Corporate Parenting Panel

30 January 2009

Implementation of the Children Act Guidance and Public Law Outline (PLO) guidance - the new approach to care proceedings

Director of Children’s Services

To inform the panel of the progress in implementing the new guidance on care proceedings

To note the progress in implementing the Public Law Outline (PLO) and associated financial challenges

1. Financial Appraisal
   1.1 The pressures (outlined in section 2) arising from the implementation of the PLO in April 2008 have been contained in the Children’s Services budget in 2008/09 and have been addressed in the budget setting for 2009/10.

2. Supporting Information
   2.1 The new Public Law Outline (PLO) about the new approach to care proceedings was implemented nationally via a practice direction in April 2008 alongside the revision of Children Act Guidance Volume 1. This report provides an update detailing the activity level within children services and the impact on resources, practice and service delivery.

   2.2 At the same time as the implementation of the PLO the Ministry of Justice introduced a new increased court fee structure for care proceedings work and changed the guidance in relation to parties sharing the costs of specialist assessments during proceedings. East Sussex County Council was allocated £92k to cover the increased cost of care proceedings court fees and this was passed on to Children’s Services.

   2.3 During 2007-2008, East Sussex spent £150k on court fees and court directed specialist assessments with the majority of these costs being associated with the specialist assessments. In anticipation of the impact of the new guidance the cost centers were separated for the financial year 2008-2009 with £152k allocated to court fees and £149k to specialist assessments.

   2.4 Despite this substantial increase in resources, there remains a significant pressure on the court fees budget. As a result of the new judicial protocol new court fees were introduced to be paid on a ‘pay as you go’ basis with a fee when cases are initiated and then further fees at each stage of the process. On the basis of cases already issued and notification to issue before the end of the financial year, the actual and projected expenditure is £250k giving a pressure of £110k. Although there is an awareness of this pressure amongst frontline managers, concerns about the budget have not influenced decision making regarding the issuing of care proceedings, and the criteria for making such decisions remain based on the professional judgment of the social worker and manager of the action needed to safeguard a child.

   2.5 The most significant pressure on the specialist assessment budget is work undertaken within the court setting where the costs for specialist assessments have historically been split 3 or 4 ways between the local authority, the parents and the Children’s Guardian. It was anticipated that the full costs of these assessments would now be borne by the local authority either before issuing proceedings or during proceedings. Relatively few specialist assessments have been commissioned outside proceedings apart from cognitive assessments. The reluctance to commission specialists is attributed to the knowledge that further assessment work will be requested once in proceedings and also an awareness of the high costs. Surprisingly, in many cases, the costs of court directed
assessments are still being shared between the parties, and the projected spend for the year is just within the allocated budget of £150k.

2.6 The increased emphasis on preparation pre-proceedings has led to a further associated pressure as a result of the increased demand for parent and child assessment placements. In order to safeguard children during this critical assessment period, the authority often either looks to a member of the extended family providing significant support and in some cases taking the primary caring role or places the parent and child together in a foster placement whilst the intensive parenting assessment work is undertaken. The recent ‘baby P’ case has highlighted the need for effective safeguarding arrangements during this significant time in the assessment process. Appropriate use of parent and baby placements as part of the immediate pre-proceedings and beginning of the care proceeding process is an effective safeguarding arrangement when courts are often unwilling to sanction separation of parent and child. This now presents a significant budget pressure. The pressure had been contained until the introduction of the PLO but during 2008-2009 the spend has increased from £240k to £350k.

2.7 With the emphasis on exploring kinship alternatives with extended family members, there has been a significant increase in the number of children and carers financially supported through residence order allowances and section 17 family support payments. The budget allocated for residence order payments was increased from £398k in 2007-2008 to £459k in the current year. Current projections indicate increased pressures between 2009 and 2011, and the budget allocation will be increased to £690k for 2009-2010. The number of children supported through residence orders has risen from 85 at 1 April 2008 to 112 at 31 December 2008, and the number of children supported through special guardianship orders has risen from 5 to 13 over the same period. In addition to these arrangements, the locality teams are facing significant pressures within their Section 17 budgets as they support family carers, whilst the necessary assessments are undertaken. As a result, the 0-11 teams in the East and West are projecting £140,000 pressure by the end of the financial year.

2.8 Between 1 April 2008 and 1 December 2008, 29 sets of care proceedings have been issued comprising 45 children. This equates to approximately four cases being issued a month in contrast to last year when on average 6 cases were issued per month. During the first 4 months of implementation of the new PLO guidance there was a considerable drop in the volume of proceedings being issued as practitioners and legal advisers got to grips with the changes. In the period April to August 2008, 8 sets of proceedings were issued. In the period August to the first week of December 2008, 21 sets of proceedings were issued. The impact of ‘baby P’ is being closely monitored, and senior managers have reinforced to staff the importance of issuing proceedings in a timely way when there is a need to share parental responsibility in order to safeguard children. There are 33 families, comprising 58 children, within the pre-proceedings cohort on the edge of issuing proceedings.

3 Conclusion and Reason for Recommendation

3.1 East Sussex was well prepared for the implementation of the new approach to care proceedings and has clear systems in place to track and manage both the financial impact and the potential impact on safeguarding practice. The children who are considered to be on the edge of care have clear safeguarding plans and their care planning is overseen by the operations managers who report to senior managers quarterly.

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BACKGROUND DOCUMENTS: Report to Corporate Parenting Panel - ‘Care Proceedings – a new approach’