

Good Practice Guidance for Social Work practised in the Family Courts

VALUE STATEMENT

The underlying purpose of the care system is to reduce the risk or risks faced by a child and to improve a child's health and well being, including recovery from trauma (see Appendix 1). The care system aims to deliver positive care, health and educational outcomes for children, from day one to a child or young person's final day in care.

1. Introduction and purpose

- 1.1. This is good practice guidance for all social workers operating in the family courts, setting out the vital contribution social work can make to family court cases. It is a framework document which sets out proposed key outcomes and deliverables. The guidance has been developed by ADCS, ADASS and Cafcass. The framework is consistent with the Standards of Proficiency for Social Workers in England set out by the Health and Care Professions Council (HCPC, 2012).
- 1.2. We are working with the judiciary so that this guidance is judicially endorsed once it is finalised. In the next few months, practice guidance on key issues will be added to this basic framework. We are also working with Research in Practice to ensure this guidance works together with their revised guidance for their publication, *Evidence Matters*, which covers similar ground.
- 1.3. The guidance assumes the key to good practice is a strong knowledge base about specific areas of social work practice within the established legal framework. Social workers who work in the family courts on a regular basis must familiarise themselves with the relevant legislation, Practice Directions and Regulations.
- 1.4. Social work practice for the three stages of care around the time of a family court case are set out:
 - The pre-proceedings stage
 - The care proceedings stage
 - The post-proceedings stage

These stages can encompass the child's entire time in care, so can also be seen as three stages of the child's journey through the care system.

- 1.5. The guidance does not apply to children in care on a voluntary basis under s20 of the Children Act 1989, though the principle of working with parents, relatives and friends of the child through one or more voluntary agreements is good practice irrespective of the legal status of a child's time in care.

2. The Pre-Proceedings Stage

- 2.1. A short period in care can help a family to stay together, if it is made available at a time of crisis or great need and if the period in care is accompanied by support to overcome the crisis or risk the child faces. An allocated social worker and an approved carer will normally be the minimum 'team around the child'. An assessment of need under s17 of the Children Act 1989 and a short care plan are the minimum documentation.
- 2.2. Where concerns about a child become too great to manage within a child protection plan, the initiation of care proceedings should be considered in order to achieve the degree of protection the child needs. At this stage of a case, the evidence base for the level of harm should be reviewed within the local authority and brought together in the form of a threshold analysis. This includes all necessary assessments, including specialist health assessments. We recommend the protocol signed by local authorities in Cheshire and Merseyside as an example of good practice about the timing and commissioning of assessments, including specialist health assessments at the pre-proceedings stage. As in this protocol, we recommend that pre-proceedings meetings with parents take place and are minuted. This allows parties to be funded for legal advice and also allows for the joint instruction of experts, which lessens the risk of avoidable (for good reason) contests in court.
- 2.3. A social worker from Cafcass can advise the local authority in the pre-proceedings stage, to give an independent view on behalf of the child. This has long been seen as good practice (Hunt, 1999). The child protection plan can at that stage either be confirmed as the continuing basis for community-based intervention, or care proceedings can be issued. Positive alternatives to care should always be considered for viability first. Co-production of all plans with parent/s, including improvement plans, is ideal when possible.
- 2.4. A threshold analysis is based upon the following areas of social work practice:
- An analysis of the child's life to date, including the trend in risk/s to the child, the trend in child development/health/wellbeing and the impact on the child of parental behaviour e.g., signs of hidden (and usually cumulative) harm such as anxiety and hyper-vigilance as a result of living in a neglectful or dangerous household.
 - An analysis of local authority intervention/support and its impact and also the impact of other interventions.
 - A chronology of key events and incidents in the child's life, with an interpretation of that chronology built into the case analysis. Taxonomies of exposure to risk, neglect and domestic violence, for example, can be useful to include.
 - Analysis of the parenting capacity gap, with the reasons for professional pessimism if the judgment is that the gap either cannot be bridged at all, or cannot be bridged in the child's timescale.
 - The plan for the child flows directly from the evidence base in the threshold analysis. The plan also has to consider the viability of the local care system to effectively support a particular child. Such a viability analysis is crucial to which of the five early permanence options for a child in care are proposed, namely:-
 1. Safe reunification at home, assumed to be permanent
 2. Permanence away from home with approved (under the requisite regulations) relatives

3. Permanence with foster parent/s
4. Permanence with a special guardian/s
5. Permanence with adoptive parent/s

2.5. Parallel planning for the child should start as soon as the level of concern reaches the stage when care proceedings are being considered, unless a clear single evidence-based proposition for the child's future can be put before the court at the outset, in which case it should be. By parallel planning, we mean planning to secure early permanence for the child, whether back home on an improved basis, or through care elsewhere. Early permanence is the driver. An application to court on the basis of a 'single proposition' should also be on the basis of achievable early permanence..

2.6. Considering a family group conference or another type of family/extended family meeting - unless the level of risk to the child is too high or there is a clear contra-indication. The conference should explore how the child protection plan can be strengthened or whether there is a viable kinship care placement which reduces risk and improves the health and wellbeing of the child. It is good practice for a family placement social worker to be linked in to the family group conference/meeting process, in order to start assessing the viability of potential kinship carers at this early stage.

2.7. If the child is remaining at home, it should be on the basis of confidence in a plan, shared with and owned by the responsible parent/s and the team around the child, which shows how risks to the child can be reduced and the child's health and well being can be improved. The evidence base for positive change must be quality assured to guard against the known 'rule of optimism'. We recommend local authorities put in place or retain reasonably resourced preventative services and a dedicated non-residential parenting assessment service. Communication with parent/s must be clear and regular, with consistent messages.

2.8. If the decision is to issue care proceedings, we recommend 'whole system parallel planning', consisting of the following steps in parallel:-

- Active family finding in line with the outline care plan e.g., the options in 2.4.1 – 2.4.5.
- Contact levels being set according to the needs of the individual child, and not formulaically e.g., if the parenting capacity gap can only be bridged by a responsible parent leaving a violent partner, or ending a drug habit, then that is the focus of the case and the lever for change, and high interim contact levels should not be the main focus of the case plan. Contact should be set at levels which allow the child's health and well-being to be improved by a primary carer, usually a foster carer – unless the child is clearly distressed by separation from their parent/s, when contact levels should be set at the level to minimise distress. Contact levels within a permanence plan post proceedings are a different matter. These should also be set on an individual basis in line with the child's needs.
- Where the case analysis has concluded the parenting capacity gap can be bridged by specific achievable steps within the child's timescale; that will be the main focus of the case, within a 3 month window to see if a fundamental shift in parenting capacity can be made. Where the parent has a care manager from a local authority's adult care service or a partner service or a commissioned service, we recommend they actively support this plan for the 3 month period, so that all possible help is given to the parent/s, for the child's sake.

- Where the case analysis has concluded the parenting capacity gap cannot be bridged in the child's timescale, the entire evidence base should be coherently assembled and put to court. We recommend local authorities appoint a specialist court officer who carries out a case management screening role on the quality of the evidence base prior to care proceedings being issued. We recommend the work of the 'tri-borough' pilot in this regard (Hammersmith and Fulham, Kensington and Chelsea and Westminster in London).

3. The Care Proceedings Stage

3.1. An important social work role in care proceedings is to support active case management by the judiciary. The core skills for this are:-

- A strong grounding in child development and the impact of parental difficulties on that development
- An understanding of effective, evidence-based interventions and how they can be used with families, with progress effectively monitored and recorded
- Assessment and analytical skills, so that the key issues are analysed, as this supports robust judicial decision-making
- Producing high quality social work statements, chronologies and court reports
- Giving evidence in court
- Discussing and negotiating issues with parties to the case so as to move the case on as quickly as possible within the child's timescale
- Refining the case analysis if new information comes to light

3.2. Social work reports should always be focused, analytical and evidence based.

3.3. Social workers giving evidence in court should be prepared. Both in reports and in giving evidence, social workers will be assisted in future by a judicially approved set of research findings which the court will expect to see when it is appropriate to refer to them. Tools such as assessment criteria and tools for direct work with children to support family court social work will also be made available as a set of standard tools that courts will expect to see used.

3.4. The first stage in proceedings is to establish whether the threshold for care is met. The social work and children's guardian roles should present evidence about this in line with the areas of social work outlined earlier in this good practice guidance. The guardian should analyse the local authority assessments and investigations, both direct and commissioned, to establish if all that could have reasonably expected to have been done pre-proceedings was done, including whether enough support was given to the parent/s. The guardian should see hear and know enough about the child to offer her or his way forward to the court by the Case Management Conference (CMC).

3.5. If magistrates or a judge finds the threshold is met, attention shifts to what should be done to help the child. At this stage of the case, use of the risk and well-being framework is important, to establish that the child is experiencing a lower level of risk and improved health and well being in the interim care period. The assessment of whether the parenting capacity gap can be bridged is central to the next stage of case management. Update reports and case analyses should cover this point, including whether any direct work with the child's family or network is feasible as a result of the shock of proceedings on the family system, to strengthen the family system sufficiently to make it safe for the child to go home. The viability of the care plan and the local care

system should also be continuously tested so as to be sure the child's needs will be best met in care.

- 3.6. If a child cannot return home, the next task of the court is to consider whether to make a Care Order or an alternative order. For this purpose, a viable care plan for early permanence is crucial. For younger children, this will almost certainly mean a permanent family placement. For older children, the permanence option of choice may be a permanent family placement but might also be a specialist residential placement, where that offers the best chance of stability and security for the child or young person, particularly if the child or young person is recovering from trauma or if the child's/young person's behaviour is out of control, making a family placement not yet viable. Viable alternatives should always be considered whilst the case is in progress, as long as the delay in pursuing a potentially better alternative option would not make the child's situation worse.
- 3.7. A viable care plan is an overarching plan that combines the main elements of a child protection plan (usually needed if the care plan is for reunification), placement plan (where relevant), permanence plan (where relevant) and any health or education plan needed because of a child's vulnerability in those aspects of their development. The integrated plan needs to demonstrate that the trend in risks to the child is being reduced towards zero and that the trend in health and wellbeing improvement is rising as quickly as possible.
- 3.8. When reviewing and analysing the care plan, the guardian should examine its implementation timetable as well as the merits of the plan itself. The involvement of the senior responsible local authority manager should be sought when there is a concern about implementation. This could be due to a delay in family finding, a lack of an available family even after family finding, or some other reason why implementation of the care plan is at risk. The court should be made to feel confident that the care plan will be implemented positively for the child even if circumstances mean it has to be changed in the post-proceedings stage. The local authority should ensure that its reviewing processes and its IRO service keep every looked after child under active case management and active support, for as long as the child is in care.

4. The Post Proceedings Stage

- 4.1. Responsibility for the care plan rests with the local authority. The role of the court and the role of officers of the court, such as Cafcass practitioners, ends when the case ends. Court conclusions including any recommendations should be handed over methodically and in full from courts and Cafcass to the relevant local authority operational manager and the IRO. A standard letter of concern should be sent from Cafcass to the Director of Children's Services if even at the end of this process a high level of concern remains about whether a particular care plan will be implemented.
- 4.2. Support for the child should continue in line with need throughout the child's journey, including in the after-court stage, when the child's permanence plan should be fully implemented as soon as possible. This may entail a further change in legal status e.g., through an Adoption Order, a Residence Order or a Discharge from Care. Just as all steps should be taken to prevent a child coming into care, so all steps should be taken to discharge a child from care into permanent family support, unless remaining in care is a positive care plan in its own right for good reasons.
- 4.3. Support for the child extends into the aftercare period, especially if the child continues to need support, for example from adult care services. The transition between services should be seamless, and planning should start from the earliest possible point, once continuing needs are apparent.

- 4.4. Given the significant percentage of parents in care proceedings who go on to have a subsequent child or children who often become subject to pre-birth concern and assessment themselves, we recommend as good practice the continued engagement by a local authority with a parent who has lost their child through care proceedings, so that the offer of help to bridge the parenting capacity gap remains available for the parent to take advantage of. This means a care plan for the child and a care plan for the parent, to ensure as far as possible that the next child born to a parent judged as having a hard-to-bridge parenting capacity gap, has the best possible chance of being born and looked after safely at home. We commend the work of agencies in the Suffolk family justice system in this regard.

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APPENDIX A

