in more complex cases need to be reviewed and updated from time to time and recorded to a good standard. Reviewing and updating is the practitioner's responsibility.

- 26)** The guardian should be able to comment upon the ability of a parent to understand the proceedings in court. If assistance is needed from the Official Solicitor or a litigation friend, this should be considered in the guardian's case management advice.

AND FINALLY, RECOMMENDATIONS

- 27)** Recommendations must always flow from the evidence base set out in the report. There will normally be recommendations about:

- Any Order/s required
- Any detailed requirements the child has which are essential if the early permanence solution for the child is to be delivered and sustained.

APPLICATION OF THE WELFARE CHECKLIST

- 28)** Throughout the case, the relevant welfare checklist (relevant to the Order being sought) must be taken into account and relevant sections incorporated into the case analysis. The checklist applicable to applications for Care and Supervision Orders covers:

- the ascertainable wishes and feelings of the child concerned (considered in the light of his/her age and understanding)
- the child's physical, emotional and educational needs
- the likely effect on him/her of any change in circumstances
- his age, sex, background and any characteristics of his/hers which the court considers relevant;
- any harm which he or she has suffered or is at risk of suffering
- how capable each of his/her parents and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs

The additional matters which need to be taken into account in an application for a Placement Order are:

- The likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person

- The relationship which the child has with relatives, and with any other relevant person and the likelihood of that relationship continuing and its value to the child, and the wishes and feelings of those relatives.

29) The relevance and significance of an issue in one of the welfare checklists must take account of the child's vulnerability.

30) Where the court permits a Care Order and Placement Order to be considered and made together, both matters can be covered in the same report, or in an updated report.

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