

Committee: **Corporate Parenting Panel**

Date: **25 January 2008**

Title of Report: **Care Proceedings – a new approach**

By: **Director of Children's Services**

Purpose of Report: **To inform the Panel of the implications arising from the plans to replace the 'Protocol for Judicial Case Management in Public Law Children Act Cases' with a new practice direction from April 2008 alongside the revision of Children Act Guidance, Volume 1**

Recommendation

The Corporate Parenting Panel is recommended to note the information contained in the Appendix to this report

1. Financial Appraisal

1.1 These changes are likely to have considerable financial implications, which are broadly identified in paragraphs 3.9 to 3.12 of the Appendix. These will need to be met from the Children's Services Department base budget.

2. Supporting Information

2.1 The report contained in the Appendix outlines significant changes to the process of care proceedings from April 2008. Key changes include:

- preventing children from entering the care system by fully exploring kinship alternatives through family group conferences;
- more specialist assessments to inform care planning; and
- more intensive family support services before and after issuing proceedings.

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Local Members: All

BACKGROUND DOCUMENTS:
None

Care Proceedings – A new approach

1. Background and Context

1.1. The current 'Protocol for Judicial Case Management in Public Law Children Act Cases' will be replaced with a new Public Law Outline (PLO) to be implemented nationally via a practice direction from April 2008 alongside the revision of Children Act Guidance Volume 1. This will have implications for current social care practice prior to issuing and during care proceedings. The national drivers for this change arose from a review of care proceedings which highlighted the need to prevent children from entering the care system by fully exploring kinship alternatives; a need for more intensive family support services before and after issuing proceedings; and the current delay in care proceedings with the average length of proceedings being 51 weeks. 60% of children subject to care proceedings are under 6 years old and this delay is detrimental to their well being.

2. Key Issues

2.1 The PLO will simplify and streamline current processes with the six stages of the Judicial Protocol reduced to four with enhanced case management and advocacy preparation to support this.

2.2 There will be increased emphasis on preparation pre-proceedings and the final hearing dates will only be set after the issues in the case have been agreed and narrowed down and a timetable for progressing the case will be set around the needs of the individual child.

2.3 Accompanying the PLO will be revised Children Act Guidance (revision of Volume 1 Court Orders). The revised guidance places increased emphasis on pre-proceedings preparation of cases by local authorities to ensure that all necessary steps have been completed before court proceedings are issued to avoid unnecessary delay. This will help to ensure that all kinship options have been explored, core assessments and, where appropriate, specialist assessments carried out and care plans completed and shared with parents. This is consistent with good practice and on the whole consistent with current practice in East Sussex. The aim is to move from an environment of litigation to problem solving.

2.4 There are explicit expectations that the Assessment Framework and Working Together are followed prior to an application with a core assessment being undertaken and an acknowledgement that specialist assessments may be commissioned. There is also an explicit expectation that section 17 family and friends support and Family Group Conferences (FGCs) are used.

2.5 The PLO has been piloted in 10 authorities and 60% of cases were resolved before the final hearing. The guidance is supported by revised documentation which is consistent with Integrated Children's System (ICS).

2.6 In order to prepare for implementation a small working group has undertaken a piece of work to map current East Sussex practice against the new requirements and consider the implications for:

- the social work process and practice
- the relationship/practice between Children's Services and Legal Services
- wider resource issues to support extended family arrangements
- training
- deployment of social work resources

3. Implications

Social Work Practice:

3.1. The biggest change to social work practice and process is that a **Core Assessment** will be undertaken at different stages of the assessment and care planning process. Currently in East Sussex most Core Assessments are undertaken early in the assessment and care planning process at the end of Initial Assessment when there is a professional judgment that a child may potentially be at risk of significant harm and a S47 enquiry is needed. Following this assessment a plan (often a Child Protection Plan) is implemented and reviewed. This plan will often involve further assessment, exploration of extended family and Family Group Conferences (FGC). When the social worker and practice manager reach the professional judgment decision that there is a need to take the assessment and care planning to the next level of intervention involving applying for parental responsibility in the form of a Care Order, the assessment should be recorded as a Core Assessment clearly evidencing the assessment of parenting capacity and its impact on the child's current or future development in order to meet the threshold criteria.

3.2. An assessment report following the 'core assessment' format under the new guidance is the primary evidence for an application for a care order. Specialist assessments, including psychiatric reports and cognitive assessments, need to be completed prior to proceedings and be incorporated into the 'core assessment report'. Voluntary arrangements, including care by family and friends, must be fully explored and addressed in the core assessment. The core assessment must also evidence inter-agency working and information sharing in order to fully identify the needs of the child and to plan how to meet those needs. The format of the care plan will follow the assessment framework domains in accordance with the Integrated Children's System single plan.

3.3. When the decision has been made to apply for a court order the following procedures will have to take place:

- I. Notification to the parents both verbally and orally in language which is easily understood. The notification is to include a summary and evidence of the local authority's concerns; the timing of the application and details on how to seek legal advice; details of plans for the child's care in the short and long term, including detail of attempts to locate family carers.
- II. Upon receipt of the notification the parents are entitled to non-means tested legal advice. Until notification is received the parents are not entitled to publicly funded legal advice. This consultation is to help avoid proceedings and to help narrow down the issues. Critically, where permanence is the care plan for the child and parental consent is unlikely to be achieved at this stage, consideration can be given to applying for a placement order.
- III. By day three from initial application the new documentation would have been completed and served and a guardian will be appointed, as will the child's solicitor, and 2 case managers will be nominated.
- IV. On day 6 the first hearing will timetable and look at early final hearing and make arrangements for contested interim care hearing.

3.4. **Family Group Conferences** are currently not being used early enough in care planning. In order to address this, all assessments that indicate that the birth parents' parenting capacity is unlikely to be adequate to meet the needs of their child throughout childhood must lead to a referral to the Family Group Conference service for exploration of support from extended family and friends. At the earliest opportunity twin track planning must be discussed with families ensuring that a potential carer has been identified and is assessed at the same time as parents are being assessed.

3.5. Another major shift is the use of **specialist assessments** outside of proceedings. There will have to be a shift in practice towards active consideration through the core assessment as to what assessments are absolutely necessary. There is likely to be a need for cognitive assessments, psychiatric assessments, including those with alcohol and drug specialism, and

forensic assessments. This has implications for the development of our specialist family support services.

Legal Practice:

3.6. Legal representatives will be required to work alongside practitioners at the time of notification to parents, participating in meetings endeavouring to avoid proceedings. This cultural shift will involve increased emphasis on problem resolution and narrowing of issues.

Support for extended family arrangements

3.7. Within the new protocol there is increased emphasis on children being cared for within the family network. This will have implications for resources for assessment and support for family carers. Over the course of the last year the number of children supported in permanence arrangements where a family member has applied for a Residence Order and received Residence Order allowances has increased from 68 at 1 April 2007 to 79 at 31 December 2007 and is set to rise to 104 by 1 April 2008. In all these cases the assessment and support of these family members has been undertaken by locality social workers with NCH, a voluntary organisation, undertaking a limited role in ongoing review and support. The quality and amount of support provided has been limited due to capacity issues in the fieldwork service. The limited nature of this support and input has resulted in family carers being inadequately supported with the focus always being on the child. This could be addressed by the creation of a 'Family Plus' support team comprising social workers who would undertake assessment and support, including training, of family carers and friends who provide private fostering arrangements.

3.8. The Family Group Conference service will require additional resources as this will become integral to the implementation of the new guidance and protocol. The success of Family Group Conferences in terms of preventing children from being looked after is very positive. During 2006 – 2007 the FGC service held 66 conferences with three staff. The objectives of these conferences were maintaining the child within the home (90% achieved), maintaining the child in extended family network (76% achieved), improved contact (100% achieved), and rehabilitation back home (100% achieved). On this evidence it is clear that family group conferences will be key in the new protocol agenda of keeping children at home or in the family network.

Broader resource implications

3.9. The implementation of the new protocol will have a significant impact on resources. It will require family support teams to have sufficient resources to undertake substantial intensive family support work, core assessments, extended family assessments, parenting assessment and work within the family to prevent children from coming into the care system. Similarly there are issues in terms of undertaking court work at an earlier stage for LAC teams and ensuring there is sufficient resource and skill mix within the teams.

3.10. There will be an increase in demand for our own internal specialist assessments by the Family Resource Centres (FRCs) and Family Substance Misuse Service (FSMS), prior to issuing proceedings. Currently most specialist risk assessment work is occurring through the course of proceedings and this is undertaken by Maywood and Elphinstone FRCs, supported by Family Substance Misuse Service and some other private providers, which is jointly funded. With the shift to pre-proceedings work undertaking all specialist parent and risk assessments the opportunity for joint funded arrangements will be lost. Consideration will be given to a preferred provider list being drawn up detailing contacts for relevant specialists. All specialist assessments will have to be approved by the care planning forum which will track demand and monitor the pressures on the budget. The Family Resource Centre review and performance reporting for the first year of Family Substance Misuse Service has highlighted capacity issues. However, alongside specialist assessment is the need for specialist intensive family support and an increased demand for community family workers to undertake direct parenting work and household management/family aide support with families.

3.11. There is difficulty in projecting the likely impact of the new guidance on the amount of care proceedings to be issued in the future. Over the course of 2006-2007, 71 care proceedings were undertaken across the county and, on average, there are 75 children subject to Interim Care

Orders. However, with the embedment of the protocol over the long term the numbers of proceedings are likely to decrease. A third of the children with Residence Orders as the permanence plan are currently in Care Proceedings with 2/3 of them being dealt with through private law, some of which is supported by the local authority to meet the legal costs for the family carers.

3.12. This will have implications for social work resources. There will be immediate implications during the transition which should resolve with the bedding in of the new guidance and protocol in the long term. However, during the transition period there will be a peak in both resources required for preventative work and the absorption of work at an earlier point with the Looked After Teams.

Training

3.13. Proposals for training are being taken forward jointly with the judiciary, CAFCASS, legal services, Brighton & Hove and West Sussex, with East Sussex taking the lead.

A half day workshop for managers is being organised in March with input from the judiciary, legal services, the Local Authority, CAFCASS and, hopefully, the DCSF. This will be attended by managers from East Sussex, Brighton & Hove and West Sussex.

3.14. This would then be followed up with half day workshops for practitioners with input from CAFCASS, and children's services to have input into CAFCASS training. The focus of this training will be on the legal implications of the public law outline and the practice implications of the new guidance regulations and will be co-facilitated by Brighton Chambers and an independent social work practitioner trained in delivering material on the new protocol.

4. Conclusion

4.1. These changes are broadly welcomed. They are likely to lead (over time) to a decrease in the number of looked after children, alongside an increase in the number of children supported within their extended family through residence orders.

4.2. Immediate challenges include training all relevant staff and ensuring that there is sufficient capacity to deliver the necessary specialist assessments, intensive family support both before and after proceedings, and family group conferences to explore care options in the extended family. Consideration is being given to developing a specialist service to assess and support kinship carers.

10 January 2008