



Revision of the Public Law Outline

Issue

The President of the Family Division and the Ministry of Justice have been working together (and in conjunction with other family justice agencies) to revise the 'Practice Direction Guide to Case Management in Public Law Proceedings'. This Practice Direction is more commonly known as the Public Law Outline, (the PLO).

- Our aim is for revisions to the PLO to come into force on 6 April 2010.
- The purpose of this note is to brief you about these changes and their impact – and for you to share this information with relevant colleagues in your organisation.

Background

The *Review of the Child Care Proceedings System in England and Wales*, was issued jointly by the Department for Constitutional Affairs (now Ministry of Justice), the Department for Education and Skills (now Department for Children Schools and Families) and the Welsh Assembly Government, in May 2006.

The Care Review made a number of recommendations to improve the system for children and families subject to care proceedings. It encouraged early intervention to find resolutions before cases reach court, and identified ways to improve the quality of local authority applications. It also recognised there were benefits in simplifying the court process and improving case management procedures. The PLO was a key reform arising from the Care Review.

The Public Law Outline – 1 April 2008

The PLO was issued jointly by the President of the Family Division and the Ministry of Justice, on 1 April 2008, and applies to all care and supervision proceedings. As far as practicable, it is to be applied to all other family public law proceedings.

The PLO introduced a simpler, more streamlined process designed to minimise unnecessary delay, with greater emphasis on key issue identification through case management and advocacy preparation. Importantly, the timetable in each case would be focused around the needs of the individual child involved. It shifted the balance from the emphasis on a specific target time for completion of cases, to a more flexible requirement for cases to proceed at a speed appropriate to meet the needs of the individual child, known as 'Timetable for the Child'.

Reasons for change

A commitment was made to revisit the PLO, a year after it had been in operation. This was intended not as a wholesale revision, or dilution of the PLO principles, but rather a fine-tuning

exercise to make necessary changes and improvements to address any specific areas of operational concern.

We commissioned some research to help our understanding of how the PLO was operating. The report, 'An early process evaluation of the Public Law Outline in family Courts' (Brophy et al, July 2009), showed that overall, when implemented appropriately to the needs of the case, the PLO provides a clear structure for care and supervision cases. However, it also found that there was inconsistency in compliance with the PLO requirements, and that the PLO paperwork was seen as unwieldy and in need of streamlining. The research was used to help inform the key areas to be addressed when revising the PLO.

Work to revise the PLO has been led by the judiciary, and the key areas of focus were agreed following input from an inter-agency group comprising: the Ministry of Justice, Association of Directors for Children's Services, Cafcass, CAFACSS CYMRU, and the Welsh Assembly Government. In addition, an inter-agency Care Proceedings Implementation Steering Group (ISG) was tasked with reviewing the current PLO documentary requirements and recommending improvements.

What is not changing

The overall framework of the original PLO has not been affected by the changes. There are still the same four stages. The same timescales also apply to the each stage as before.

PLO stages 1 - 4, timescales and hearings

1. **Issue (on day 1 and by day 3)** – to ensure compliance with the pre-proceedings checklist and give initial case management directions and **First Appointment (by day 6)** – to allocate the case to the appropriate tier of court and give initial case management directions.
2. **Advocates' Meeting (no later than 2 days before the Case Management Conference)** – to prepare a draft of the Case Management Order and the **CMC (no later than day 45)** – to identify issues that need resolving, confirm timetable for the child and give full case management directions.
3. **Advocates' Meeting (between 2 & 7 days before the Issues Resolution Hearing)** – to draft a new or updated Case Management Order and the **IRH (between 16 & 25 weeks)** – to resolve and narrow issues that need resolving and identify any remaining issues.
4. Hearing set in accordance with the Timetable for the Child – **to determine any remaining issues.**

Each of the hearings should still take place within the same timescales as above, and in accordance with the **Timetable for the Child** – on which there is now a greater emphasis.

Applications for Emergency Protection Orders

EPOs will continue to be outside the scope of the PLO.

Key changes and benefits

It was agreed, that revision of the PLO should be focused on the following key areas:

1. Clarifying which pre-proceedings documents must be attached to the application
2. Reducing the extent to which pre-proceedings documents served on the parties is to be filed with the court
3. Improving the PLO forms/orders
4. Clarifying and raising the profile of the concept of the 'Timetable for the Child'

1. and 2 pre-proceedings documents

Some important changes have been made to the Pre-proceedings stage of the PLO – this makes a distinction between the checklist documents required at Issue, and other documents to be disclosed by the First Appointment – or as directed by the court, but not filed with the court unless directed to do so. This change is in response to the feedback received that the original documentary requirements were considered to be overly burdensome and have been streamlined as a result. Such a large volume of documentation was also not considered to be essential for the courts to have at the issue stage.

New application form C110

To inform the development of the new application form for care and supervision orders, we carried out a targeted two week consultation on the draft version, during January 2010. There was a high level of interest in the C110 consultation, generating 51 responses. Overall, the comments were very positive and welcomed the introduction of a bespoke application form.

From 6th April 2010, applicants should use the new form C110, which contains an 'Annex' with a list of the 6 documents that need to be filed with the application at the time of issue.

- **Social Work Chronology**
- **Initial Social Work Statement**
- **Initial and Core Assessments**
- **Letters before Proceedings**
- **Schedule of Proposed Findings**
- **Care Plan**

Form C1, C13 and PLO1 should no longer be used.

Note: The C1 form will continue to exist, but will no longer be used for care and supervision applications and therefore some minor changes have been made to the heading of the C1 form to make this clear. Some consequential rule amendments are being made to cater for these minor changes to the C1 form.

3. Improving the PLO forms/orders

A series of forms were introduced with the PLO. The forms PLO1, 2 and 3 are annexed to the PLO. The revised PLO will not annex any forms and those within the existing PLO are no longer to be used

In summary:

- **PLO1 Pre-proceedings checklist** – this form will be obsolete as the relevant information has been incorporated into the new C110 application form.
- **PLO2 Local Authority Case Summary** – the current form will be obsolete. A Local Authority Case Summary will still be required, although no longer on a particular form. The prescribed information is specified in the revised PLO.
- **PLO3 Draft Case Management Order** – this form will be obsolete, and the matters to be included when preparing a draft of the Case Management Order are prescribed in the revised PLO. The court's approved Case Management Order will be set out on blank form C21.
- **PLO4 Allocation Record and Timetable for the Child(ren)** – this form will be obsolete. The relevant information is incorporated into the C110 and will be updated by way of recital on the Case Management Orders as the case progresses.
- **PLO5 Standard Directions on Issue** – the suggested format has now been replaced by a new suggested format as PLO8, which provides for the directions prescribed in the revised PLO
- **PLO6 Standard Directions at First Appointment** – the suggested format has now been replaced by a new suggested format as PLO9, which provides for the directions prescribed in the revised PLO
- **PLO7 Monitoring Form**- This form remains and should continue to be completed by HMCS for the attention of the court

Accessing the new forms

Prior to April 2010 - the new forms will be available on the HMCS website at:

<http://www.hmcs-judiciary.gov.uk/cms/index.htm>

Courts will need to direct court users to the HMCS forms website for the new forms.

Suggested format for Standard Directions

Old forms

From the 6 April 2010 – the existing C1, C13, PLO1, PLO2 PLO3, PLO4, PLO5 and PLO6 – will become obsolete. Courts need to ensure that they no longer accept these forms.

4. Clarifying and raising the profile of the concept of the 'Timetable for the Child'

The Practice Direction gives more detailed guidance on the use of the Timetable for the Child as a case management tool.

Rules

When the PLO was issued in April 2008, it was a free-standing Practice Direction and was not supported by court rules. Therefore, revision of the PLO would not ordinarily require any amendment to the rules. However, this opportunity to revise the PLO, is also being used to introduce a new application form to align with the PLO requirements.

The rule amendments make provision for the use of a new application form for care and supervision orders, Form C110. In addition, the rules will provide that only those of the documents which are specified in the 'Annex' to the Form C110 as are available should be

filed at issue. The aim is to ensure that proceedings aimed at protecting children are not delayed by reason of a missing document. The new application form supports the revision to the PLO - for example, by referring to the documents set out in the Annex to the form C110 - and when the court should give directions relating to any missing Annex documents.

In addition, there will be a new rule, which makes express reference to the court setting the timetable for the proceedings for a care or a supervision order in accordance with the Timetable for the Child defined in the rule. The revisions to the PLO support this rule by giving greater emphasis to the Timetable for the Child. The key feature of the Timetable for the Child, is that it is a timetable which takes into account dates of the significant steps in the life of the child who is the subject of the proceedings and is appropriate for that child

Transitional arrangements

The revised Practice Direction Guide to Case Management in Public Law Proceedings, will come into effect on 6 April 2010. This 2010 Practice Direction will replace the 2008 Practice Direction.

The new application form C110 for care and supervision orders, only applies to proceedings commenced on or after 6 April 2010. Subject to this the intention is that the 2010 Practice Direction should apply in so far as practicable to applications made and not disposed before 6 April 2010. In relation to these applications -

- (1) the 2008 Practice Direction applies where it is not practicable to apply the 2010 Practice Direction; and
- (2) the court may give directions relating to the application of 2010 Practice Direction or the 2008 Practice Direction.

Training

There will be a series of regional conferences across the country, which are about reducing delay in care proceedings. These events will cover the new system wide target for care cases, and also cover the changes to the PLO. These are inter-agency events, open to all those involved in the care proceedings system. The details appear on the Ministry of Justice website for those wishing to attend:

<http://www.justice.gov.uk/latest-updates/announcement260210b.htm>

Conclusion

Our aim is for the revised PLO Practice Direction, new prescribed application Form C110, revised application Form C1, and the necessary rule amendments, all to come into force on 6 April 2010.

Publication

Prior to coming into force, the revised PLO Practice Direction will be issued electronically, on the HMCS website at:

<http://www.hmcourts-service.gov.uk/cms/479.htm>

The changes mean:

- This is NOT a wholesale revision of the PLO
- Overall, the framework of the PLO is not changing
- The principles of the PLO remain intact
- Processes have been streamlined and simplified

There is no change to:

- Our commitment to avoid unnecessary delay
- The four stages of the PLO
- The Hearing types of the PLO
- Emphasis on key issue identification through robust case management
- Enhanced advocacy preparation
- Use of case management tools
- Focus on individual needs of the Child – the ‘Timetable for the Child’

Contacts

The relevant contacts for this work in Family Law and Justice Division, Ministry of Justice:

Sian Simpkins

Tel: 0203 330 4122

Sian.Simpkins@justice.gsi.gov.uk

Surinder Sawali

Tel: 0203 330 3142

Surinder.Sawali@justice.gsi.gov.uk

Joanna Furlong

Tel: 0203 330 3123

Joanna.Furlong@justice.gsi.gov.uk