

A PRACTICE NOTE TO DEAL WITH ‘IN PROCEEDINGS’ ASSESSMENTS IN CARE CASES IN CHESHIRE AND MERSEYSIDE

In accordance with the ‘View from the President’s Chambers-The Public Law Outline (PLO) Relaunch’ and following a meeting with Assistant Directors (or their proxy) from all nine local authorities in Cheshire and Merseyside, I set out below the timetable for ‘in proceedings’ assessments that will apply to care cases issued henceforth.

In accordance with the PLO (FPR 2010 PD12A) the time limits run from the first case management hearing. Local authorities **must** comply with these time limits.

It is no longer realistic to expect local authorities to prepare full fostering assessments of relatives, friends and other persons who are connected with the child within 8 weeks of the first case management hearing.

THE DUTIES ON A LOCAL AUTHORITY TO ASSESS PARENTS AND POTENTIAL CARERS

The local authority has a statutory duty pursuant to section 22C (2) and (3) of the Children Act 1989 to make arrangements for a child in its care to live with;

- a) a parent;
- b) a parent of the child without parental responsibility;
- c) a person who, immediately before the interim care order came into effect, was named in a child arrangements order as someone with whom the child was to live;
unless it would not be consistent with the child’s welfare or is not reasonably practicable 22C (4).

If a local authority plans to place a child in its care with a parent it must assess that parent pursuant to [The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) (ctrl + click to follow link) and in particular regulation 17.

In the event a parent or person falling within section 22C subsection (3) cannot care for the child, the local authority must place the child in the placement which is the most appropriate available 22C (5).

22C (6) In subsection (5) a placement means;

- a) a placement with a person who is a relative, friend or other person who is connected with the child who is also approved as a local authority foster parent ;
- b) a placement with a local authority foster parent who does not fall under a) above;
- c) a placement in a children’s home registered under the Care Standards Act 2000;
- d) subject to section 22(D) placement in accordance with other arrangements which comply with other regulations made for this purpose.

In determining the most appropriate placement for the child pursuant to 22 C subparagraph (6) the local authority must, subject to subsection 9(B) and the other provisions of Part II (in particular its duties under section 22) give preference to a placement under 22C (6)(a).It must

comply with subparagraph (8) so far as is reasonably practicable in all the circumstances of the child's case. It must comply with subsection (9) unless that is not reasonably practicable.

As a minimum, any potential carer must be assessed pursuant to [The Care Planning, Placement and Case Review \(England\) Regulations 2010](#) (ctrl + click to follow link) and in particular regulation 24.

The court will expect all relatives, friends and connected persons being considered as long term carers for a child, who have been the subject of a positive initial viability assessment, to be assessed as both potential local authority foster parents pursuant to the [Fostering Services \(England\) Regulations 2011](#) (ctrl + click to follow link) and as potential Special Guardians, save in exceptional circumstances.

As part of the final evidence the local authority will be expected to identify and analyse the advantages and disadvantages of the alternative options for long term care of any relevant child, including the nature of any final order (care order or special guardianship order) where long term placement with a relative, friend or connected person is proposed.

The statutory requirements place on the local authority a positive duty to consider alternatives to professional foster care. Accordingly, the local authority has a duty to be pro-active in seeking out potential alternative carers who are also relatives, friends or connected persons.

Where information is required from third party agencies (eg DBS checks, medical assessments) it is vital that local authorities put that in train at the earliest possible time to avoid delay.

In line with 'The View' of the PFD and the Local Practice Note of 16 January 2023 issued by MacDonald J, the pre-proceedings process with the engagement of the parents and a thorough assessment exercise, following the DfE Guidance, https://www.basw.co.uk/system/files/resources/basw_35223-1_0.pdf (ctrl+click to follow link) and the PLWG recommendations is essential and will result in the majority of assessments being concluded pre-proceedings, thereby stopping the 'start again culture.'

TIMEFRAME FOR ASSESSMENTS WITHIN PROCEEDINGS

- Parenting assessment 8 weeks from the first case management hearing.
- PAMS assessment 10 weeks from the first case management hearing.
- Initial viability assessment (IVA) 2-3 weeks from the first case management hearing.
- Full fostering assessment/special guardianship assessment to be completed by 13 weeks from the first case management hearing. (Note: the time taken for the IVA is to be included within the computation of 13 weeks and not in addition to it).

His Honour Judge Steven Parker

The Designated Family Judge for Cheshire and Merseyside

Practice Note No 4 of 2023 dated 14th February 2023

