

# **THE FAMILY COURT IN LANCASHIRE –**

**Guidance as to current practices and procedure**

**March 2014**

## Foreword

Over the years a wealth of guidance material has been prepared and circulated to all concerned in family justice in Lancashire in order to assist the smooth flow of proceedings and avoid the pitfall of unnecessary delay. The Revisions of the PLO and the welcome advent of the Single Family Court have demanded that we should re-visit many of the procedures with which we had all become familiar, and some of the practices to which we had become accustomed and perhaps with which we were rather too comfortable.

This has accordingly been a period of extraordinary transition nationally, and the wind of change has blown particularly strong in Lancashire. This guidance document is an attempt to set out in clear terms the practices and procedures which are now in place, including those which preceded the changes, and those which have been a consequence of them.

Wherever possible the compilation of the document has been carried out in consultation with others with greater knowledge and experience than my own in the particular areas which I have tried to cover, and I am grateful to all of those members of HMCTS staff, judiciary and other Agencies with whom we deal for the help which they have given.

It will be a document, which will inevitably be imperfect. We are feeling our way forward in the process of implementing such radical change. We will monitor and develop the procedures which we have put in place as time goes by. There will be changes which we can already anticipate to the court estate and the deployment of judiciary across the county as part of our drive to continue to improve access to justice and service delivery in Lancashire. We will respond constructively to suggestions made within the FCBC or FJB or otherwise, which may also cause alterations to be made. There will accordingly be periodic reviews of the document and amendments to it from time to time

I hope that it will prove a useful explanatory tool for all concerned whether you are a member of the administration team, the judiciary, the court users with whom we deal but perhaps most of all, if you are one of the many people who come before the courts day by day seeking justice in family cases.

HHJ Rawkins  
Designated Family Judge

March 2014.

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## Section 1 – Roles and Functions

1. The Single Family Court will formally come into existence on 22<sup>nd</sup> April 2014 and will be implemented in Lancashire with effect from 7<sup>th</sup> April 2014 (**‘the commencement date’**).
2. The Designated Family Centre will be **Sessions House, Preston (the DFC)**.  
{Sessions House, Lancaster Rd., Preston PR1 2PD Tel. 01772 272894 DX 310201 Preston 31}
3. There will be 10 Hearing Centres, ensuring access to a Family Court in all regions of the County, at the following venues which for ease of recognition in this document are identified by their current status:

**North Lancashire:** Lancaster Care Centre, Lancaster FPC.

**Fylde Coast:** Blackpool County Court, Fylde Coast FPC

**Central and S.W. Lancashire:** Preston County Court, Preston Magistrates Court, Leyland Magistrates Court, and Ormskirk Magistrates Court

**East Lancashire:** Blackburn Care Centre, Reedley Magistrates Court.

However, with effect from the commencement date, Hearing Centres will be referred to as: -

**“The Family Court sitting at .....**”

*{E.g. Mitre House, Lancaster, The Court House, Towngate, Leyland, etc. as the case may be.}* :

and the description ‘County Court’ or ‘Magistrates’ Court. or ‘Family Proceedings Court’ will not be applied.

4. The principle of co-location of judicial sittings [Circuit Judges, District Judges, District Judges (MC) and Lay Justices] across the county is very important. The Designated Family Judge will sit at the Designated Family Centre and such other Hearing Centre as may from time to time be required by reason of either a business or specific case need. The High Court Judge, when on circuit, will sit at the DFC. All other judges will be required to sit at such courts as may be identified by a judicial itinerary approved by the Presiding Judges. .
5. The responsibility for the drawing of the itineraries for all judges, and the pattern against which the itineraries are set, is that of the DFJ after consultation with the Justices’ Clerk and HMCTS and they are subject to the approval of the Presiding Judges. As is currently the case, there will be an opportunity for discussion with individual full time judiciary and, where appropriate and/or possible, adjustment to an individual itinerary where circumstances permit. Changes to either itinerary or pattern will be avoided, so far as possible, during the currency of the itinerary once approved, but may be required by reason of accommodation needs or personnel changes. The judicial itinerary will ordinarily be in place for the period April 1<sup>st</sup> – March 31<sup>st</sup> in each year. It is intended that the proposed itinerary for each ensuing year will be circulated by mid-January, and finalised by 1<sup>st</sup> March. Magistrates’ Rotas will be drafted, circulated and agreed by March 31<sup>st</sup> in each year.
6. The administrative functions of listing and issue in all family cases save as exempted and identified in this section, will take place at the DFC. Eventually the listing and issue of all Family Cases in Lancashire will be centralised and conducted at the DFC.
7. Initially, with immediate effect upon SFC implementation, all Children Act cases will be issued through the Centralised Issue Team (**CIT**). In respect of all other cases, there will be liaison between the administrative staff at the Hearing Centres and the CIT. Not all Hearing Centres will have administrative staff, as some will be utilised solely for the purpose of case hearing and they will be administered through the Hearing and Administrative Centre (**HAC**).

The HACs having administrative responsibility in the four regions of the county are (identified by their current title): -

**North Lancashire:** Lancaster County Court *(to be known as The Family Court, Mitre House, Lancaster)*  
Mitre House, Church St Lancaster LA1 1UZ, Tel 01524 68112, DX 145880 Lancaster 2.

**Fylde Coast:** Blackpool County Court *(to be known as The Family Court, Chapel Street, Blackpool)*  
Chapel Street, Blackpool FY1 5 RJ, Tel 01253 754020, DX 724900 Blackpool 10.

**Central & SW Lancashire:** Preston County Court *(to be known as The Family Court, Openshaw Place, Ringway, Preston)*  
Openshaw Place, Ringway, Preston PR1 2LL, Tel 01772 844700, DX 702660 Preston 5.

**East Lancashire:** Blackburn County Court *(to be known as The Family Court, 64, Victoria Street, Blackburn)*  
64, Victoria Street, Blackburn BB1 6DJ, Tel 01254 299840, DX 702650 Blackburn 4.

A reference in this document to a 'Hearing and Administrative Centre' (HAC) is to be construed as a reference to one of the above courts. Additionally, there will be facilities within the Hearing Centres at Reedley and Ormskirk, and, subject to on going review, Burnley County Court for the receipt of originating issue.

The CIT will be headed by a Team Leader who will liaise with the DFJ with regard administrative issues in so far as they may affect the running of the Family Courts as required.

8. The listing of all family cases in Lancashire will be administered by the Centralised Family Listing Team. Overall responsibility for the process of judicial listing, which is a judicial function, lies with the DFJ, and the day-to-day responsibility for the running of the lists is supervised by the Team Leader of the Central Listing Team (**CLT**). The DFJ and the CLT Team Leader will meet regularly in order to agree the allocation of business to the judiciary by reference to the court lists and specific issues such as courtroom accommodation, the booking of part time judiciary and KPI statistics.

9. The functions of allocation and gatekeeping of Children Act cases will be conducted at the DFC by a District Judge (Civil) and a Legal Adviser and will take place on each business day in the morning. The overall responsibility for each of these functions lies with the DFJ to whom, save as delegated by him; any issue with regard to allocation or gatekeeping is to be referred. Following the allocation of a Public Law case, re-allocation can only take place as directed by the DFJ. Private Law Children Act cases, once allocated, should be retained by the Judge or Bench concerned to achieve judicial continuity whenever possible.

10. Specialist areas of work will be assigned to particular HACs in order to develop expertise and build up experience, but this will be affected gradually. With immediate effect, however, Blackburn will assume responsibility for Adoptions and Forced Marriage Act applications and Preston [Ringway] will be the Specialist Hearing Centre for Court of Protection cases under the stewardship of District Judge Anson.

11. Appeals from the decisions of the Lay Justices, a District Judge (MC) and District Judges (Civil) in family cases, other than in respect of appeals against order is applications for financial remedy in divorce/judicial separation proceedings (as to which special provisions apply) will be heard by the DFJ or by another Circuit Judge as directed by him.

12. For detailed provisions and guidance with regard to Appeals please refer to Section 6 of this Guidance.

13. The Designated Family Judge has overall responsibility for all matters pertaining to court practice and procedure in the Family Court within the Lancashire Area, and administrative issues in so far as they relate to the judiciary, which includes all those who exercise a judicial function. The DFJ will consult with and be guided by the Clerk to the Justices and the Cluster Manager who, in turn, have responsibility in all other areas of administration.

## SECTION 2 – Issue

14. There are three classes of proceedings which fall to be considered in this section – Public Law Children Act cases, Private Law Children Act cases, and all other family cases.

15. The responsibility for the administrative process of issue of all **Children Act** cases lies with the CIT [Centralised Issue Team] operating in the DFC [Designated Family Centre] led by the Centralised Issue Team Leader.

### 16. Public Law Case Issue

16.1. All Public Law applications must be presented to the DFC for issue and will not be receivable at any other venue.

16.2. All Public Law cases commenced by Local Authorities are issued pursuant to the arrangements set out in the guidance as to electronic issue approved by the DFJ (**See Appendix 1**).

16.3. Any Public Law application (whether an originating application *{e.g. for discharge of a care order, or setting aside a placement order}* or notified in the course of proceedings) presented otherwise than by a Local Authority should wherever possible be presented to the court by e-mail and be actioned so far as is appropriate in accordance with the guidance as to electronic issue referred to above. Where the application is presented in hard copy because electronic presentation is not possible it will be scanned immediately upon receipt and thereafter actioned as if received by e-mail. Whenever possible acknowledgement of receipt of the application to the Applicant will be by e-mail, but otherwise by first class post. In such a case, directions as to issue, allocation, service and listing should ordinarily be obtained from the allocated Judge/Legal Adviser in the proceedings (where there is one) or if there is no allocated Judge/Legal Adviser from the duty Allocation and Gatekeeping team, before onward referral to the Centralised Listing Team (CLT).

16.4. The application will be checked for compliance and prepared for submission to the Allocation and Gatekeeping Team (See Section 3 Allocation and Gatekeeping)

### 17. Private Law Case issue

17.1. Upon implementation of the SFC, the expectation will be that Private Law applications will be presented for issue at the DFC. However, it is recognised that many unrepresented applicants will seek to attend at Hearing Centres across the county in order to issue such applications. In most cases, it will be appropriate for such an applicant to be directed by the staff at the Hearing Centre to forward the originating documentation to the DFC by post, but in others, where there is either the prospect of material delay or for some other good reason use of the postal services is impractical, the application will be accepted at the Hearing Centre, but only at those Hearing Centres within the region at which either there is a drop off or reception facility or administration staff are present and available. In such circumstances, it is the responsibility of the staff at the Hearing Centre to ensure that the documentation is transmitted to the CIT at the DFC. Where the circumstances preventing submission of the originating documentation to the DFC by post do apply, the papers must be auctioned in the manner described unless specific judicial approval to an alternative course is given.

17.2. On receipt of an application in the circumstances described above, the application will be screened for compliance with requirements of the relevant Rule and Practice Direction (See Rule FPR and PD), scanned and transmitted electronically as soon as possible to the

CIT at the DFC, by whom e-mail confirmation of receipt will be sent to the Hearing Centre. Once received at the DFC the issue and listing process will take place in accordance with the following paragraphs.

17.3. Following receipt of a Private Law application at the DFC the following processes will be followed:

- The application and accompanying papers will be checked for compliance.
- The application will be prepared for submission to the duty Gatekeeping and allocation team for allocation directions.
- The application will be collected from the allocation and Gatekeeping team and referred to the CLT as necessary for the appointment of a hearing date and venue in accordance with the allocation directions.
- Any allocation query will be referred to the DFJ or to such judge as may have been delegated by him.
- The application will be sealed and issued and returned for service subject to any alternative direction given on allocation
- Confirmation of issue will be notified to any Hearing Centre through which the application was received, and CAFCASS in accordance with standing arrangements (**see Appendix 2 CAFCASS Protocol (2011 Revision)**)

## 18. Other Family Cases

18.1. Other general process customarily received in the course of family business including, but not restricted to, divorce, nullity and judicial separation petitions and applications ancillary to such petitions (including for financial remedies) and applications under Part IV FLA should be lodged at the appropriate HAC referred to and identified in Paragraph 7, but may, exceptionally, be received at other Hearing Centres where there is a drop off or reception facility or there are administrative staff present and available, in which event it will be the responsibility of the staff at the Hearing Centre to ensure that the documents are transmitted to the appropriate HAC for issue. The issue of such process will continue in accordance with current arrangements (as modified pursuant to locally agreed arrangements by reason of any changes imported at a particular court as a consequence of SFC implementation) at the HAC.

18.2. In respect of specialist jurisdictions such as adoption (though not placement applications linked with care proceedings which fall within the general ambit of Public Law Issue [see ante]), forced marriage and appeals applications and process will be issued at the Hearing centres identified as Specialist Hearing Centres in the sections of this document dealing with specialist jurisdictions.



## Section 3 – Listing

19. With effect from the commencement date, and/or in accordance with the transitional provisions referred to in Section 5 Paragraph 31 of this document from such earlier date as may be reasonably practicable, all Children Act cases will be issued at the DFC and accordingly listed by the CLT which will be responsible for maintaining the daily lists for the DFC and all Hearing Centres across the Lancashire Area in accordance with paragraph 8 of this document. All other cases will be allocated hearing time in accordance with standing arrangements to be agreed between each HAC and the CLT.

20. In respect of interim applications and return dates in on going Children Act proceedings hearing dates will be appointed following liaison between the staff at the HAC or Hearing Centre and the CLT. It is recognised that the judiciary, in particular the full time judiciary, will wish to exercise a degree of control over the listing of Children Act cases in order to ensure judicial continuity and the timely progress of proceedings. Judges are therefore encouraged to identify by reference to F-Diary (as and when it is fully integrated) or E-Diary suitable return dates, and to request through the court clerk at the appropriate HAC or staff, at the CLT appoint a hearing in the particular case in accordance with the request. It is an expectation that whenever possible such requests will be observed but final decisions with regard to listing are reserved to the DFJ where any conflict arises. It is not appropriate for a Judge to seek to effect a listing without consultation with the local court staff and/or the CLT. It is however an imperative which must be observed that a return hearing in any Children Act case is appointed within the perfected order recording the Judge's decision at a case management or any other hearing and, save in exceptional circumstances, communicated to the parties before they leave court. Accordingly instantaneous means of communication (telephone or e-mail) will be deployed in the course of the liaison between the HAC and the CLT by means of which hearing dates are fixed.

20.1. It is not desirable for the judiciary to seek to use time, which would ordinarily be devoted to another jurisdiction, or another category of family business and any difficulty thereby arising in accommodating a particular case should be referred to the Team Leader of the CLT or the DFJ.

21. In respect of all other family cases, with the exception of those cases within the specialist jurisdictions, listing will be undertaken by liaison between the staff at the HAC and the CLT. Each HAC will have time allocated within the Family Lists for the accommodation of hearings other than Children Act Hearings (which are dealt with at Paragraphs 17 & 18), thus listing time will be allocated for example to divorce and financial relief matters and FLA return hearings, after consultation at the administrative level, by reference to an assessment of the current business need in the particular HAC. The final decision with regard to the appropriate allocation of time will be that of the DFJ who will be guided by the judiciary operating at or from the particular HAC and the CLT. The position will be monitored monthly at the Administration Meetings held by the DFJ and attended by the Civil and Family Delivery Manager and members of the Listing and Issue Teams, and the Deputy Clerk to the Justices, and quarterly on review following publication of the regional performance statistics. In non-Children Act cases responsibility for the notification of hearings rests with the staff at the HAC. In Children Act cases, the responsibility lies with the CLT (see ante).

### **Notification of Sittings to Lay Justices**

22. This Guidance recognises the importance for all Lay Justices of knowing the dates and times of their sittings, the identity of the Legal Adviser and judicial colleagues with whom they will be sitting and the nature of the hearings which they will be required to hear, and the imperative of complying with strict codes of confidentiality

22.1 With effect from the commencement date the following provisions will apply in respect of all Lay Justices' sittings in Lancashire:

(a) On the Monday morning of the week preceding a week in which a Lay Justice is allocated to sit the DFC will send out a court list with the following information:

- The names of each of the Justices sitting
- The Legal Adviser(s)
- The case numbers of cases in the list
- The nature of the hearing.

The details of the parties will not appear on this list.

(b) In accordance with this Guidance (see post) on the day before a court sitting the HAC will deliver to the Justices allocated for that sitting:

- The anonymised case summary
- A further copy of the cause list with anonymised details of the parties sufficient to enable the Justices to cross-reference the case summary with the cause list

(c) Under no circumstances may the court transmit to the Justices any information which would or could compromise the confidentiality requirements in respect of Children Act/Family Proceedings

## Section 4 – Gatekeeping and Allocation

23. Gatekeeping and Allocation will be conducted by a District Judge and Legal Advisor in the DFJ's room (2<sup>nd</sup> Floor, Sessions House) each Court Day between 9.15am and 1pm. No originating documents are to be referred for gatekeeping after 12:15pm but any such papers must be presented for consideration at the next gatekeeping session.

24. All Children Act Public Law and Private Law cases will be subject to the Allocation/Gatekeeping Process the objective being: -

- to identify the correct level of Judge by reference to case type.
- to identify the nature and date of the first hearing
- to identify the right location within the area for the case
- when appropriate to refer a particular case to the DFJ or FDLJ

25. The following District Judges and Legal Advisers will be responsible for conducting Allocating/Gatekeeping sessions in rotation:

**District Judges:** Bland, Bryce, Greensmith, Jones, Knifton, Law, Talbot and Turner

**Legal Advisers:** Rachel Gough, Claire Clarke, Sharon Sharrock, Jenny Miller, Mandi Anderson, Kath Dean, Kate Ainge, Claire Buckley, Tariq Ali and Linda Halsall.

*[The identity of those responsible for allocation and Gatekeeping may change from time to time]*

26. The district judges will operate on a weekly basis of rotation and will sit at Preston [Ringway] from 2:00pm for the remainder of the court day on which he/she is listed for Gatekeeping/allocation in the morning. Afternoon lists will comprise Conciliation or s.8 Children Act or Financial Relief Hearings of not more than 2 hours duration or civil hearings, as the business need requires. The duty Legal Adviser is expected to remain at Sessions House for the remainder of the day in order to deal with urgent queries in consultation with either the duty District Judge (by telephone) or the DFJ. or in his absence a Circuit Judge, unless required to perform duties at another venue, in which event he or she must ensure availability for consultation by telephone or e-mail.

27. The process of Allocation/Gatekeeping will be conducted as follows: -

[i] By 9:15am the court staff (Issue Section) will place all relevant papers in each case awaiting allocation in the DFJ's room. Cases prepared for allocation that morning will be referred to the Gatekeepers up until 12:15pm. Thereafter, cases will either be referred to the Legal Adviser for consideration as set out in Paragraph 26 above (urgent cases) or form a part of the following days cases for allocation. All cases **MUST** be referred for allocation within 24 hours of receipt, but urgent cases must be referred immediately upon receipt. No case should be referred for allocation until a related case search has been completed and the results appended to the case file. The latest order made in any related case should be attached to the case file and Familyman details appended.

[ii] The District Judge and the Legal Adviser will discuss each case referred for allocation individually by reference to: -

- The appropriate Rule and Practice Direction
- Any guidance issued by the Presidents Office
- The Local allocation guidance issued by the DFJ (**See Appendix 3 – Guidelines for the Allocation of Children Act and certain other Proceedings to the Judiciary in Lancashire**)

- Judicial caseload and court workload in respect of which benchmark allocation data approved by the DFJ will be provided at the commencement of each Allocation Session

[iii] After discussion the allocation decision will be made and an allocation form completed which must specify:

- The level of Judiciary to which the case should be allocated
- The type of first hearing including (if appropriate) the estimated length of hearing
- The right location for the case\*.

The Allocation Forms for Private and Public Law cases appear at the end of this document **(See Appendices 4A & 4B)**

*\*[Location will be determined by reference to the four districts into which the Area is divided i.e. North Lancs, Central & South West Lancs, East Lancs and Fylde Coast]*

28. The Allocation Form must specify the reasons for the allocation decisions by reference to the criteria set out in [iii] above. In any case of uncertainty the District Judge and Legal Adviser are required to refer the particular case to the DFJ or in his absence a Circuit Judge for a decision.

29. The Allocation Forms and case papers will be collected by the court staff (Listing Section) on at least two occasions during the morning, by no later than 11.00 am and 12.15 pm respectively. At the time of collection the District Judge will be responsible for drawing to the attention of the court staff any anomaly in respect of any particular case with regard to either allocation, listing or issue and give directions accordingly including, when necessary, for referral to the DFJ or Circuit Judge for further consideration.

30. Following the Allocation/Gatekeeping process the court staff will by no later than 4.30 pm on the same day ensure that, having been allocated, a case is issued and a hearing fixed in the appropriate Hearing Centre, within the location, identified by reference to judicial availability and convenience for the parties. In the event of any uncertainty the case shall be referred forthwith to the DFJ or, in his absence a Circuit Judge, or in an appropriate case, to the Legal Adviser at Sessions House.

## Section 5 – Transitional and Interim Provisions

31. The issue of all Children Act cases has been the remit of the CIT at the DFC since 7<sup>th</sup> February 2014 and responsibility for issue of all remaining family proceedings will, save as specifically exempted, in due course move to the DFC and will lie with the CIT. Issue in respect of certain specific specialist jurisdictions (*e.g. Adoptions [though not Placement applications linked to care Proceedings as to which see post, Appeals, Court of Protection, Forced Marriage Act and Mental Health/Mental Capacity Act applications etc.]*) will be conducted in accordance with current arrangements as varied by this guidance for the time being, subject to further guidance. Court staff in the HACs will liaise with the CLT where issue of process cannot be completed without the allocation of a date for hearing, in order to ensure that court time has been booked in the Lists in accordance with judicial availability, by reference to work type.

32. With effect from 7<sup>th</sup> February 2014 the listing of all Children Act cases will be the responsibility of the CLT and will be undertaken as set out in Section 3. The listing of hearings in respect of all other cases will be the joint responsibility of the staff in the HACs and the CLT. In respect of cases which have been listed in accordance with arrangements in place before the issue of the new judicial itinerary, and where such cases have been affected by changes in judicial itinerary or pattern so that the hearing may be compromised because of availability issues the approach will be as follows: -

- If the hearing can be maintained without any significant disruption to the judicial pattern, and the judge concerned has no other objection then there will be no adjustment,
- If a change in the listing is necessary and the case can be moved without inconvenience to the parties, the court or the judge then the appropriate adjustment to the list will be made provided that not less than 28 days notice can be given. It will be the responsibility of the CLT to ensure that in respect of Children Act case the appropriate notices are issued timeously,
- In any other circumstance the change of any hearing will only be permitted in respect of CJ or DJ lists with the approval of the Judge(s) concerned (including any judge who may be asked to receive a case into his or her list; in respect of the Family Justices with the approval of the Deputy Clerk to the Justices. In the event of any uncertainty the matter will be referred to the DFJ for final determination.

33. With effect from 7<sup>th</sup> April 2014 the arrangements for allocation and gatekeeping will be in place in accordance with Section 4 of this document. Until that date the current arrangements will remain in place.

## Section 6-Specialist Lists

The specialist lists to which this section refers comprise the following: - FHDRAs: Conciliation: Appeals: Adoptions: Court of Protection Hearing: Forced Marriage: Divorce/Judicial Separation proceedings including applications for financial remedies: proceedings under FLA 1996 Part IV

### 34. FHDRA Hearings

34.1. First Hearing Dispute Resolution Appointments will be listed by the CLT in Private Law Children Act proceedings. The appointments will be fixed in liaison with the Local Hearing Centres in accordance with standing arrangements in respect of the allocation of judicial time agreed between the local court staff and the CLT and approved by the DFJ.

34.2. FHDRA days will be fixed for all the Hearing Centres which conduct such hearings in accordance with arrangements agreed with CAFCASS so as to ensure the attendance of Family Court Advisors at all such hearings. Currently these days are:

		Blackpool	Fleetwood	Lancaster	Lancaster FPC	Preston	Leyland	Ormskirk	Blackburn	Reedley
1	M	Blue								
	T					Blue				Yellow
	W							Yellow		
	T		Yellow						Blue	
	F				Yellow					
2	M	Blue								
	T					Blue				Yellow
	W						Yellow			
	T		Yellow						Blue	
	F			Blue						
3	M	Blue								
	T					Blue				Yellow
	W									
	T		Yellow		Yellow				Blue	
	F									
4	M	Blue								
	T					Blue				Yellow
	W									
	T		Yellow						Blue	
	F			Blue						

FPC YELLOW

County Court BLUE

35. In all courts at which FHDRAs are conducted, it is intended that there will be access for the parties to information in respect of mediation services which are available. In some courts this will extend to attendance by a trained mediator at the Hearing Centre on the day on which FHDRAs are to be conducted. Whilst mediation will not be available immediately, such a mediator will be in a position to provide information and, when appropriate, to carry out an initial assessment as to the viability of the mediation process. Alternatively, at some Hearing Centres, access to information as to the mediation process may only be possible remotely by telephone contact, for which special arrangements will be made. The court staff in each HAC will be responsible for liaising with the Lancashire Mediation Steering Group in order to ensure attendance arrangements as appropriate in each Hearing Centre. For further information with regard to the mediation services available reference should be made to the Mediation Protocol (Appendix 5).

## 36. Judge led conciliation

36.1. Cases referred for conciliation will be heard in a district judge's hearing room at Ringway Preston and the Conciliation Meeting will be conducted by one of the specialist Family District judges with allocation and gatekeeping responsibility in Children Act cases on that day.

36.2. Each Conciliation Hearing will be listed for a duration of 2 hours and the responsibility for the compilation of the list will lie with the CLT. On referral of a case for conciliation, the court staff in the Hearing Centre, on the request of the district judge or legal adviser generally made at the FHDRA or in the course of a case management hearing, will liaise with the CLT in order to secure a listing. The parties must be notified of the time and date of the conciliation hearing before leaving the Hearing Centre on the day that the hearing is listed. The CLT will be responsible for sending out notices to the parties confirming the listing.

36.3. The court staff at the HAC will send the court file to Preston (Ringway) in time for the hearing marked "For Conciliation Hearing *day/month/year*" by consigned DX. On the conclusion of the conciliation, the court staff at Preston (Ringway) will be responsible for returning the court file to the appropriate HAC by the same means.

36.4. For further information with regard to procedure in respect of the Conciliation process reference should be made to the Conciliation Protocol (**See Appendix 6**).

## 37. Appeals

*The content of this paragraph is to be read in conjunction with The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011 and Part 52 Family Procedure Rules 2010*

37.1. This paragraph deals with appeals in the following types of proceedings: **Children Act, Divorce and Financial Relief, Part IV FLA 1996, Adoptions and Forced Marriage.**

37.2. In such proceedings any appeal from the order of a Circuit Judge and above lies to the Court of Appeal and Part 52 PD 52C FPR 2010 applies.

37.3. In respect of appeals from a decision of a District Judge, District Judge (MC) the Family Justices or Family Court Legal Advisor the following provisions apply.

37.4. In Children Act cases the Notice of Appeal and supporting documentation (*Part 52 PD 52 B 4.2 FPR 2010*) shall be sent to the CIT at the DFC and be directed to the Appeals Clerk.

37.5. The originating appeal documentation, including applications for permission to appeal, or extension of time or stay of execution will be checked for compliance; the court file located and together referred to the DFJ or in his absence a Family Circuit Judge as nominated by the DFJ for further direction. The order subject to appeal will be identified on the court file and any notes by the court staff as to issues to be addressed by the Judge with regard to procedural compliance (including but not limited to the adequacy of the grounds for appeal stated, or the need for permission to appeal and/or transcript requests) highlighted for the Judge's attention.

37.6. In respect of all other proceedings dealt with in this paragraph, save and except for an appeal against an order in financial remedy proceedings Notice of Appeal should be lodged

with the HAC with administrative responsibility for the Hearing Centre at which the hearing took place in which the order was made. The staff at the HAC will check the Notice of Appeal and the supporting documents (*Part 52 PD 52B FPR 2010*) for compliance, locate the court file, identify the order which is the subject of appeal and transmit the Notice of Appeal, court file and any notes with regard to compliance for the Judge's attention to the Appeals Clerk within CIT who will refer the appeal documentation to the DFJ or, in his absence, a Circuit Judge authorised by him for further direction.

37.7. Any appeal against the decision of the district judge in respect of an application for financial remedy in divorce or judicial separation proceedings falls to be heard pursuant to the direction of HHJ Booth. The Notice of Appeal and supporting documentation (See Part 52 PD 52B FPR 2010 ante) should be filed at the HAC with administrative responsibility for the HC at which the case was heard and the order made. Immediately upon receipt an Appeal file will be created, co-located with the court file and sent to HHJ Booth for his direction as to the hearing of the appeal. Following the appeal hearing the HAC with responsibility for the HC at which the appeal is heard will draw and issue the order made on the appeal and return the court file and the appeal file to the HAC at which they were respectively held and created. As may be necessary, the files will then be referred to the first instance Judge.

## **38. Adoptions**

38.1. With effect from 7<sup>th</sup> April, 2014 the HAC at 64, Victoria Street, Blackburn will be the Specialist Centre for adoptions in Lancashire. All Adoption Process, which description does not include Placement Applications linked to Care Proceedings which fall to be administered in accordance with the directions given in respect of Public Law Children Act work, will be handled by the Adoption Team.

38.2. The Adoption team will be responsible for:

- Issue of adoption applications and notification to parents
- Receipt and lodgement of the Annexe A Report
- Referral for judicial case management directions
- Listing of Final Hearing and Celebration Hearing and notifying
- Notification of the making of a Final Order to the Adoption Agency /Applicant, Respondents and to the General Register office
- Preparation of Certificate for presentation at the Celebration Hearing

38.3. The case management and hearing of adoption applications, subject to Paragraph 38.4 below will be the responsibility of the Judges approved by the DFJ and delegated to undertake adoption work. Currently those Judges are the following:

HHJ Singleton QC: and District Judges Jones, Talbot and Greensmith. Hearings before the Adoption Judges will be fixed by the staff in the HAC in liaison with the CLT and will take place at Blackburn or Reedley or at such other venue as the Adoption Judge may direct.

38.4. Where an application for adoption follows the making of a placement order the following procedure will apply.

(a) On receipt of the application the Adoption Team will refer the application and supporting documentation to the Adoption District Judge for case management directions including as to service and the appointment of hearings and will allocate the case.



(b) Such hearings will take place, save as referred to below, before an Adoption District Judge or the Adoption Circuit Judge or, such other Circuit Judge, District Judge or Lay Bench as the Adoption Judge may specify.

(c) If the adoption is opposed then the Adoption Judge will give case management directions up to final hearing and may direct that the application be referred for hearing to the Judge or Lay Justices who made the Placement Order and that a Hearing be fixed before that Judge for further case management or final hearing as may be appropriate.

(d) The Adoption Team will transmit the Adoption File by consigned DX to the Family Section at the HAC with responsibility for the Hearing Centre at which the case will be heard and each HAC Delivery Manager must appoint and notify to the Adoption Team a SPOC who will be responsible for the secure custody of the Adoption File until the hearing has been concluded and the file returned. The Adoption File must be returned by consigned DX to the Adoption Team.

(e) Upon transmission of the Adoption File to the HAC the Adoption Team in liaison with the administrative staff in the HAC and the CLT will fix the hearing before the Judge to whom the case has been referred.

(f) Adoption ceremonies will normally be conducted by one of the Adoption Judges and will accordingly take place either at Blackburn (Court 1) or Reedley (Court 1). However, where it is convenient for the parties for the ceremony to be held elsewhere it may be conducted by any level of Judge (CJ/DJ/Lay Bench) at one of the following courts: Preston Court 1 or 2, Lancaster Court 1, Fleetwood Court 1, Leyland Court 1 or Ormskirk.

38.5. Celebration hearings will be appointed where they are to take place at a court other than Blackburn or Reedley by the Adoption Team in liaison with the staff at the HAC concerned and the CLT.

38.6. At the conclusion of the Adoption Ceremony it will be customary for the Judge presiding over the Hearing to complete a Certificate (**See Appendix 7**) and hand it to the adoptive parents and the child(ren) to mark the occasion.

### **39. Court of Protection**

39.1. There are currently six Judges in Lancashire who have been granted tickets to hear Court of Protection cases (CP cases). They are:

**Circuit Judges: HHJ Lancaster, HHJ Singleton QC and the Designated Family Judge  
District Judges: DJ Anson, DJ Bland and DJ Bury.**

39.2. Applications issued in the Court of Protection will be referred by one of the London district judges with responsibility for CP cases in the first instance to DJ Anson or, on his direction, to one of the other district judges, for case management. The district judge(s) will be responsible for allocation to the correct level of judiciary, (DJ or CJ).

39.3. The district judges will be responsible for the case management of all CP cases, save as may be otherwise directed by the DFJ or one of the ticketed Circuit Judges. Cases involving parties residing in Central and South Lancashire will generally be retained by District Judge Anson. Cases involving parties residing in the Fylde and North Lancashire will generally be referred to District Judge Bland. Cases involving parties residing in East Lancashire will generally be referred to District Judge Bury.

39.4. The District Judges will be responsible for listing any case in their own lists which does not exceed one day in length, but are required to notify the CLT of any proposed listing to ensure that it is included in the centralised lists. It is customary for District Judge Anson to list CP cases on Wednesday in each week, and the lists will be marked accordingly. In respect of any hearing exceeding one day in length the district judge will seek a listing from the CLT and, save in exceptional circumstances, the listing will be entered in the district judge's allocated family time.

39.5. Where a case is to be finally heard before a Circuit Judge the district judge responsible for case management will seek a listing from the CLT. In respect of any final hearing with a duration of three days or more, the CLT must seek confirmation of the proposed listing from the DFJ, or on his direction, the Circuit Judge before whom the case is to be listed

39.6. All Court of Protection files must be clearly identified and marked "CP", and the name of the case managing district judge must appear prominently on the outside of the file. If a case is allocated to a Circuit Judge for hearing, upon the allocation to that Judge his or her name must also be displayed identifying him/her as the Judge at Final Hearing. The responsibility for the administration of the file rests with the HAC with responsibility for the case. In respect of cases relating to Central and SW Lancs this is Preston (Ringway), in respect of cases relating to the Fylde and North Lancs it is Lancaster (Mitre House) and in respect of cases relating to East Lancashire it is Blackburn (Victoria Street).

#### **40. Forced Marriage Act applications**

40.1. Applications under the provisions of the Forced Marriage (Civil Protection) Act 2007 must be presented and issued at the HAC in Blackburn (Victoria St.).

40.2. Immediately on issue, the court staff at the HAC shall forward the court file to the district judge for perusal and initial case management. The District Judge will make any preliminary case management directions necessary including a provision for the immediate referral of the case to the DFJ or, in his absence, a Circuit Judge. Such referral may be made by telephone where convenience and avoidance of delay make this desirable.

40.3. The DFJ (or in his absence another CJ) will allocate the case to the appropriate level of judiciary, and in consultation with the CLT obtain a listing for early hearing, giving such further directions as may be necessary to facilitate the hearing.

40.4. Blackburn will at all times be the responsible HAC for the case, but where the Judge allocated to conduct the hearing is to sit at a HC administered by a different HAC, the file will be transmitted immediately by consigned DX to that HAC where it will be maintained until the hearing has taken place, where after it will be returned by the same means to Blackburn. Responsibility for the production and issue of the order made at the hearing, subject to any other direction of the court, lies with the court staff at Blackburn. In general, Forced Marriage Act applications will be heard by the DFJ or as may be directed by him.

#### **41. Applications in Divorce/Judicial Separation including for Financial Remedy**

41.1. Applications will be issued in the HAC where the main suit is proceeding and almost without exception fall to be listed before District Judges sitting at the HAC or an associated HC.

41.2. The responsibility for the administration of the court file, the receipt and issue of applications, the preparation and service of notices of hearing and the drawing of orders lies within the HAC.

41.3. Each HAC will be responsible for agreeing with the CLT the appropriate allocation of judicial time required at the HAC and the HCs administered by it in order to accommodate the hearings of such applications and the CLT will, in turn, be responsible for ensuring that sufficient time is set aside for that purpose in the lists. For this purpose, discussions will take place prior to the beginning of each financial year so that the appropriate allocation of time can be made and the judicial pattern devised accordingly. The amount of time allocated will be monitored and reviewed by the CLT and the staff at the HAC periodically throughout the year, and any necessary adjustments made.

41.4. Upon the issue of an application the court staff at the HAC will liaise with the CLT in order to fix a listing of any hearing which is necessary consequent upon the issue of the application before the appropriate judge.

41.5. Any request for a hearing date by a district judge e.g. on the adjournment of an application or for an FDR following an FDA will be made to the appropriate member of staff at the HC who will, subject to any specific suggestion as to listing made by the judge, liaise with the CLT in order to list the case within the time allocation provided for the purpose.

## **42. Applications under Part IV FLA 1996**

42.1. Applications received for a hearing without notice which, by their nature constitute urgent business, will be received at any HC, and will be transmitted, as necessary, to the appropriate HAC for processing immediately. The HAC will be responsible for locating a judge for as early a hearing as possible of the without notice application, if possible in the HC at which the application has been presented. In the event that it is necessary for the application to be heard at a different HC by reason of judicial availability it is the responsibility of the court staff in the HC at which the application was presented to ensure that the Applicant receives direction as to the attendance required by reference to time and place and to issue a clear notice accordingly. The court staff at the HAC must notify the CLT of the appointment made for the without notice hearing for entry in to the court diary.

42.2. On the first hearing of a without notice application the District Judge will make whatever order is appropriate and will adjourn the case for further deliberation inter parties. The inter parties hearing will be listed before a district judge or Lay Justices and it is not required that it should be the same judge as heard the without notice application, though that judge may direct that this should be so. The request for the inter parties hearing should be made through the staff at the HAC for the HC at which the without notice application is made.

42.3. The procedures for allocation of judicial time, the listing of applications returnable on notice and judicial requests for adjourned hearings are all the same as those set out in Para 42.

42.4. The administrative responsibilities with regard to the maintaining of the court file and otherwise are as set out in Para 42.

42.5. When listing a case for a return date following an order made without notice the court must ensure that proper case management directions are given for the filing and service of evidence, that a realistic time estimate is given, that any interim relief granted is of the

appropriate duration and that permission to apply to set aside or vary the order is given on appropriate notice being provided.

### **43. Emergency Protection Orders (EPOs)**

43.1. This section should be read in conjunction with s.44 Children Act 1989, the cases of *X Council v B (EPOs)[2005] 1FLR 341* and *Re X (EPOs)[2006] 2FLR 701* and the local guidance issued in October 2013 entitled 'EPOs, Expedited ICOs, Abridgement and urgent Interim Hearings' (See Appendix 8)

43.2. The granting of an Emergency Protection Order is to be regarded as an exceptional and draconian remedy and will only ever be granted, and should therefore only ever be sought, in circumstances which dictate that an alternative course e.g. an application for an Interim Care or Supervision Order is not appropriate.

43.3. Immediately upon becoming aware that the circumstances exist which may justify the grant of an order and that an application is to be made the Applicant, which will generally be a Local Authority, must notify the CIT by e-mail of the intention to issue an application, specify the name, date of birth and current whereabouts of the child, provide the names ages and location of the Respondent parent(s) and outline the circumstances which give rise to the belief that the grounds for the making of an order are present. The Notice of Application should either accompany the e-mail or be filed with the court as soon as practicable thereafter in accordance with the provisions with regard to electronic issue (see Appendix 1 ante) and in any event no later than 24 hours from the original e-mail notification.

43.4. Copies of the e-mail notification and Notice of Application will be forwarded forthwith on receipt to the Legal Adviser who will be responsible for determining the allocation or proposed allocation of the hearing and the determination of venue. In doing so the Legal Adviser must take into account the balance of convenience and it would be inappropriate to cause an application to be listed remotely from the location of the child and/or the Respondent(s). The Legal Adviser will then notify the CIT of the allocation and venue. In most cases a Children's Guardian should be appointed (s.41(1) CA 1989) and the Legal Adviser will generally direct accordingly and e-mail a copy of the Applicant's e-mail, the Notice of Application and any other relevant papers to CAFCASS.

43.5. On notification from the Legal Adviser of the allocation and venue the CIT, on receipt of the Notice of Application, will issue it, incorporating the necessary detail of judicial allocation and venue and return it to the Applicant for service. Exceptionally, in circumstances where the Legal Adviser cannot identify a suitable Bench of Lay Justices and venue for the hearing of an application, the Legal Adviser may approach the CLT and request a date for hearing at an appropriate venue before a District Judge (MC), Circuit Judge or, where express permission has been given by the DFJ or in his absence another Circuit Judge authorised by him, before such other level of judiciary as may be authorised to hear such applications.

43.6. Not less than 24 hours notice of the hearing must be given to the Respondent(s) and applications for abridgement of time for service of an application for an EPO is to be regarded as highly exceptional. The Legal Adviser has the power to direct abridgement of time, but can only do so where:-

- (a) the circumstances of the case justify it and
- (b) the ability of the Respondent(s) to properly respond will not be compromised.

It follows that delay by the Applicant in presenting or pursuing an application will not generally be an appropriate basis for seeking an abridgement of time for service of the application.

43.7. In a true emergency, the Legal Adviser is empowered to permit an application to proceed on a 'without notice' basis, but will never do so if such a course is not obviously justified, as to which the burden lies with the Applicant to demonstrate that the unusual and exceptional circumstances which might justify it do exist, by means of proper evidence to that effect.

43.8. Where either abridgement of time for service or permission to proceed on a without notice basis is granted, the Legal Adviser (or Judge or the Court as the case may be) must note the court file with the reasons as to why such a direction was made and the grounds which justified it.

43.9. Prior to issue of the Notice of Application and Notice of Hearing the CIT will create the court file and confirm with CLT the details of the listing proposed so that the case will be entered in the Court Lists. The Notices of Application and Hearing, together with any preliminary order for directions made on issue, will be sent immediately by the CIT to the Applicant for service on all Respondents and, where a Guardian has been appointed, CAF/CASS in the rare circumstances in which a without notice hearing has been directed, and accordingly there is no provision for service, CAF/CASS must nevertheless be notified of the hearing details..

43.10. CIT will notify CAF/CASS by e-mail forthwith once an application has been issued and confirm the date, time and venue of the hearing.

43.11. CIT will e-mail the case papers as soon as practicable and transmit the court file immediately it has been created to the HAC at which the hearing will take place by consigned DX. The HAC will be responsible for the production of the order immediately upon the conclusion of the hearing and for delivery to the Applicant for service as necessary. Once the proceedings have been concluded, pending any further direction, the file will be maintained in the HAC with responsibility for the HC at which the hearings have taken place.

43.12. Prior to the hearing of an application for an EPO the Applicant must lodge at the HAC at which the application is to be heard the case bundle (x4) incorporating the Notice of Application, Statement in Support and any other evidence which is to be relied upon.

43.13.. Applications for EPOs will generally be heard within 48 hours of issue but the court may at the first hearing of such an application make no order or give case management directions for a further hearing and will normally do so where an application proceeds without notice.

## SECTION 7

### Bundles and Case Summaries.

44.1. This section must be read together with the President's Direction with regard to the compilation of Bundles, currently the subject of consultation, as and when it is published (see Appendix 9A\*) and the Guidance Note with regard to the local practice in respect of Bundles originally issued in September 2011 and revised in February 2014 (Appendix 9B). \* not currently available

44.2. A Bundle is required to be lodged for every family hearing save in circumstances in which one of the following exceptions apply:

- (a) there are no documents to include in a bundle
- (b) there are only a small number of documents and the case summary will be adequate to cover the absence of a bundle
- (c) the court has directed that no bundle is required

44.3. In all cases the bundle for the court's use must be lodged at the Hearing Centre where the case is to be heard by no later than 12 noon on the day preceding the hearing. In respect of cases proceeding before the Justices the court staff shall ensure that sufficient copies of the entire bundle are available for each member of the Lay Bench as constituted for the Hearing and for witnesses by no later than 9.00 a.m. on the morning of the hearing. For hearings before a Judge the court staff must make the bundle available to the Judge for pre-reading by no later than 4.00 pm on the day preceding the hearing. In respect of Late Documentation Bundles (see Appendix 9B ante) it is the responsibility of the party compiling the bundle to ensure that sufficient copies are available prior to the hearing for the Lay Justices, the Judge and Witnesses as the case may be. The Late Documentation Bundle(s) must be handed to the Legal Adviser, Judge's Clerk or Usher as appropriate prior to the hearing, in each case allowing sufficient reading time before the commencement of the hearing

44.4. At the conclusion of all hearings the bundles must be either returned to the party responsible for compilation or retained by the court staff. Bundles which are retained must be removed to a secure location where they cannot be accessed otherwise than by court staff and, where strict rules of confidentiality apply to the proceedings to which they relate, a record maintained as to the whereabouts of the bundle(s). At each Hearing Centre, Hearing Administration Centre and the Designated Family Centre arrangements will be agreed between the Court staff and the Local Authorities in respect of bundles relating to Public Law proceedings for their safe return following a hearing. Where bundles are retained on the direction of the Judge for his or her use following a hearing e.g. for the purpose of judgment preparation, it is the responsibility of the Judge concerned to ensure that where confidentiality provisions apply the bundle is securely maintained until its return to the safe keeping of the court staff.

44.5. A Case Summary is required for every hearing in Public Law or Private Law Children Act proceedings. The responsibility lies with the Applicant to provide it, although the same provisions as apply to bundle preparation for the cascading of the responsibility where legal representation is absent, apply in this respect also. Where there is no legal representation for any party the requirement for a case summary may be dispensed with but the court staff at the hearing venue should be astute to ensure that the obligation to provide the court file for the Judge has been fulfilled. A Legal Adviser would be expected in such circumstances

to provide a brief note by way of resume of the case for the Lay Justices where no case summary has been lodged.

44.6. Case Summaries, in particular in respect of Public Law Children Act cases **must** be lodged at the appropriate HAC by no later than 12 noon on the day preceding (the first day of) the hearing of the case where the hearing is to proceed before the Lay Justices, and in any other case should be made available to the Judge by 4.00 pm on the day preceding the hearing concerned. Once the case summary has been received it is the responsibility of the court staff at the HAC to ensure compliance with the requirements as to distribution. There is no prescribed form, but in Children Act cases which are to be heard before a Judge the following required information (together with any additional relevant material) must be set out in the summary:-

- (a) details of the child(ren)
- (b) details of the parties
- (c) the application(s) before the court
- (d) details of any other relevant proceedings
- (e) chronology of the proceedings
- (f) key issues in the case
- (g) summary of events
- (h) current position
- (i) parties positions
- (j) issues for determination at the hearing
- (k) suggested reading list

A draft form of case summary, which can be adapted for use in either public or private law proceedings is annexed to this Guidance as Appendix 10. The case summary must be made available to the Judge for pre-reading the day before the hearing.

44.7. In respect of proceedings to be heard before the Lay Justices the case summary **must** be prepared in anonymised form so that neither the child(ren) nor the family concerned in the case can be identified. On receipt the court staff must ensure that the case summary is, whenever possible, sent electronically to the Lay Justices who will make up the Bench for the hearing, and where there is more than one case summary for the Justices to consider, the court staff must identify by reference to the court's published list to which case each case summary refers.

## SECTION 8

### Litigants in Person

45.1. Litigants in Person (LIPs), which is to say those parties who do not have the benefit of legal representation, will most frequently be encountered in those family proceedings in which public funding for the provision of legal representation is not available. There is no obligation on a party to secure legal representation though, given the complexity and the gravity of family proceedings in general, it may well be desirable.

45.2. It is the duty of the court to ensure that LIPs are not prevented from receiving a fair hearing by the absence of legal representation and, in observing the overriding objective (see FPR 2010 Rule 1.1 {SI 2010/2955}), all parties and their advocates involved in the proceedings share the same obligation.

45.3. In recognition of this obligation the court will make available information with regard the court process specifically designed for LIPs upon the initiation of certain proceedings and during the course of the proceedings. The current information document for LIPs involved in Children Act proceedings is annexed to this Guidance as Appendix 11. In each Hearing Venue there should be prominently displayed all the relevant useful written material to which a LIP might refer in order to assist him or her with the conduct of the proceedings and a copy of the local guidance for LIPs.

45.4. In some Hearing Centres it is intended that there will be Litigation Support Workers (LSWs) who are volunteers with some practical experience of the workings of the court who will be able to help and assist, though not proffer advice to, LIPs with regard to the court process. The court staff and the judiciary should encourage LIPs to seek out this service where it is available. LSWs may be permitted to accompany a LIP into Court where this is requested and in such circumstances shall be treated as a 'McKenzie Friend'. (see post Para 46).

45.5. In any case involving a LIP it is imperative that the court engages the LIP constructively, uses plain language so as to ensure that the LIP can readily understand the court process and any orders which the court makes. In respect of case management orders in Private Law Children Act cases, the court should utilise the suite of orders set out in the template approved by the Association of District Judges\*. Whenever possible, in respect of a hearing being conducted by a district judge, the order should be completed during the course of the hearing and a **typed** version produced for the court staff at its conclusion

### McKenzie Friends

46.1. For a detailed exposition of the rights and responsibilities of McKenzie Friends and the circumstances in which they may be permitted reference should be had to the President's Practice Guidance issued on 12<sup>th</sup> July 2010.

46.2. LIPs have the right to reasonable assistance from a lay person, but remain LIPs when the right is exercised. Those individuals proposed as McKenzie Friends have no independent right to provide assistance and have no right of audience before the court. If faced with a controversial request for permission for assistance from a McKenzie Friend the court should refer to the notes in Appendix 12.

46.3. A McKenzie Friend may:

- (i) provide moral support for a LIP
- (ii) take notes of a hearing



- (iii) help marshal case papers
- (iv) unobtrusively advise as to the conduct of proceedings

46.4. A McKenzie Friend must not:

- (i) act as agent in relation to the proceedings
- (ii) seek to manage the case outside court
- (iii) attempt to address the court, make oral submissions, present evidence or question witnesses

46.5. Further detail with regard to McKenzie Friends is to be found in the Guide for Litigants in Person (Appendix 11)

### **Lay Representatives**

47. Lay representation occurs in circumstances in which a non-qualified representative with no automatic right of audience before the court is permitted to represent the interests of an otherwise unrepresented party. Guidance with regard to the grant of such permission is to be found in the Guidance Note 'Rights of Audience' updated March 2014 which is Appendix 13.

## SECTION 9

### DISCLOSURE

#### 48. Police and CPS Disclosure

48.1. Proper disclosure between Agencies concerned with child welfare and between the civil and criminal jurisdictions is a vital part of the process of information sharing which is a critical component in safeguarding the interests of a child. In accordance with the overriding objective, the court and the parties to proceedings in which the welfare of a child is in issue must be astute to the necessity of obtaining any **relevant** material at the earliest opportunity in a way which is proportionate to the issues in the proceedings.

48.2. In Children Act cases important allegations of fact will often be derived from circumstances which have given rise to police investigation, and may result in a criminal prosecution. With regard to the events concerned it is of fundamental importance that the earliest possible approach is made to the Police for the disclosure of evidential material to assist with the proper definition of allegations which are made or to be made in the family proceedings. Because of the frequency with which this occurs huge demands are placed on the Police Authority and the CPS by reason of the requests for disclosure which are made.

48.3. It is important to recognise that whilst there should be the fullest possible disclosure of material wherever possible by the Agencies concerned, the strain on resources and frequency of such requests imposes an obligation on the family court and the parties to exercise proper discretion and proportionality with regard to disclosure requests which are made. The following principles must be observed in respect of all disclosure requests:

- (i) an application for disclosure must be made at the earliest possible opportunity.
- (ii) the documents of which disclosure is sought must be properly identified.
- (iii) requests must be confined to **relevant** documentation only (for which purpose 'relevance' is to be interpreted as material to the issues in the case).
- (iv) requests must be proportionate.

48.4. In respect of requests for disclosure from the Police Authority and/or CPS in Lancashire, a Protocol has been agreed and is currently in force. It is annexed to this document as Appendix 14A. It must be observed in all cases and, save in exceptional cases, the court should neither be invited to make nor make of its own initiative a disclosure order where the Protocol has not been engaged and followed, nor make nor be asked to make any order which offends the principles of disclosure set out in the Protocol\*.

48.5. In respect of requests for disclosure from the Police Authority and/or CPS outside Lancashire national guidelines are to be followed

48.6. Just as disclosure into Family Proceedings can be crucial so there will often be circumstances in which documentation from the Family Proceedings may be requested to be disclosed to other Agencies. Again the principle of information sharing with other child protection services must be borne in mind, but the court and the parties to proceedings before the Family Court, in particular in respect of proceedings relating to children, are bound by rules as to disclosure and confidentiality. (See s.97 (2) Children Act 1989 and FPR 2010 Rule 12.73). It is important to distinguish between disclosure for which the leave of the court is required, and disclosure which may be given without leave. Accordingly where disclosure is requested the Agency making the request should identify by reference to the

appropriate rule whether leave is required in respect of any particular document of which disclosure is requested. If either leave of the Court to disclose is required or there is an objection to disclosure then the issue must be referred to the court without delay either by application made by the Agency seeking disclosure or by referral of the issue within current proceedings by the party from whom disclosure has been requested.

48.7. An application for disclosure or referral of an issue with regard to disclosure must specify the documents or category of documents in respect of which disclosure is requested, the reasons why disclosure is required and the extent of the disclosure proposed. Where appropriate any grounds upon which disclosure is objected to should also be particularised and if a PII argument is to be maintained then the court should be notified immediately. The order made on such an application should generally follow the form of order which is attached to this guidance (Appendix 14B) In all cases where disclosure is sought from Family Proceedings it is essential for applications to be made immediately upon it being evident that disclosure is required.

*\* The Disclosure Protocol is currently undergoing revision and the updated version will be added to this Guidance as and when it becomes available. Until it is introduced the provisions of the existing Protocol apply*

48.8. For guidance with regard to the resolution of issues with regard to disclosure see Re: EC (Disclosure of Material) [1996] 2FLR 725 and Re: C (Disclosure Sexual Abuse Findings) [2002] 2 FLR 375 {Bodey J}.

## SECTION 10

### Linked Criminal Proceedings

49.1. The court must be astute to identify a situation in which there may be criminal proceedings which are linked to the proceedings before the Family Court arising out of the same or similar allegations of fact, and any impact which such proceedings may have on the case before the Family Court. In some serious cases it will be readily apparent that each of the cases running concurrently within the different jurisdictions will benefit from joint case management. For this purpose a Protocol has been agreed between the Designated Family Judge and the Resident Judge which is annexed to this document as Appendix 15. This Protocol must be observed.

49.2. Whenever family proceedings involve parties who are also concerned in criminal proceedings with regard to matters which are germane to the family proceedings the family court must be notified immediately and full details of the criminal proceedings obtained and notified to the family court. In circumstances in which the linked proceedings are being conducted in the Crown Court, consideration must be given by the parties as to whether the criteria set out in the Protocol apply and/or whether the case is appropriate for consideration as to joint case management.

49.3. Where joint case management is undertaken:

- (a) the case management hearing will take place in the Crown Court
- (b) the hearing will be conducted by the Crown Court Judge and the allocated Family Judge
- (c) the hearing is to be attended by all parties and their advocates
- (d) the hearing will be held in private
- (e) a case summary and bundle must be provided for the Judges' use
- (f) the advocates in each jurisdiction should confer with regard to the issues to be placed before the court in accordance with the Protocol

49.4. Whenever possible, cases in which joint case management hearings are to take place should be listed in Preston, if possible at Sessions House, and a request to that effect will be made to the Resident Judge when allocation of the criminal proceedings is being considered. Accordingly whenever it is apparent at gatekeeping and allocation stage that concurrent criminal proceedings may occur **and** that the circumstances of the case may justify a joint case management hearing, the family case should be allocated to the DFJ or to a Circuit Judge regularly sitting in the DFC.

## SECTION 11

### Interpreters and Translation Services

50. In any proceedings in which a party is not fluent in English and accordingly has difficulty in understanding the oral proceedings in court or reading and understanding court process, it is the responsibility of the legal representative for that party to notify the court of that difficulty. In accordance with the overriding objective all parties and/or their representatives are required to assist such a party whenever possible e.g. by providing for documents to be translated, permitting additional time for the preparation of documents to allow for translation or securing the services of an interpreter etc.

51. The maker of any statement whose first language is not English should tender the statement in English duly translated from his or her mother tongue and the statement should be indorsed as having been subject to translation so as to comply with the requirement of FPR22 PD 22A (Family Procedure Rules 2010).

52. The responsibility for provision of translation services in general rests with the party by whom the services are required. However, where an interpreter is required for the purposes of delivery of live evidence at a court hearing a request should be made by or on behalf of such a party for the court to secure an interpreter. This is however limited to interpreting services and not the provision of translation services and in this respect the maker of the request must comply with the guidance in respect of interpretation and translation services (see Appendix 16).

## **SECTION 12**

### **Court User Groups**

#### **Family Court Business Committee**

53. It is the responsibility of the judiciary at each HAC to ensure that regular Family Court User Group Meetings are held in order to canvass issues with regard to the efficient running of the courts under the administrative remit of the HAC concerned. The constitution of the Group and the frequency of meetings are a matter for the discretion of the judiciary operating in the Hearing Centre(s) attached to the HAC, but should not be of a lesser frequency than twice per year. It is expected that invitations to attend will be extended to Local Authorities, Cafcass, the legal professionals, family mediators and any other agencies and/or groups who are regular attenders at court in family proceedings. Meetings should be attended by as many members of the judiciary including Justices and Legal Advisers as can attend and a senior member of HMCTS with administrative responsibility for the HAC. The Agenda should be compiled in accordance with contributions from all court users. Meetings should be minuted, and any issues arising regarded as being of significance or importance should be passed to the DFJ or presented to the Family Court Business Committee (see below) for consideration.

54. The Family Court Business Committee meets twice per year and is led by the DFJ. Its purpose is to oversee matters of practice and procedure within the Family Court in Lancashire, to recommend and give effect to procedural change across the county whenever necessary in order to meet the requirements of the overriding objective, to bear responsibility for local training, and to work in concert with the Family Justice Board with regard to sustaining and/or improving performance.

## APPENDIX 1

### Electronic Issue of Public Law Applications- Guidance Note

#### STAGE ONE

(a) A dedicated e-mail address will be created with the title

*PrestonSFCIssue@hmcts.gsi.gov.uk*

(b) Applications and supporting documents as specified by the PLO must be sent by e-mail to the Designated Family Centre.

(c) The e-mail address will be checked at 2 hourly intervals 9.00 a.m. 11.30 a.m. and 1.30 p.m. and 3.00 p.m.

#### STAGE TWO - Issue

(a) The proper officer will check the documents to ensure compliance with the requirements of the Rule and Practice Direction FPR 12 and PD 12A. In the event that a discrepancy is identified in the documentation tendered the application will not be issued and a query will be raised by e-mail with the Local Authority. In the absence of response within 24 hours the matter will be referred to the CIT Team Leader or direct with the DFJ for a direction as to whether the proceedings can be issued.

(b) A linked case search will be carried out in order to ascertain any related proceedings and the name of any previous Children's Guardian associated with the case.

(c) The originating process will be generated in hard copy and a court file will be opened. A case number will be allocated and details of any related proceedings noted.

#### STAGE THREE – Gatekeeping

(a) The case details and court file will be passed to the District Judge and Legal Advisor with gatekeeping responsibility.

(b) The gatekeeping team will determine:

(i) The appropriate level of judiciary pursuant to the Allocation Criteria, local Allocation Guidance and judicial and accommodation resources

(ii) the judge or bench to whom the case is to be allocated

(iii) the hearing date for the first hearing in accordance with information provided by the CLT

(iv) any preliminary case management directions required

#### STAGE FOUR – notification of issue

(a) The file will be collected from the gatekeeping team by the CIT.

(b) The case will be entered on Family man.

(c) The PLO 8 (preliminary directions) will be drawn.

(d) The case will be recorded for CMS and fee tracking purposes

(e) The hearing will be entered on E-diary or F-diary

(f) Issue will be confirmed to the Local Authority and Cafcass and the sealed documents returned to the Local Authority for service. Copies of the documents as sealed, and details of any Children's Guardian (and Children's Solicitor where appropriate) associated with proceedings notified to Cafcass.

The required turn round time from receipt of the application via e-mail is 24 hours, but will not exceed 48 hours.

HHJ Rawkins

DFJ

***Note: This document was prepared prior to the inception of the Single Family Court. All references to either the County Court or Family Proceedings Court are to be read as a reference to the Family Court in Lancashire***



## **Appendix 2**

### **LANCASHIRE FAMILY COURTS**

#### **LANCASHIRE CAFCASS PROTOCOL**

##### **1. INTRODUCTION**

Following discussions which have taken place between the Designated Family Judge, the Children and Family Court Advisory and Support Service (Cafcass) Head of Service, the District Bench, the Justices Clerk and the Legal Advisers of the Family Proceedings Court the following protocol (the Protocol) has been agreed.

The purpose of the Protocol is to set a framework for effective communication and to identify the service which is to be provided by Cafcass to the Family Courts in Lancashire.

This will ensure that there is a clear understanding as to the levels of service which may reasonably be expected to be delivered by Cafcass to the Courts. It will assist in enabling all professionals to work together to minimise delay and to ensure the efficient and proportionate allocation of resources in the resolution of clearly identified welfare issues for the benefit of children and families.

The Protocol applies to both Public and Private Law proceedings. It accordingly addresses each jurisdiction separately, but there is much commonality between the two and therefore where a provision is set out in one section which has equal application to the other jurisdiction, it may be taken to apply to both.

##### **2. GENERAL**

###### **Continuity**

It is recognised that there should be judicial continuity in all cases. In the County Courts in respect of both Private and Public Law cases, though a case may be allocated to two Judges for case management purposes, any given case will usually be managed throughout and disposed of at a final hearing by the same Judge.

In the FPC cases will be allocated to a Family Legal Advisor (FLA) who will undertake responsibility for case management issues. Substantive hearings will be conducted by a bench of Lay Justices and, whenever possible, the bench will include at least one of those Justices who constituted the bench in any previous substantive hearing.

It is also recognised that continuity, in terms of the allocation of a named officer, should be maintained throughout a case by Cafcass. In Private Law cases when Cafcass involvement has concluded, and further welfare issues arise, for example following a review, then upon direction by the Court for any further Cafcass involvement, the same Officer will generally be allocated.

Where in exceptional circumstances, the involvement of a particular officer in a Private law case cannot continue then Cafcass will write to the court with the reasons for this and advise of the allocation of a replacement officer.

The means by which allocation in Public Law cases can be varied are stipulated elsewhere in this Protocol.

###### **Court User Committees**

It is required that Cafcass should be represented at the Lancashire Family Court Business Committee and other meetings such as the Court User Group Meetings as appropriate and agreed between the Head of Service for Cafcass and the Designated Family Court Judge. The officer attending should be authorised to speak on behalf of the Service. It is agreed that Court managers with responsibility for arranging such meetings of local groups will provide Cafcass not less than 28 days notice of the date and time of the meeting

### **Outside service providers**

In order to maximise the efficient use of external agencies, Cafcass will monitor the ongoing availability of Cafcass commissioned services such as Chapter One, Core Children's Services and Grassroots and will provide the court and other stakeholders at regular intervals details of the availability of these services. It would be expected that such information would be made available as part of Cafcass input into the meetings referred to above.

### **Notification to Cafcass of Court listings**

Each Court (both County and Family Proceedings Courts) will provide Cafcass with details of all proposed FHDRA listings for a period of not less than six months ahead. In the event that a decision is made to cancel or reduce a list on a given day then the Court office shall notify Cafcass forthwith of the change and, subject to judicial confirmation in the County Court or the confirmation of a Family Legal Advisor in the FPC, shall confirm that no Cafcass attendance is required if that is the case. Save in such circumstances, Cafcass will ensure the attendance of a court duty officer, to assist the court on the basis set out in the President's Private Law Programme.

### **Communication**

All routine communications between Cafcass and the Courts including requests for information should be in writing preferably by e-mail. Where, because of urgency, telephone communication is required it should be confirmed in writing.

Acknowledgements of e-mail sent to Cafcass or the Court Service will generally be forwarded by the receiving agency to the appropriate recipient, within no later than 24 hours of receipt and if possible on the same day. The acknowledgement will contain a summary of the action undertaken in response to the originating message. In practise, where the original query relates to an aspect of Cafcass performance this may be limited to the provision of details of the person to whom the substantive query has been passed together with brief details as to the likely timeframe for response, which shall not exceed that which is identified in this document. In the event of absence which prevents meaningful response the matter is to be referred to the appropriate officer whose name appears in the list below.

A substantive response shall be provided within 7 days or in the event that this timeframe cannot be complied with proper reasons for any delay shall be provided within that time.

The following communication details currently apply and may be updated from time to time.

#### **Cafcass - General Enquiries**

Rachel Moody is the Single Point of Contact (SPOC) for Cafcass within Lancashire. She is based at the Cafcass office in Blackburn and will deal with all general enquiries made by telephone or email

Contact details are as follows; Telephone: 0844 353 1830

E mail: [cafcass@blackburn.gsi.gov.uk](mailto:cafcass@blackburn.gsi.gov.uk)

#### **Cafcass - Urgent Enquiries**

Any urgent enquiries should be made by telephone to the SPOC, who will endeavour to direct all urgent telephone calls to the relevant Service Manager.

Cafcass currently has three service managers who are:

Private Law: Kate Culshaw, [kate.culshaw@cafcass.gsi.gov.uk](mailto:kate.culshaw@cafcass.gsi.gov.uk), 07747 040 085

Public Law: Susan Morley, [susan.morley@cafcass.gsi.gov.uk](mailto:susan.morley@cafcass.gsi.gov.uk), 07789 032 309

Early Intervention Team: Alexandra Sayer, [alexandra.sayer@cafcass.gsi.gov.uk](mailto:alexandra.sayer@cafcass.gsi.gov.uk), 07827 823 596

## County Courts

### General Enquiries

Enquiries of a general nature should in the first instance be directed to the relevant Family Team Leaders at the particular County Court.

Currently the Family Team Leaders are:

Blackburn	Laura McAulay <a href="mailto:family@blackburn.countycourt.gsi.gov.uk">family@blackburn.countycourt.gsi.gov.uk</a> 01524 299852
Lancaster	Paul Russell <a href="mailto:family@lancaster.countycourt.gsi.gov.uk">family@lancaster.countycourt.gsi.gov.uk</a> 01524 68112
Preston	Michael Barrie <a href="mailto:family@preston.countycourt.gsi.gov.uk">family@preston.countycourt.gsi.gov.uk</a> 01772 844700
Blackpool	Kathy Wilson <a href="mailto:family@blackpool.countycourt.gsi.gov.uk">family@blackpool.countycourt.gsi.gov.uk</a> 01253 754027

## Family Proceedings Courts

### General Enquiries

Enquiries of a general nature should in the first instance be directed to the relevant Legal Advisor at the particular Family Proceedings Court

Currently the lead Family Legal Advisors are.

Janet Wright	East Lancashire <a href="mailto:Janet.wright@hmcts.gsi.gov.uk">Janet.wright@hmcts.gsi.gov.uk</a>
Cath Dean	Central and South West Lancashire <a href="mailto:Cath.dean@hmcts.gsi.co.uk">Cath.dean@hmcts.gsi.co.uk</a>
Rachel Gough	Fylde Coast and North Lancashire <a href="mailto:rachel.gough@hmcts.gsi.gov.uk">rachel.gough@hmcts.gsi.gov.uk</a> ; 01524 597022

## Urgent Enquiries

For other urgent matters or where the Family Legal advisor is not available enquiries may be directed to;

Mark Adamson

[mark.adamson1@hmcts.gsi.gov.uk](mailto:mark.adamson1@hmcts.gsi.gov.uk);  
01253 757021

**N.B. It is the responsibility of each Agency to ensure that these contact details are kept up to date and the Protocol amended as necessary from time to time to reflect any change.**

### 3. SPECIFIC SERVICES TO BE DELIVERED BY CAFCASS

#### PRIVATE LAW

##### i) Action Pre First Appointment

Applications are to be issued by the court on the day of receipt, whenever possible, and referred to the District Judge/Legal advisor on that day. The court staff are required to ensure that all essential information to enable safeguarding checks to be carried out, including the parties' respective dates of birth, full names, addresses and contact telephone numbers, are recorded on the application before issue. Unless such information appears in the application, or it is indicated that it has not been possible to supply it because it is unobtainable, the application should not be issued.

Upon the issue of a Private Law application the District Judge or Legal Advisor on the day of issue, or as soon thereafter as is practicable, will consider whether any case management directions are required if necessary, a direction will be made for the provision of further information to enable the Safeguarding Checks to be completed where an application has been issued without that information because of urgency or where information is claimed to be unobtainable. Any such directions order will be included in the documents to be sent to Cafcass, and the case manager must provide for the means whereby the information will be made available to Cafcass at the earliest opportunity.

Following consideration by the District Judge/Legal Advisor a date for the FHDR Appointment will be fixed. The Application Form (C100) and any directions order together with notice of the FHDR Appointment and the other documents listed at 3.2 of the PLP shall be sent to Cafcass central Intake Team by the court on issue but in any event within not more than 48 hours of issue.

If on receipt of the application Cafcass identifies that there is a risk to the child of significant and immediate harm and a need for there to be a risk assessment to be carried out pursuant to their duties as set out in s16A Children Act 1989 (CA 1989) Cafcass will refer the matter to the relevant Local Authority. The court will be informed of any such step in the initial safeguarding schedule 2 letter.

In the alternative when appropriate Cafcass may notify the relevant Local Authority with a view to such Authority giving consideration as to intervention.

The FHDRA will generally be fixed to take place 4 - 6 weeks from the date of issue. In the event that an earlier hearing is fixed, Cafcass will use its best endeavours to provide such safeguarding information as can be made available prior to the hearing.

Generally upon receipt by Cafcass of the safeguarding information an officer of the service shall provide the initial safeguarding information to the court within 28 days and in any event not less than 4pm the day before the FHDRA hearing. The officer will whenever possible make contact with all of the parties to the application in order to discuss the results of the

safeguarding checks with them. This may reveal what further information should be obtained and whether checks should be undertaken forthwith upon any “relevant others”.

In the event that an officer has been unable for good reason to speak with one or other of the parties in the matter prior to the FHDRA and the filing of the safeguarding information, and/or if there has been a delay in the provision of information to Cafcass from the Police Service or Local Authority then this fact will be included in the schedule 2 letter, submitted to the court prior to the first hearing.

### **ii) The First Hearing Dispute Resolution Appointment (FHDRA)**

The FHDRA is the first hearing which takes place in a private law case, and it assumes a crucial importance in terms of identifying, narrowing and in many cases resolving the issues before the court. The role of Cafcass in this process is, accordingly critical.

Cafcass will ensure that an officer of the service attends court on all appointed occasions for the purpose of FHDRA hearings. Where exceptional circumstances arise and an officer of Cafcass is prevented (e.g. through ill health or accident) from attending at the appointed FHDRA hearing then Cafcass will inform the court manager/legal advisor at the earliest opportunity. As necessary the direction of the District Judge or Legal Advisor must be sought as to any case management issue which may arise.

It is helpful for the court duty Cafcass officer to meet with the District Judge/Legal Advisor prior to the start of the day. The Cafcass officer will not speak to the parties prior to the FHDRA at court unless specifically requested to do so by the District Judge/Legal advisor for example where the courts attention is drawn to the fact that not all parties have been contacted prior to the hearing.

The officer will raise with the court before or during the course of the FHDRA from the welfare perspective of the child(ren) any issues in the case which are considered to require investigation. The Court is obliged to consider any such recommendation and unless there is good reason not to do so, shall follow it.

If the assessed need is for a commissioned service this will have been agreed with a Service Manager in Cafcass and included in the Schedule 2 letter. If it is the case that the court wishes to seek information and advice about the availability, of PIP's the suitability of the parties and the likely effect on them of undertaking a PIP Cafcass will provide to the court advice about these issues.

At the conclusion of the FHDRA the officer will make a manuscript note of the basic terms of the order made employing the approved Cafcass outcome form. It will be appropriate to ensure that the note accords with the record kept by the District Judge/Legal advisor and resolve any discrepancy which may arise before concluding the hearing.

An order which directs an officer of Cafcass to prepare a report or which directs the attendance of an officer at any hearing shall be perfected and provided to Cafcass (by email if possible) no later than 5 days following the date of the hearing. The Court Office shall ensure that a separate e-mail is transmitted within 24 hours of an order being made in which such a requirement is stipulated by way of advance notice of the requirement for a report and/or attendance.

### **iii) Provision of Reports (s.7 CA 1989)**

Where the court, determines that there is a need for a report upon a welfare issue, then the Court will direct that the report will be filed within the following timescales below which take effect from the date of receipt of the order by Cafcass.

To assist in meeting these timescales, when making any such order a summary of the details of the requirement will be notified forthwith by the Court office to Cafcass by e-mail

### **Timescales**

**Multiple issues report, covering more than one issue** **within 15 Weeks**

**Single issue report** **within 10 Weeks**

**Wishes and feelings report** **within 8 Weeks**

**Risk Assessment pursuant to s16A CA 1989** **within 8 Weeks**

**Any addendum report** **within 10 Weeks**

Notwithstanding that these timescales have been agreed it is acknowledged that there may be exceptional circumstances where Cafcass may require extra time for the provision of a report, in which event a Service Manager will inform the Court in writing of any anticipated delay and the reasons for it and request a proportionate extension of time for delivery of the report. The request for extra time must be made in writing to the court but it does not have to be contained in a Form C2, and no court fee will be payable as it is not to be deemed an application to the court as such. The request must be marked for the attention of the allocated Judge or Legal Advisor. Emphasis has been placed upon the exceptionality of such a request which should only ever be made in circumstances which do not permit compliance within the ordinary timescales contemplated by the Protocol. Unreasonable non-compliance will be treated as a breach of the Protocol.

By agreement with a particular officer either at FHDRA or at a subsequent directions hearing a specific report may be filed within a shorter timeframe, in particular bearing in mind the identified timetable for the child. Any shorter timescale included in an order must only be made with the agreement of the officer or his or her Service Manager, and the reasons for the urgency set out in the order requesting the report.

The necessity for the direction of any Report should always be carefully considered by the Court and the direction should clearly identify the issues in respect of which a report is directed on its face. The Court will therefore record in the order:

- (a) the issues between the parties
- (b) the areas of dispute
- (c) the particular elements of the welfare checklist which require to be examined

Notwithstanding, it is expected that the Officer will exercise his or her discretion in setting out any other matters which are material considerations in respect of the welfare of any child who is the subject of the report, whether or not the Court itself has identified the issue. When unanticipated and previously un-notified difficulty is encountered in complying with the requirement for the filing of a report the Service Manager must inform the court of any anticipated delay no later than 28 days prior to the next appointed hearing.

It is not acceptable for any delay in the delivery of a report to the court to be occasioned as a result of any internal administrative requirement of Cafcass. In some circumstances where there is an exceptional exigency a request might be made for a report to be submitted in escrow, or alternatively that its content be disclosed to the parties by the Courts direction notwithstanding that it has not been signed off.

The Officer to whom the responsibility of preparing the report directed by the Court is committed is the Children and Family Reporter. He or she will not be required to attend at court on any hearing unless such attendance is specifically requested and contained in a direction within a court order which has been sent to Cafcass by the court. In that event, the officer concerned must note his or her diary immediately on receipt of the order, and if any difficulty arises in respect of his or her attendance seek the leave of the court to be absent or request that the Court consider whether an alternative to personal attendance is possible, or invite the court to give consideration to standing the matter out of the list.

The Court must always have regard to the demands on an officer's time and when an officer's evidence has been given the court must consider whether the officer might be released. When requested to do so the officer should comply with a request made by the court to provide contact details to enable communication to take place when an officer has been released from further attendance at a hearing

The officer is not required to attend any Finding of Fact hearing unless (for clear reason) attendance has been specifically directed by the court. At the conclusion of a Finding of Fact hearing a copy of the Judgement, including a concise schedule of findings, shall be sent by the Court office to Cafcass not later than 5 days following the conclusion of the hearing

#### **Representation of children – appointment of Guardian FPR 2010 r.16.4.**

The joinder of a child or children to Private Law proceedings is an unusual step to be taken only for good reason and in accordance with the guidance given by FPR 2010 PD 16A. Where the Court is considering the appointment of a children's guardian in private law proceedings pursuant to FPR 2010 r16.4, save in exceptional circumstances, a children's guardian shall not be appointed save where there has been a written recommendation by an officer or following discussions with the relevant Cafcass service manager.

#### **Other Services**

Unless specifically recommended by the Court and agreed by Cafcass, Cafcass is not able to provide for any ongoing supervision of contact. Where any such arrangement is recommended and, by agreement with Cafcass, is to be undertaken, the terms upon which it is to take place both as to the manner of supervision and duration of the obligation must be set out in the Court order by which it is directed. As required for the proper performance of his or her reporting obligations to the court, an officer will undertake sessions of observed contact without specific direction.

Cafcass resources do not permit unrestricted access to other such service providers (e.g. Chapter 1 or Grass Roots). Any referrals initiated by direction from the Court can only be made following and pursuant to a recommendation from Cafcass which should generally be incorporated in a written report.

#### **PUBLIC LAW**

##### **i) Action upon Issue**

On issue of an application for a Care or Supervision Order, the FPC will nominate two Family Legal Advisors as case managers; In the County Court the case will be allocated to not more than two case management Judges.

Upon receipt of the application the Court office shall forthwith issue a request to Cafcass for the allocation of Children's Guardian.

Upon notification of the issue of the application Cafcass will allocate a Children's Guardian and select a Solicitor from the list of Solicitors who are members of the Children's Panel which is held by the court office.

Cafcass will ensure the attendance of the Children's Solicitor at the First hearing. In general the appointment will be made in accordance with a strict rotation but it is open to Cafcass to nominate a Solicitor for appointment outside the normal rotation where:

- (a) either the overriding objective or the welfare interests of the child make this desirable
- (b) there are special features of the case which require that the alternative selection process be employed

In either case, Cafcass shall record on the case file the reasons for any departure from normal procedure in making the selection of the Children's Solicitor.

In the event that no request for the appointment of a Solicitor is made by Cafcass within 48 hours of notification by the court of the issue of the application then in accordance with national guidelines (See The Law Society Legal Policy April 2007 "Appointing a Solicitor for the Child in Specified Proceedings: Guidelines for the Courts") and its duty pursuant to s.41(3)-(5) CA 1989 the court will appoint a solicitor for the child before and in time for the First Hearing. The name and business address of the solicitor so appointed will be provided to Cafcass with the initial paperwork containing the request for an appointment of a Children's Guardian.

In the event that, for good reason, the Children's Guardian, once allocated, forms the view that in accordance with the selection criteria set out in the guidelines referred to an appointment by the Court should be reviewed written representations may be made by Cafcass accordingly. These should be compiled by the Cafcass Service Manager and forwarded without delay to the allocated Judge who will give consideration to the representations and make a case management decision taking them into account.

## **ii) Appointment and allocation of a Children's Guardian**

The court directs the appointment of a Children's Guardian at the preliminary consideration of the case on issue, so that the child's interests will be represented at the First hearing.

A Children's Guardian will be allocated by Cafcass forthwith upon receipt by them of the initial request and in any event no later than two working days from the receipt of the papers from the court so that the appointment will have been made prior to the First Appointment and a Guardian in place accordingly.

Generally the allocation will be made to a permanent employee of Cafcass.

Cafcass will inform the Court and the Local Authority children's services and/or Solicitors department in writing of the name location and contact details of the appointed Guardian forthwith upon the appointment

In the event that circumstances arise in which it is perceived that a Children's Guardian, once appointed, is unable to continue in post and accordingly that a fresh allocation is required to be made a written request must be made to the Court for the appropriate order, generally through the Children's Solicitor. The request may be made without notice if all parties consent, but must be supported by information setting out;

- the reasons why the re-allocation is necessary, (e.g. ill health, retirement, resignation from the service)



- the identity of the proposed new appointee and
- whether there is any risk to the welfare of the child whether in terms of delay or otherwise in the event that the order either is or is not made.

A formal application on notice is required only where the proposed replacement of the children's guardian is put in issue by another party, or where there is an obvious welfare concern with which the court must be invited to deal in the presence of the parties. Where all parties agree, and/or no welfare issue arises and there is no necessity for the court to make consequential case management orders, the request may simply be made by letter without the necessity for formal application. Such letters to the court must be copied to all of the parties in the case. Whether any welfare or case management issue does in fact arise should be considered closely between the Children's Guardian (or in his or her absence by Cafcass) and the Children's solicitor and thus, in normal circumstances, the request or application should be made through the Solicitor.

It is neither possible nor acceptable for there to be an attempted unilateral re allocation of a children's guardian without reference to the court.

### **iii) Attendance at Court**

As part of its duty pursuant to the Overriding Objective the court will ensure that the Children's Guardian is not required to attend court hearings at which his or her attendance will serve no purpose

### **CASE MANAGEMENT HEARINGS**

In respect of case management hearings the Children's Guardian shall attend at court on the First Appointment, the Case Management Conference and on the Issues Resolution Hearing unless released by the court. In exceptional circumstances dependant upon timescale and notification it may not be possible for the Children's Guardian to attend the first appointment. However there is an exception that the Children's Guardian will have reviewed the case details and will have provided instructions to the child's solicitor and notified the court of the reasons for non attendance.

It will not be usual for a release to be given in respect of the First Hearing or the Issues Resolution Hearing unless, in the case of the latter in particular, it becomes clear that the purpose of such a hearing has been or will become frustrated by intervening circumstances and progress cannot be made.

Any request to be released from attendance at a milestone hearing should be made at an earlier hearing or in writing. The Court will be sympathetic to such requests where no clear purpose will be served by the Children's Guardian's attendance, but may require the provision of a Position Statement confirming that there are no immediate welfare concerns which should be brought to the court's attention by the personal attendance of the Children's Guardian

If the Children's Guardian is not in attendance then the court will have an expectation that the Children's Solicitor will be fully appraised of the children's current circumstances and detailed instruction will have been provided. When necessary in the circumstances of the case the children's guardian should make arrangements to be available by telephone or other electronic means when urgent instructions might reasonably be expected to be required.

In respect of any hearing which is not a milestone hearing there is no presumption that the Children's Guardian must attend, nor be released from attendance. The decision as to attendance at such a hearing will be made by the Children's Guardian in consultation with the Children's solicitor and if non attendance is determined upon either a position statement may be filed or arrangements made whereby instructions can be taken urgently or both if so advised.

## **SUBSTANTIVE HEARINGS**

A Children's Guardian is not required to attend at any Finding of Fact hearing unless specifically requested to do so by the Court and an order has been made directing such attendance.

In respect of any contested interim hearing the Children's Guardian will be required to be in attendance and may be required to give evidence but may seek to be released during the course of the hearing where no obvious purpose can be served by the Children's Guardians continued presence.

## **REPORTS**

At the First Appointment the Children's Guardian will be expected to be able to provide the court with a short position statement or an oral analysis, generally through the Children's solicitor as to the welfare issues which are of immediate concern, notably, though not restricted to, placement and contact, but he or she will not be expected to present an Initial Analysis and Recommendations Report at that stage.

The Children's Guardian should file an interim or final report (as the case may be) in time for an advocates meeting which is convened before a CMC or the Issues Resolution Hearing and before any final hearing. Where a placement application has been directed a separate final report is required to be filed.

## **OTHER DUTIES**

The important role of the Children's Guardian in Public Law proceedings has been emphasised in this document. The duties which therefore fall upon the allocated Guardian are accordingly many and diverse. Without prescription or limitation this Protocol identifies certain reasonable expectations as to how the role is performed in respect of issues and events which may occur during the course of such proceedings

- Department and the Children's Guardian is a vital one and depends upon the establishment of clear lines of communication. A Children's Guardian should always seek to establish dialogue at the outset of a Public Law case so that he/she is available for consultation in respect of any decision to be taken which concerns the welfare of a child concerned in proceedings.
- The relationship between the Local Authority Children's Services The drafting of working agreements; the Children's Guardian should ensure following allocation that any agreement between a Local Authority and a parent or carer e.g. to secure either placement or contact arrangements or otherwise, is drafted in clear and unambiguous terms which are readily understandable to all those who are to be bound by it and which properly and proportionately promotes the welfare interests of the child concerned.
- The Children's Guardian should immediately raise with the Local Authority and the other parties any welfare concerns which arise, and if they are not resolved must bring them to the attention of the Court. If such concerns occur unexpectedly and require urgent consideration the Children's guardian should not be constrained by the

absence of an imminent hearing in bringing the matter back, generally through the Children's Solicitor, before the case management Judge or the FLA.

- If concerns arise in respect of an associated child who is not the subject of proceedings the Children's Guardian must bring the matter to the attention of the Court without delay either by written notification or at the next appointed hearing and should make an appropriate referral or notification to the relevant Local Authority.

### **MONITORING AND REVIEW**

This protocol will be reviewed from time to time as necessary and any amendments incorporated by way of addendum.

### **DATE OF IMPLEMENTATION**

This Protocol will come into effect on the 5<sup>th</sup> September 2011

**His Honour Judge Jeremy Rawkins**

**Designated Family Judge for Lancashire**

**Collette Dutton**

**Head of Service Cafcass, Lancashire**

**September 2011**

## Appendix 3

### Guidelines for the Allocation of Children Act and certain other Proceedings to the Judiciary in Lancashire.

#### General Principles

1. This paper gives guidance as to the allocation of Children Act and other specified proceedings to the appropriate level of judiciary at the earliest possible stage. In the case of Public Law proceedings this means at or before the First Hearing, and in respect of Private Law proceedings at the FHDR appointment.
2. The guidance should be read in conjunction with the Children (Allocation of Proceedings) Order 1991; the Family Law Act 1996 (Part IV) (Allocation of Proceedings) Order 1997; the Family Proceedings (Allocation to Judiciary) Directions 2009, the Public Law Outline and the Public Law proceedings: Guide to Case Management April 2010. For Private Law proceedings regard must also be paid to the Private Law Framework issued by the President.
3. Save where there is a mandatory provision, the allocation of judicial business requires the exercise of a judicial discretion, and as with any other case management decision, the same fundamental principles should accordingly be applied. The primary consideration should be the welfare of the child (*see SE Hampshire FPC ex parte D (1994) 2 All ER 445*) and each decision must comprehend the application of the overriding objective  
**“....to enable the Court to deal with every case**
  - (a) **justly, expeditiously and with the minimum of delay:**
  - (b) **in ways which ensure so far as is practicable that**
    - (i) **the parties are on an equal footing**
    - (ii) **the welfare of the children is safeguarded**
    - (iii) **distress to all parties is minimised so far as is practicable in ways which are proportionate to the gravity and complexity of the issues and to the nature and extent of the intervention proposed in the private and family life of the children and adults involved.”**
4. Judicial continuity is an important consideration both in the context of the availability of a Judge/Bench to whom it is proposed allocation should be made and by reference to any previous related proceedings (see Article 3(3) of the Allocation Order)

#### Proceedings to be heard in the Family Division of the High Court by a Judge of the Division unless specifically released.

Cases which involve any of the following issues fall into this category:

1. Abduction of a child
2. Disputes involving conflict of laws or enquiry into foreign jurisdiction.
3. Issue as to whether the court has jurisdiction where there are competing claims with another national jurisdiction) *Re D: Stay of Children Act Proceedings (2003) 2 FLR 1159.*
4. Recognition and Enforcement of Judgments/Orders of other national states e.g. Brussels II.
5. issues with regard to publication and/or publicity (Identification of child or restriction on publication or injunctions seeking to restrict freedom of press).

6. Issues as to disclosure – where party seeks leave to withhold information from another party, or where there is an issue about the release of confidential information involving a difficult point of law, or where disclosure of documentation involves a difficult or sensitive exercise of discretion or public policy issues (see *Re C (Disclosure) (1996) 1 FLR 1997* and *Re EC (Disclosure of material) (1996) 2 FLR 123*).
7. Injunctions invoking inherent jurisdiction of the court.
8. Wardship.
9. Contested issues involving medical treatment or medical intervention involving disputed expert or factual evidence
10. Cases under the Human Fertilisation and Embryology Act
11. Declarations as to parentage under Section 55A of the Family Law Act 1986 where there are complex points of law and/or sensitive and complex issues of fact and/or matters of public policy.
12. Cases raising Human Rights issues where it is alleged that a Convention Right has been breached
13. Adoption applications giving rise to issues of complexity, difficulty or public policy and, in particular those involving a foreign jurisdiction or with any international element or where there is a serious procedural dispute
14. Applications under Section 91(14) of the Children Act 1989 which involve complex or difficult areas of law or issues as to public policy.
15. Leave to remove from the jurisdiction and/or relocate in the United Kingdom where there are complex or difficult issues of law or where issues of enforcement may arise, (e.g. mirror orders).
16. Declarations and/or disputes as to status of marriage/divorce where there are complex legal issues or issues as to public policy or jurisdiction (e.g. declaration as to validity of purported marriage).
17. Contempt proceedings involving difficult issues as to public policy or a contempt of court “in connection with” proceedings in the county court which is punishable only by order for committal made in the Queens Bench Division (see *Re (Contempt: Committal) (2003) 2 FLR 58*).
18. Applications by children for leave to apply for Section 8 Orders where difficult issues as to public policy arise or there may be complex issues as to law or fact.
19. Any Children Act applications in which difficult points of law, issues of public policy or unusually complex or sensitive issue arise including by way of example:
  - a. Prohibited steps or specific issue orders in which complex religious or medical issues are raised
  - b. Applications by children for leave to apply for s8 orders where the child is not Gillick competent or where competence is placed in issue
  - c. Cases involving the representation of children in private law non specified proceedings.

## General Note

(a) Please see the provisions below with regard to those cases which should be referred to the DFJ for consideration as to listing before a Circuit Judge authorised to sit in the High Court pursuant to s.9 Senior Courts Act 1981

(b) Any case to be listed before a Judge of the Division must be referred in the first instance to the DFJ or, in his absence, to the FDLJ. In exceptional circumstances the lead Circuit Judge in the Care Centre may give such a direction but he/she should seek confirmation of it from the DFJ or FDLJ.

### **Public Law Proceedings which may be referred to the DFJ for possible listing before a Circuit Judge sitting as a Judge of the High Court pursuant to s.9 Senior Courts Act 1981.**

1. Cases which involve any of the following issues may fall into this category:

(i) Any case which might be considered suitable for hearing by a Judge of the Division but where the case is not obviously of a novel or complex nature and particularly those cases which involve allegations of

- (a) Factitious induced illness
- (b) Shaken baby syndrome
- (c) Serious injury or abuse where a finding of fact hearing will be necessary which is anticipated to last longer than 5 days
- (d) A suspicious death of a sibling or associated child or a parent.

(ii) Any case in which any of the following issues arise but where the issues are not obviously novel or complex:

- (a) Immunisation or medical treatment of a child
- (b) Religion or matters of faith
- (c) Permanent removal from the jurisdiction
- (d) Removal, whether or not permanent, to a non Hague-Convention Country
- (e) Placement outside the jurisdiction

2. General Note

(i). Whether or not a case is to be heard by a Judge of the Division or a Circuit Judge sitting s.9 is a matter for the DFJ in consultation with the FDLJ and the discretion will be exercised by reference to :

- (a) the nature and circumstances of the case and
- (b) judicial availability

(ii) Referrals should be made direct to the DFJ and should be accompanied by a clear explanation as to the nature of the case, if possible accompanied by the latest case summary, and the basis upon which it falls within the criteria set out above.

(iii) It is not appropriate for a Circuit Judge {other than the DFJ} to direct that a case should be heard by him or herself as a Judge of the High Court. The authority of the DFJ or FDLJ must always be obtained beforehand. In an urgent case the Judge concerned should approach the DFJ direct for the appropriate authority.

### **Public law proceedings which should normally be heard by an appropriately authorised Circuit Judge or Recorder**

1. The category of cases falling within this provision include the following:

Where there are significant issues which do not justify referral to the DFJ for allocation to a Judge of the Division or release for s.9 Hearing as to case involves

- a. A disputed point of law, an issue of public policy or any other complex or sensitive issues arise
  - b. allegations of physical or sexual abuse which involve any of the following features:-
    - significant gravity or frequency
    - (conflicting expert opinion
    - significant medical issues
  - c. allegations of a shaking injury involving retinal haemorrhage/ brain injury/multiple injuries
  - d. concurrent criminal proceedings in the Crown Court factitious induced illness
  - e. allegations of very serious emotional abuse or neglect
  - f. immigration status issues where there is a history of suspicious death of a child in the family
2. Where there is an issue of placement of the child outside the jurisdiction
  3. Where the Official Solicitor or a Litigation Friend is to represent the interests of an incapacitated adult
  4. Where a linked placement order application raises complex issues additional to those inherent in the care proceedings
  5. Where a child is separately represented from his or her Guardian
  6. Any other case which would otherwise normally be suitable for hearing before the district judge or the Justices but which pursuant to the criteria set out in this guidance or by reason of the proper application of the overriding objective should be heard before the circuit judge or a recorder.

**General Note:**

(a) As the Children (Allocation of Proceedings) Order 1991 provides, transfer of public law proceedings from one level of judiciary to another may be ordered where it is in the interests of the child having regard to the 'no delay' principle set out in s 1(2) Children Act 1989 and the matters listed in Art 7(1) (a)-(c) (exceptional gravity, importance or complexity; other family proceedings pending elsewhere; accelerated determination).

(b) In considering Art 7(1)(a) (exceptional gravity, importance or complexity) and the issue of transfer generally, those of the factors set out above which are relevant to public law cases should be borne in mind. Only those public law cases which do not involve complex issues of law or fact will generally be suitable for hearing in the before the Lay Justices or by district judges, and where a case does present a significant issue of law or fact it will generally be suitable for hearing before the circuit judge (or recorder) or above.

(c) In the event that it is proposed that any of these principles should be displaced the issue must be referred to the DFJ or in his absence a Circuit Judge authorised by him for a decision and, if the latter, then the matter should be referred to the DFJ for confirmation of any proposed allocation direction at the earliest opportunity.

**Public law proceedings which may normally be heard by an authorised District Judge or by the Lay Justices**

The category of cases falling within this provision includes the following:

1. Any case which after consideration of the papers by a District Judge and a Legal Adviser or by a Circuit Judge or the Designated Family Judge has been identified as suitable for final hearing by the District Judge or by a Bench of Justices by the proper application of the criteria set out in this guidance EXCEPT for any case with an ELH over three days in the case of the District Judge and two days in respect of the Justices.
2. Any case where there are allegations of physical or sexual abuse EXCEPT for any case which involves any of the following elements:
  - (a) multiple allegations of sexual or physical abuse
  - (b) alleged shaking cases involving retinal haemorrhages or brain injury.
  - (c) an international element
  - (d) complex medical issues
  - (e) contested expert evidence where there is competing expert evidence by two or more experts
  - (f) the suspicious death of a sibling
  - (g) allegations of physical or sexual abuse where there are or are likely to be criminal proceedings, and/or issues regarding disclosure of information and/or public interest immunity.
  - (h) there appears to be a novel issue of law or fact to be determined.
  - (i) there is a significant, serious and immediate risk posed by an adult e.g. a Schedule 1 offender
3. Any case where there are allegations of neglect or emotional abuse EXCEPT for any case which involves any of the following elements:
  - (a) the neglect or abuse is chronic and sustained
  - (b) there are or are likely to be associated criminal proceedings
  - (c) the sequelae in respect of the presentation of a child indicate very significant emotional or physical harm
  - (d) difficult issues with regard to assessment

### **General Note**

1. There is a clear overlap of jurisdiction between all judges (including Lay Justices) in the Family Court. In approaching the task of allocation as between the tiers of judiciary focus must be maintained on the principles of the overriding objective. Because the full time judiciary is able to offer a greater degree of judicial continuity and accordingly to exercise consistent case management control, some cases will clearly be better suited for allocation to the district bench than to the Lay Justices by reason of discreet issues of complexity. Where there is no obvious reason why allocation should be directed towards one or other of the three alternatives the avoidance of delay, and thus judicial availability, will be a critical and often determining factor. Thus clear information with regard to waiting times should be available before the district judge and the legal adviser at the point of allocation to ensure the appropriate allocation.

2 In respect of cases which appear to be suitable for allocation to the District Judge rather than to the Justices but doubt arises as to the appropriateness of such an allocation by reason of the presence of one or more of the factors referred to above, the DFJ may be consulted with regard to the possibility of release to the District Judge

### **Private Law proceedings which may normally be heard by a s.9 Circuit Judge or Recorder**

The category of cases falling within this provision includes the following:



1. Applications to remove a child permanently from the jurisdiction and complex holiday cases e.g. stays in a non-convention country or where the Pakistan Protocol may need to be invoked.
2. Applications for Section 8 Orders involving one of the following:-
  - i. Any 'international' element e.g. enforcement of foreign orders/orders requiring return of child from abroad/mirror orders.
  - ii. Contested issues involving credible allegations of serious sexual abuse or serious non-accidental injury or serious emotional or physical abuse or ill treatment of the child
  - iii. where there are allegations of extremely serious domestic violence (e.g. rape, broken bones, wounds or use of a weapon) (particularly if witnessed by the child)
  - iv. Significant contested issues in respect of religion, culture or ethnicity or involving medical treatment.
  - v. Contested issues involving significant differences of opinion between expert witnesses.
  - vi. Serious psychiatric illness of parent or child.
  - vii. Application by a child for permission to apply for an order where either the application itself or the order sought are disputed
  - viii. Children who are, or may be, required to give evidence.
  - ix. Where there are concurrent criminal proceedings in the Crown Court relevant to the issues between the parties and a Joint Directions hearing(s) may be required.
  - x. A party is serving a sentence of imprisonment and that fact, or the background circumstances to the imprisonment, is an important factor or the individual concerned presents as a clear security risk
  - xi. Issues of enforcement with the real likelihood of committal to prison
  - xii. Where from the nature of the case or the parties any decision is likely to be the subject of an appeal in the public interest or involving exceptional novelty or complexity
3. Contested applications for Special Guardianship Orders or where a difficult legal issue arises.
4. Declaration as to parentage under Section 55(A) of the Family Law Act 1986.
5. Contested divorce or nullity proceedings and applications to set aside decrees etc.
6. Cases which involve a multiplicity of parties which may cause conflicting interest within the proceedings.
7. Specific issue and/or Prohibited Steps Applications which involve difficult considerations requiring sensitive handling and/or may involve difficult areas of law or fact.
8. Application under Section 91(14) where the restriction may operate for a period in excess of 12 months and/or is disputed and involves a complex issue of fact or law.
9. Cases in which the estimated length of hearing exceeds three days

### General Note

- (a) Reference should be made to Articles 7 and 8 of the Children (Allocation of Proceedings) Order 1991, The Family Law Act 1996 (Part IV) (Allocation of Proceedings) Order 1997 and Family Proceedings (Allocation to Judiciary) (Amendment No 2) Directions 2005 (2006) 1 FLR 1150.
- (b) There is an assumption that the majority of private law cases will normally be dealt with by the district judges and Lay Justices with the exception of the categories of cases set out above.
- (c) The categories of cases set out above are **NOT** deemed appropriate to be dealt with by Recorders unless specifically released by the Designated Family Judge.
- (d) If a case presents a particularly unusual or difficult issue consideration should always be given by Recorders as to whether it would be more appropriate to transfer to a Circuit Judge and discussion should be initiated with the DFJ for guidance.

(e) Consideration should always be given as to whether any case has assumed the necessary level of complexity as to fall in to the category of cases referred to in the above paragraph in which event it should be referred to the DFJ.

(f) In such cases case initial case management will often be conducted by the district judge who will refer up when the case has reached the stage at which an IRH is to be fixed before the Judge dealing with a contested preliminary or final hearing.

### **Private Law proceedings which may normally be heard before an appropriately authorised District Judge, Recorder or District Judge (Magistrates' Court)**

The category of cases falling within this provision includes the following:

1. Applications for Section 8 orders involving one of the following:-
  - i. relocation within the jurisdiction involving difficult issues of law or fact
  - ii. actual or potential implacable hostility.
  - iii. allegations of serious or persistent domestic violence, physical or sexual abuse (particularly if witnessed by the child) falling outside the category of case normally to be referred to the Circuit Judge/Recorder.
  - iv. enforcement of contact including where change of residence is contemplated by reason of the breakdown of contact arrangements
  - vii. immigration status issues.
2. Change of name applications which involve issues of law or fact which are not straightforward.
3. Disputes as to paternity involving complex legal or factual issues.
4. Proceedings where an adult party lacks, or may lack, capacity.
5. Applications under Section 91(14).

#### **General note**

(a) Reference should be made to Articles 7 and 8 of the Children (Allocation of Proceedings) Order 1991, The Family Law Act 1996 (Part IV) (Allocation of Proceedings) Order 1997 and Family Proceedings (Allocation for Judiciary) (Amendment No 2) Directions 2005 (2006) 1 FLR 1150.

(b) There is a fine distinction to be drawn between cases which would normally be suitable for the District Judge to hear and those which fall into a different category, which should accordingly be considered appropriate for hearing before Circuit Judge or by the Lay Justices. If any case has a particularly unusual or difficult feature consideration should always be given as to whether it would be more appropriate to transfer to a Circuit Judge. Where the issues permit, consideration should always be applied to the question as to whether the Lay Justices would be a more appropriate tribunal. If doubt occurs, there should be consultation with the Designated Family Judge with regard to any allocation decision.

(c) Cases in which the estimated length of hearing will or is likely to exceed three days should not normally be listed before the District Judges of either Court save where expressly permitted by the DFJ

### **Private Law proceedings which may normally be heard before an authorised District Judge (Magistrates' Court) or a lay bench**

The category of cases falling within this provision includes the following:

1. Breaches of non-molestation injunctions, occupation orders (except those involving disputed property rights and transfers of certain tenancies) and committal applications consequent thereon.
2. Applications for Residence Orders and/or orders attached to a Residence Order which do not involve unusual or difficult features.
3. Applications to relocate within the jurisdiction by consent or where opposed do not involve difficult issues of law or fact.

4. Applications for change of name.
  5. Contact applications.
  6. Applications for Specific Issue Orders and/or Prohibited Steps Orders.
  7. Applications for Parental Responsibility Orders.
  8. Applications for Special Guardianship Order.
2. General Note:
- a) The distribution of the business and the categories which follow are regulated in accordance with the provisions of Article 7 and 11 of the Children (Allocation of Proceedings) Order 1991 and The Family Law Act 1996 (Part IV) (Allocation of Proceedings) Order 1997.
  - b) The need to provide for the efficient and effective dispatch of family business so as to avoid wasting time is critically important. Allocation of business between the District Judges, the District Judge (MC) and the Lay Justices where there is co-location of judiciary within a single Hearing Centre shall be by reference to judicial availability, relative complexity and avoidance of delay.
  - c) If a case appears to present with difficult or unusual features consideration should always be given to the need for referral to the DFJ irrespective of the stage such issues of complexity become apparent.
  - d) Cases with an estimated length of hearing of longer than two days should not normally be listed before the Lay Justices.

#### **Transfers, re-allocation, and hearings before part-time members of the Judiciary.**

1. These provisions relate to both Public and Private Law cases.
2. Once a case has been allocated to any tier of judge (including Lay Justices), it cannot be transferred or re-allocated without the direction of the DFJ or, in his absence, of a Circuit Judge authorised by him unless the transfer is to the same level of Judge and required transfer is required by reason of resource issues. Any proposal in this respect should be made in consultation with the CLT at the DFC and referred to the DFJ for confirmation as soon as practicable.
3. Any request for a Recorder sitting must be referred to the CLT and through the Listing Manager to the DFJ and a Public Law Children Act case may only be listed before a member of the part time judiciary with the prior approval of the DFJ
4. In respect of both transfers and listings as contemplated in this section, it is vital that relevant material required to inform the decision as is made available. Accordingly the case manager who proposes consideration of the direction should complete and submit electronically a written request for consideration by the DFJ through the CLT. The appropriate form is attached to this guidance as Appendix A.

**Re-Allocation/Transfer Proposal**

Case No:

Parties:

Nature of proceedings:  
{Case Summary attached}

Direction proposed:

- o Transfer to High Court for hearing before Judge of the Division
- o Transfer to High Court for hearing before Circuit Judge sitting s.9
- o Re-allocation from ..... to .....
- o Listing before Deputy District Judge/Recorder/ Deputy Circuit Judge for [Final/Interim] hearing on ..... (elh hours/days)

Reasons for requested order:

.....  
 .....  
 .....

Requested by HHJ.....  
                   DJ.....  
                   ..... Legal Adviser

**ORDER made:**

.....  
Designated Family Judge

Date .....

**Appendix 4 A**  
**[Public Law – Allocation and Gatekeeping Order]**



**In The Family Court**  
 Sitting at *[place]*

**Case Number:**

**The Children Act 1989. Annex to PD 36C (Revised Public Law Outline from 1<sup>st</sup> July 2013)**

**THE CHILDREN**

*[Please add a separate sheet if more than 4 children]*

Name	Girl/Boy	Date of Birth

**DIRECTIONS ON ISSUE AND ALLOCATION OF PROCEEDINGS**

**Before**

1. .... Council has made an application for a Care Order on 2014 supported by the following Annex<sup>1</sup> documents:

- Social Work Chronology
- Social Work Statement and Genogram
- The current assessments to which the Social Work Statement refers and on which the LA relies
- Threshold Statement
- Care Plan(s)
- Allocation Proposal Form
- Index of Checklist Documents

The proceedings have been referred to an Assistant Justices' Clerk and a District Judge for allocation and directions upon issue and the court has considered the papers in the absence of the parties or their legal representatives

**THE COURT ORDERS:-**

2. The proceedings are transferred to the ***[name Court]*** and listed for a **Case Management Hearing on *[date]* at *[time]***. ELH 1 or 1.5 or 2 hour(s) *[delete as appropriate]*. The parties and their representatives are directed to attend court by *[time]* for pre-hearing discussions.

3. [The proceedings are allocated for case management to *[name of case manager/case management judge if allocated]*]

4. A children's guardian *[(name if available)]* shall be appointed for the child<sup>[ren]</sup>.

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<sup>1</sup> as specified in the Annex to the Application Form C110A which are to be attached to that form and filed with the court.

[or]  
A children's guardian will not be allocated in time to appoint a solicitor and [*solicitor's name* of *firm*] is appointed as solicitor for the child[ren]  
[delete as appropriate]

5. [The local authority having indicated it wishes to apply for an interim care order [and to remove the child(ren)], the parties are directed to discuss whether the hearing will be contested and if so the length of the hearing, and the local authority shall inform the court in writing by [time/date] of the agreed or different positions of the parties.]

6. The local authority shall serve on all parties [and name of any other person] by [time and date to be by day 2 unless court considers appropriate to direct otherwise]  
(a) The Application Form and Annex Documents filed with the court; and  
(b) [any other document(s) specified by the court]

7. The local authority shall file and serve on all parties [and name of any other person] the following Annex Document(s) which have not been filed with the application [

- [ ] Social Work Chronology by [time and date]
- [ ] Social Work Statement and genogram by [time and date]
- [ ] The current assessments to which the Social Work Statement refers and on which the LA relies by [time and date]
- [ ] Threshold Statement by [time and date]
- [ ] Care Plan(s) by [time and date]
- [ ] Allocation Proposal Form by [time and date]
- [ ] Index of Checklist Documents by [time and date]

8. The solicitor for the child(ren) shall arrange an Advocates' Meeting no later than 2 clear days before the Case Management Hearing

9. The local authority shall draft the Case Management Order in the prescribed form and file it with the court by [time and date]

10. The local authority shall file and serve its Case Summary in the form directed by the Designated Family Judge by [time and date]

11. The child(ren)'s solicitor shall file and serve by [time and date] a Case Analysis<sup>2</sup> document prepared by the children's guardian for use at the Case Management Hearing  
[or]

[The children's guardian shall be in a position to present orally a Case Analysis at the First Case Management Hearing]

[delete as appropriate]

12. On the basis that there is evidence of incapacity, the Official Solicitor is invited to act in these proceedings as the litigation friend on behalf of [*name*]

13. The parents shall each file and serve a Parents' Response<sup>3</sup> document by [time and date prior to the Advocates' Meeting for the Case Management Hearing]. If the parents are jointly represented, they shall instead file and serve a joint response by this time.

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<sup>2</sup> Defined in paragraph 7 Annex to Practice Direction 36C: Pilot Practice Direction 12A Care, Supervision and other Part 4 Proceedings: Guide to case management.

<sup>3</sup> Defined in paragraph 7 of Annex as 2 above

**14.** The representative of any party seeking disclosure from any agency shall inform the other parties and shall obtain any available consent<sup>4</sup> to such disclosure and if necessary shall file and serve an application for disclosure by [time and *date prior to the Advocates' Meeting for the Case Management Hearing*]

**15.** The representative of any party who intends to make an application for permission to rely on expert evidence under Part 25 shall file and serve an application by [time and *date prior to the Advocates' Meeting for the Case Management Hearing*]

**16.** No document other than a document specified in these directions or in accordance with the Rules or the Practice Direction shall be filed by any party without the court's permission.

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<sup>4</sup> For example, from parents to disclosure of their medical records, or consent from an agency to provide information without the need for a court order

**APPENDIX 4 B The Family Court Private Law: Allocation Information and Decision**

<b>Section I : To be completed by the Issue Team printed and placed in the file ready for Gate Keeping.</b>	
Date (dd/mm/yyyy):	Case number:
<b>Applicant(s):</b> Relationship to child(ren) : <span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span>	
<b>Child(ren):</b>	<b>Dates of birth: (dd/mm/yyyy)</b>
<b>Respondents:</b>	<b>Relationship to child(ren)</b>
-	<span style="background-color: #cccccc; display: inline-block; width: 40px; height: 15px;"></span>
-	<span style="background-color: #cccccc; display: inline-block; width: 40px; height: 15px;"></span>
-	<span style="background-color: #cccccc; display: inline-block; width: 40px; height: 15px;"></span>
-	<span style="background-color: #cccccc; display: inline-block; width: 40px; height: 15px;"></span>
Parties' Allocation Proposals, if stated: --	Previous proceedings? Nature of these is: <span style="float: right;"><i>Attach last order</i></span>
Nature of Application: -- Details if Prohibited Steps or Specific Issue	
Next Dates & Venues for FHDRA (dd/mm/yyyy):	
Before DJ:	Venue: --
Before Legal Adviser:	Venue: --
<b>Section II : To be completed by Gate Keepers</b>	
<b>Allocation:</b>	
<input type="checkbox"/> Blackburn <input type="checkbox"/> Blackpool <input type="checkbox"/> Lancaster <input type="checkbox"/> Preston	
<b>Listing Directions:</b>	
<input type="checkbox"/> List for FHDRA hearing on _____ (dd/mm/yyyy) Before <input type="checkbox"/> Legal Adviser <input type="checkbox"/> District Judge	
OR <input type="checkbox"/> List for hearing      on      at      (venue) _____ for _____	
<b>Other Directions:</b>	
<input type="checkbox"/> _____	
<b>Signed</b> _____	<b>Legal Adviser</b> <b>Date</b> _____
<b>Signed</b> _____	<b>District Judge</b> <b>Date</b> _____



## **APPENDIX 5**

### **Lancashire County Courts and Family Proceedings Courts Mediation Assessment scheme**

#### **PROTOCOL**

The court must consider at every stage in proceedings, whether alternative dispute resolution is appropriate" FPR 2010 PD3A 3.2

The purpose of this Protocol is to facilitate the provision of mediation advice and intake meetings for litigants as part of the delivery of family justice in proceedings relating to children conducted before the County Court and Family Proceedings Court (The Family Court)

The signatories to the Protocol are the Judiciary, the Clerk to the Justices, HMCTS, the Mediators and Cafcass by whom the Scheme is indorsed

#### **Definitions**

"The court"	:	The Family Court
"FHDRA"	:	First Hearing Dispute Resolution Appointment
"Judge"	:	Any Judge of the Family Division, Circuit Judge; District Judge, District Judge (MC); Legal Advisor or Magistrate
"FMC"	:	The Family Mediation Council
"Mediator"	:	An FMC mediator who has signed a copy of this protocol
"Hearing"	:	A case management hearing within family proceedings
"Assessment"	:	A meeting at court between a party and a mediator to consider the viability of mediation
"Mediation"	:	Mediation conducted away from the court
"FCA"	:	The Family Court Advisor at the FHDRA
"The Scheme"	:	The scheme operating under this protocol
"MOU"	:	Memorandum of Understanding document
"Order for Stay":	:	The order by which the judge orders a case to be stayed for mediation
"Stay of proceedings";	:	The period during which no step can be taken in the proceedings without the Court's permission the duration of which is set in accordance with the Mediator's recommendation following acceptance of a referral for mediation

It is acknowledged by the signatories to this Protocol as follows:-

- That referral of any party or parties for advice as to the availability of mediation services confers no presumption that mediation will in fact be available or appropriate in any particular case, and any subsequent Order for Stay of the proceedings for the purpose of mediation following successful assessment for mediation implies no warranty as to the efficacy of the mediation process, nor as to any particular provider of mediation services
- That in the event that there is a positive assessment leading to the commencement of the mediation process the Mediator will use his or her best endeavours to achieve a successful outcome within the timescale stipulated by the Judge in the Order for Stay, and in any event will take the required steps to ensure that a brief written report as to whether the mediation has been successful, broken down, or requires a further stay is filed in court by no later than the date specified in the Order for Stay

### 1. Provision of facilities for mediators at court

In a court where the scheme operates the HMCTS will provide a suitable room for the purpose of the initial meeting at court with appropriate facilities

### 2. Reasons for referral

The judge will consider a matter suitable for referral for assessment where it appears to the judge that the issues between the parties may be capable of being further narrowed or agreed through mediation outside of the court process.

### 3. Referral by the Judge to a mediator

During a FHDRA the judge will consider with the assistance of the FCA if the case would be suitable for mediation. In accordance with PD3A 3.2, the judge has a duty to consider whether a case is suitable for referral for ADR including in court mediation. It is acknowledged that there will be cases which are not likely to be suitable for referral for mediation. These include:

where there are clear child welfare issues including but not limited to circumstances in which a child has been or is at risk of being subjected to (serious) emotional or physical harm  
or

where the safety of the child is compromised and the court might appropriately consider safeguarding measures  
or

where there has been either recent or serious historic, domestic violence or where it is clear that the mediation process is not practical by reason of cost.

{Note: Apparent implacable hostility between the parties may not be a bar to referral for assessment for mediation at the discretion of the Judge.}

4. In a court where the assessment scheme operates, the judge will ask the parties to meet with a mediator at court for the purpose of assessment. Where the parties are actually referred, the judge will adjourn the FHDRA until the parties report back to the court upon whether the assessment has been positive, whereupon an Order for Stay will be made. The mediator will explain the mediation process and what it has to offer the parties. It will be the mediator's responsibility to decide whether mediation is feasible in any particular case

### 5. Confidentiality

Neither the Court nor the parties is permitted to disclose any documents or information which form part of the court process for any purpose connected with mediation unless the court has specifically considered the issue of disclosure in the context of the duty of confidentiality, the welfare of the child and the purpose of disclosure and thereafter ordered disclosure for good reason. Such order will be exceptional.

It is acknowledged that the assessment meeting is generally regarded as being conducted in confidence and without prejudice save in the event that a significant issue arises relating to the safety or welfare of a child such as to carry with it the risk of harm to the child which accordingly must be disclosed to the court forthwith

### 6. Assessment by mediator

As part of the assessment the mediator will meet at court with the parties (either with each party separately or together). The mediator will explain the mediation process and what it has to offer to the parties. The preliminary assessment of the parties by the mediator at court shall not take more than 30 minutes. If further time is required for assessment then this will be deemed to form part of a full assessment and the necessary Order for Stay must be sought. It shall be the mediator's responsibility to decide whether the parties and the issues in dispute are such as to make mediation feasible. If so, and if the parties agree, the mediator will:

- Decide what type of mediation is appropriate and identify a suitable out of court mediator (which may be the mediator him/her self)
- Give the parties relevant costs information including information on Legal Aid availability, where appropriate
- Make arrangements for the parties to attend an initial mediation meeting away from court
- Assist the parties to report back to the judge by completing for them a pro-forma Report Form (Annex 1) which the parties will be told to hand to the court usher for onward transmission to the judge

7. If mediation is considered not to be feasible or is otherwise unavailable the mediator will ask the parties to report back to the judge that the assessment has been negative and ask for the FHDRA to be re-convened. The parties will not be expected to give reasons for the mediator not referring the parties on beyond the assessment process for mediation.

8. Following a successful referral

Upon receipt of the Report Form (Appendix 1) the judge will make an Order for Stay the effect of which will be to adjourn the FHDRA and stay the proceedings for a period not exceeding 12 weeks and direct the matter to be re-listed for a case management hearing, without the necessity for any attendance by the FCA unless specifically directed

9. Following a successful (out of court) mediation

In the event the parties reach an agreement during mediation the out of court mediator:

- may prepare a Memorandum of Understanding (MOU) or Outcome of mediation for the parties, which document may be disclosed to the court with the consent of both parties who will have been given the opportunity to take legal advice on its contents;
- will assist the parties to decide how the court proceedings ought to be concluded. and inform the parties that they must either:
  - apply for an order to be made by consent in accordance with the agreement between them; or
  - ask the court to grant permission for the application to be withdrawn with no order being made.

**And in either event ensure that the MOU is sent to the court before the stay has expired;**

**When considering the appropriate course to bring the court proceedings to a conclusion the mediator will ensure that the parties understand that the Court has a duty to make decisions in relation to children which are consistent with and serve the best welfare interests of the child.**

**Signed and dated:**

## **APPENDIX 6 LANCASHIRE FAMILY COURT CONCILIATION SCHEME**

### **Conciliation – what it means.**

1. The purpose of this paper is to explain the role of ‘Judge Led Conciliation’ in Private Law Children Act Proceedings as one of a number of initiatives designed to comply with the requirement to consider differing forms of dispute resolution techniques in this difficult and sensitive area with a view to encouraging and achieving early and lasting settlement of issues which would otherwise be placed before the court for determination.
2. There is a distinction between ‘conciliation’ and ‘mediation’. By the time that proceedings are issued, most if not all the parties to the proceedings should have already had the opportunity to take part in a mediation process. Further, post proceedings, there will be facilities within the Lancashire Courts to enable referral for mediation in appropriate cases by way of the Lancashire Family Mediation Scheme. Judge Led Conciliation is an alternative to mediation in cases where mediation is not accessible (e.g. because of the financial implications, will carry with it unacceptable delay and/or there are good reasons for maintaining the activity of the case within the court process rather than introducing a stay of the proceedings)
3. Referral for Conciliation may take place at any case management stage within the proceedings, but should not be seen as a profitable option by the time the case has been listed for final hearing, but will commonly take place at the first hearing. The first meaningful exchanges between the parties will be at the FHDRA conducted by the District Judge or Legal Advisor. Although a vital part of the process in order to identify the issues in a case, and an occasion when the court and the parties are encouraged to resolve them these hearings are constrained by time and lack of information and therefore often cannot lead to a resolution. Conciliation will offer the opportunity in some cases for a further attempt to avoid contested and prolonged litigation.

### **What is the purpose of conciliation?**

The object of conciliation is to provide a forum in which, with judicial guidance and in an informal setting, the issues in the case having been identified, discussion can be brokered with a view to narrowing or resolving those issues. Unlike mediation, which is a process promoting compromise in respect of competing interests of adults which takes place outside the court process, conciliation expressly focuses on:-

- the paramountcy principle and
- the overriding objective of avoiding costs and delay and
- when available, the evidence in the case

### **Who are the Judges?**

The district judges in the County Court are particularly suited to the role of ‘judicial guide’ given their wealth of experience in dealing with self represented litigants, but it is not all who will feel that they have the aptitude or expertise in the field and therefore whilst their involvement in any scheme is a must, selection ought to be confined to those expressing an interest in the role. In the early stages of the scheme, although expressions of interest in the future may lead to a wider involvement of district judges and others, Conciliation

Appointments will be conducted by four of the Family District Judges with Gatekeeping and Allocation duties.

The existence of the Conciliation Scheme will not impact on the trial function of the district judge, but a Judge who conducts an unsuccessful conciliation process would be expected to

recuse him or herself from finally hearing such a case. Where there has been an unsuccessful attempt at conciliation, the Judge will give appropriate case management directions, and make such recordings as the parties agree are appropriate, in order to progress the case through the court process. In an exceptional case, however, where there is compelling reason to do so and the parties agree, a judge who has dealt with a Conciliation Hearing might take the exceptional course of reserving the case for final hearing.

### **How does the scheme work?**

Conciliation is most effectively undertaken in an informal (non-courtroom) setting, such as a district judge's chambers or alternatively in a court specifically designed as a Family Court. It is convenient for the list always to be conducted in the same court, and thus cases from all over Lancashire will be listed at a central venue. At this time the venue selected is to be at Ringway and cases will be listed there daily, in the afternoon, with duration of two hours in weeks 1, 3, 5 and 7 of an eight week cycle.

Suitable cases must be identified by the district judge or Legal Advisor at FHDRA (or other case management) stage, with the assistance of the duty Cafcass Family Court Adviser where one is present, and directed into the Conciliation List with a view to as early an appointment as possible. The period between referral and appointment should never exceed 8 weeks. The case management directions would be tailored to suit what would be required for the purposes of conciliation but would include:

- identification of the issues
- the position taken by each party in respect of the issue
- a requirement for the provision of a statement of evidence
- a discrete s.7 Report

Cases which would not be suitable for the referral to conciliation would include those where there are clear welfare concerns going beyond one discrete issue capable of being dealt with in a single issue report and those where there are serious allegations of domestic violence, sexual or physical abuse or obvious implacable hostility.

The appointment will be conducted in such a way as to allow the parties to air their respective positions with a 'cards on the table' approach. The judge will ensure the proper focus is applied to the discussion by drawing attention to the paramountcy principle and reminding the parties of the criteria which the court will apply if required to adjudicate. It would be expected that a Conciliation Judge would canvass with the parties the importance of an early determination of the issues raised in the interests of the child(ren) and where appropriate, and whenever possible give a clear indication of the approach which the court would be likely to take with regard to contested issues. The objective will be to facilitate discussion between the parties along a course pre-determined by the Judge to ensure that the proper focus is applied with a view to bringing the parties together to a conclusion which might only otherwise have been reached after protracted proceedings. At the conclusion of the hearing the judge will take one of the following steps:

- (a) If none of the issues have been resolved, with the assistance of both (all) parties the Judge will complete a Conciliation Report setting out the issues which could not be resolved and the positions taken by each party in respect of them
- (b) If some issues have been resolved but others remain outstanding, the Judge will complete the Conciliation Report setting out that there has been partial resolution and identifying the issues which remain. Where possible the Judge will make an interim or final order as to both substantive and case management issues to reflect the position which has been reached following the conciliation process.

- (c) If all issues have been resolved, the Judge will complete the Conciliation Report to the effect that settlement has been achieved and make a final order which is to be expressed 'By Consent'.
- (d) (d) Whatever the outcome the parties will be invited to sign the Judge's Order in order to acknowledge their agreement to it. Where settlement has not been achieved and the court makes an interim order or case management order, if a party does not agree the course proposed by the order then the order should record the position taken by that party and the reasons given. It is open to that party to apply to set aside or vary the order made on conciliation by application to the Judge allocated to the case.

Following an unsuccessful Conciliation Hearing the case will be remitted back to the court from which the case was referred, allocated appropriately to level of judiciary by reference to the issues as distilled at the Conciliation Hearing taking into account the Allocation Guidance for Lancashire and listed for a case management hearing before the allocated judge. The Conciliation Report will form the basis for future case management once the case has been remitted by reference to the disputed issues identified, and the Conciliation Judge may undertake the case management process so as to timetable a case to final hearing at the conclusion of the Conciliation Hearing where it is appropriate to do so.

### **Monitoring**

It is very important to monitor the effectiveness of the scheme, in particular by reference to cases which, having been resolved, return to court because agreed arrangements have broken down. Accordingly there will be a careful analysis of the Conciliation Reports which will be placed on the court file. Statistics will be produced at intervals providing the following analysis:

- i. the number of cases referred
- ii. the number of conciliation appointments kept
- iii. the outcome by reference to the resolution of all issues, the partial resolution of issues and negative outcome
- iv. the return of cases which have been successfully conciliated.

These statistics will be reviewed by the DFJ periodically.

HHJ Rawkins DFJ  
March 2014

**APPENDIX 7**  
**COURT SEAL**

On            day the            day of            201.....

I/WE .....

[Circuit Judge/District Judge/Lay Justices of the Family Court]

presided over the adoption ceremony in respect of

.....

*{full name and date of birth of the adopted child}*

The ceremony was attended by the following participants who were present to celebrate the making of the adoption order in respect of the said child:-

..... *{the adoptive parent(s)}*

..... *{representing the adoption agency}*

.....

.....

.....

..... *{family members and friends}*

As a true record of this adoption ceremony I/We have appended my/our signature(s) below

.....

.....

## APPENDIX 8

### **EPOs, Expedited ICOs, Abridgement and urgent Interim Hearings.** (amended March, 2014)

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This Guidance Note is issued following upon the introduction of the revised PLO in order to address initial difficulties which have arisen on implementation with regard to what amount to connected issues following discussion at the Family Court Business Committee on 18<sup>th</sup> October, 2013.

#### **EPOs:**

An application for an Emergency Protection Order pursuant to s.44 Children Act 1989 must only be made in the circumstances prescribed in s.44(1) (a), (b) and (c).

In the case of a Local Authority, the circumstances in which an application can be made are those set out in s.44 (a) and (b) (i) and (ii) of the Act. Such an application should never be presented to the court where the correct proceedings ought to have been by means of application under s.31 of the Act for a Care or Supervision Order. Given the test for the making of an order set out at s. 1 (a) there will be almost no occasion where an application for an EPO can appropriately be made if a Local Authority already has a Child Protection or Child in Need Plan in place, or the family concerned is well known to the Authority through social work input.

It is never acceptable for an application for an EPO to be made simply on the basis that proper compliance with the requirements of the Revised PLO in terms of pre-planning and document preparation has not taken place.

#### **Expedited Interim Care Orders:**

In an urgent and appropriate case, in which an expedited hearing is required, the application for a Care or Supervision Order must be made right away and, when necessary, an urgent hearing requested. Such a request must be stated both in the body of the application and in a covering e-mail message or letter. Cafcass should be notified at the stage of issue of the request for an urgent hearing by the Local Authority.

Upon receipt of such an application the Court Office will identify a date for an early hearing before an available Judge and notify the Gatekeepers (a DJ and a Legal Adviser) accordingly so that if the request for early hearing is granted, the case will be listed and notices dispatched.

When notice of an urgent hearing is sent out the Court Office must inform Cafcass immediately both that the proceedings have been issued, and that an early hearing has been listed.

#### **Abridgements of Time**

Many urgent hearings of applications for Care or Supervision Orders, and occasionally for an EPO, will require that the Court abridges time for service of the application. An application for abridgement of time **MUST** be notified separately and a LA Applicant must specify what period is required for service in order to allow for service to be properly effected within sufficient time to permit the Respondents to consider the application. This will rarely be less than 24 hours.

Where time is abridged the following order will be made by the district judge gatekeeper:

*“Upon the application of X Local Authority without notice  
Application having been made for urgent hearing of a substantive application for .....*



District Judge ..... ordered as follows:

1. The application is listed for (preliminary/interim) hearing on ..... before ..... {to whom this case has been allocated}
2. Time for service of the Application Notice and supporting papers is abridged so that they shall be served on all Respondents (save for ..... ) by ..... a.m./p.m. on the ..... day of ..... 2013.
3. Permission to any Respondent to apply to set aside or vary this order of 24 hours notice. ”

### **Urgent Interim Hearings in Care Cases**

Urgent hearings should generally be listed before the Allocated Judge.

Generally, urgent hearings will not necessarily be listed for immediate contested hearing unless time and circumstances permit, and the extent of the issues is clear..

The listing of an urgent interim hearing has no bearing on the listing of the Case Management Hearing which must nevertheless be listed within 12 days as provided for by the Revised PLO. However, there is no impediment to the Court making case management orders at an early hearing where the overriding objective would be served by so doing.

**Appendix 9A**

*(President's Practice Direction 2014 awaited)*

## Appendix 9B

### BUNDLES –

Local Guidance issued September 2011  
(updated February 2014)

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- A bundle of documents should be prepared for all hearings in family proceedings save where the Court has directed it is unnecessary.
- In all cases, where the Applicant is legally represented the obligation of preparing the bundle lies with the Applicant's Solicitors. If the Applicant is not represented, then the obligation shifts to a represented respondent and, where there is more than one the Respondents shall either agree who is to discharge the obligation or, in default of agreement, the first of the respondents named in the title of the proceedings who has legal representation shall assume responsibility.
- In circumstances in which neither party has legal representation, and where this is known to the Court staff, the judge conducting the hearing should be invited to consider whether a bundle should be created by the court staff from the documents on the court file. If no such direction is given then the court staff must ensure that the court file is available for production at any hearing. In respect of all future hearings the Judge should consider what steps should appropriately be directed for the preparation of a bundle for the use of the court and/or parties and witnesses.
- The content of the bundle should be compiled in accordance with any current Practice Direction, save as may appropriately be varied by this Guidance or by the Court's direction in any particular case.
- Statements of evidence should bear the appropriate endorsement, properly completed, in the top right hand of the first page identifying the maker, date, number, party on whose behalf the statement is served, and number of pages and exhibits. The signature and date signed should be included as part of the document.
- For the purpose of a Final Hearing it is good practice to agree the content of the bundle with all parties and not to include documents which will not be referred to. This applies to both Court and Witness bundles. If necessary the index can refer to all of the documentation which could be made available, identifying which is actually included in the bundle.
- It is recognised that there will always be some documentation which is not delivered in time to be included in a bundle which has been lodged with the court for a hearing. Rather than handing in such documents piecemeal for scrutiny by the Judge ahead of the hearing they should be included in a comprehensive bundle of late documentation and made available to the Judge, properly identified as such, before the hearing by handing the Late Documentation Bundle to the usher or court clerk. It is not acceptable for such documents to be produced to the Court or the other parties during the course of a hearing, and to do so will risk an adjournment of the proceedings and a possible adverse costs order.
- If a direction has been given for the interim hearing of a discrete application or where there is to be a subsequent hearing following a final hearing in respect of a separate application {e.g. where a placement application has been issued in public law proceedings}, a separate bundle in respect of that application should be compiled and lodged at the same time as the main bundle, and should be properly identified as being linked.
- In care cases, where the volume of documentation is often very considerable, it is purposeless to provide the court with material to which no reference is likely to be made at all. In normal circumstances, so far as case management hearings are concerned, although discretion should be exercised, it is only generally necessary to lodge Sections A – E of a conventional bundle with the Court. Any specific

documents to which reference is, or is likely to be made, should be added to or retained in the bundle.

- It is never required that witness bundles should be lodged for a case management hearing except in the very unlikely event that evidence is to be called. However a witness bundle must always be available for any final or interim hearing at which live evidence will be called.
- As part of the case management function it is open to Judges to give discrete directions as to the compiling and lodging of bundles which may not accord entirely with this guidance note, but in the absence of any such direction the guidance set out herein should always be followed.

This note is issued for guidance only, but where the practice recommended is not followed and there is resulting delay or expense occasioned adverse costs orders may follow, where default is identified as a breach of the overriding objective. For your assistance, most if not all Hearing Centres will have facilities to enable the preparation of Late Documentation Bundles even if this is restricted to a hole punch and empty ring binder. Finally, I hope that what is recommended will make life easier for you. I am happy to consider any suggestions for other measures to achieve that end.

HHJ Rawkins.  
DFJ Lancashire  
September, 2011.

## APPENDIX 10

Case No:

{ X } LA -v- OTHERS

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# CASE SUMMARY

For Hearing before .....(Judge) **ON** ..... (date)  
at .....(venue)

Lodged with the court at ..... a.m./p.m. on .....

### The children

*[Insert full names, sex and date of birth and age in years and months for each subject child .*

### Parties

*[Identify each party; advocate; if appropriate, solicitor with conduct; social worker(s) and childrens guardian]*

### Applications

- 1.1 The application before the court is the local authority's application for care orders which was issued on the *[insert date]*.
- 1.2 *[insert details of any other applications]*

### Previous or concurrent proceedings

- 1.3 *[insert details of previous proceedings including Court name, Case Number, nature of proceedings and orders made]*
- 1.4 *[insert details of concurrent proceedings including Court name, Case Number, nature of proceedings and orders made]*

### Chronology of Proceedings

**Allocation** – The proceedings are allocated to *[insert name of judge]* for case management and hearing.

**Timetable** – The proceedings are allocated to the standard track of 26 weeks *[or set out other timetable]*.

**Hearings to date** – *[Only include actual live hearings and provide short description e.g. A contested interim care order hearing took place on the [insert date] when interim care order were made by [insert name of judge]*

**Advocates Meeting** – a Meeting of the advocates was convened on the *[insert date]*

**Compliance with directions** – the following directions have not been complied with

- 1.4.1 *[insert brief details of non-compliance & reasons for]*
- 1.4.2 *[insert brief details of non-compliance & reasons for]*

**Proceedings are listed today for** – *[insert description of type of hearing e.g. Case Management Hearing]*

**Key Issues in the Case**

- 1.5 [identify nature of harm alleged]
- 1.6 [identify parental difficulties etc which cause or contribute to harm etc]
- 1.7 [identify how future risk of harm can be managed]
- 1.8 [identify placement options if risk cannot be managed etc]
- 1.9 [timetable for the children]

**Summary of Events Leading to Proceedings**

[insert narrative description of chronological events in sequentially numbered paragraphs cross referenced to the paginated bundle]

**Current Position**

[Update by reference to steps taken since proceedings issued to include placement of children, contact arrangements, assessments undertaken, information obtained etc]

**Parties responses to Key Issues**

- 1.10 **Position of local authority** – [Describe]
- 1.11 **Position of mother** – [Describe]
- 1.12 **Position of father** – [Describe]
- 1.13 **Position of children's guardian** - [Describe]

**Issues for Determination at hearing today**

- 1.14 **Threshold** – [Indicate what the issues are]
- 1.15 **Disclosure** – [Indicate what the issues are]
- 1.16 **Expert instruction** – [Indicate what the issues are to be addressed and by which expert]
- 1.17 **Assessments** – [Identify proposed assessments and timescales]
- 1.18 **Identification of alternate family/ friends carers** – [Identify proposed carers to be considered / assessed and by whom and timescales]
- 1.19 **Any other issues** - [Indicate what the issues are]
- 1.20 **Further timetabling** – [Set out proposals by reference to timetable for the children]

**Recommended Reading list**

- 1.21 [Identify key documents to be read in preparation for hearing – identify document, author and status or role, date and bundle reference]
- 1.22 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
- 1.23 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
- 1.24 The suggested reading time required for this hearing is [include time estimate]

**A copy of the proposed Case Management Order is annexed to this Case Summary**

Dated this [Insert Date]

.....  
Solicitor/Counsel for the Applicant.

## **APPENDIX 11**

### **What to expect when you're in court for a hearing concerning children..... A GUIDE FOR PARENTS AND OTHERS**

#### **Attending court without legal representation in Private Law Children Act cases**

##### **Introduction**

Attending court for any hearing can be a worrying experience, particularly when the court is dealing with the welfare of a child whose interests are of great concern to you. This simple guide is intended to reassure you, and address some of the questions about the court process which you might want to ask.

##### **Where do I go when I arrive at Court?**

You will find a reception desk and a court usher very easily. The papers which you will have received will have a case number and you should give it to the usher who will then direct you to the waiting area.

##### **What do I do if I am worried about how someone else involved in the case is going to treat me or if I am feeling intimidated by the court process?**

Tell the usher of your concern if it relates to the way you will be treated by another party. You may be directed to an alternative waiting area so that you can avoid any confrontation. If you think there is a serious risk that an unwelcome incident may occur, then there is also security staff who the usher will inform of your concerns. It is important to let the court staff know so that the risks of any real problem can be assessed and appropriate steps taken. If you are worried because you think you may not understand what is going on, or that you may not be able to explain your case, then please ask the usher to mention this specifically to the Judge or Legal Adviser who will be conducting the hearing. In some courts there may be support workers available who will be able to assist you in the hearing but please note that this will not extend to advocacy or legal advice. Make sure you co-operate and heed any general advice as to how to conduct yourself which is given.

##### **What if I don't understand all the legal terms and language used?**

The court will encourage everyone in the case to speak in plain English and to avoid the obscure terminology sometimes used in court. If English is not your first language then you may need the services of an interpreter to help your evidence to be understood. If this is the case then you must notify the court office as soon as possible, preferably either when you issue any proceedings, or as soon as you receive any papers from the court so that the necessary arrangements can be made. However, there is no automatic right to general translation services through the court, and there are no funds from which a fee for such a service can be discharged save in exceptional services. It is your own responsibility to ensure that you have secured, or done everything reasonably possible to secure, appropriate assistance.

At the end of this Guide in Appendix 1 you will find a glossary of words and phrases and their meaning which may help you if you do encounter some terms or phrases which you do not immediately recognise.

##### **Can I get someone to help me deal with the hearing?**

You can ask a friend or someone in whom you have confidence to assist you in court, but there are strict rules about this. The person concerned must not have any other involvement in the case and supporting role does not include 'representation'. Such an individual is referred to as a 'McKenzie Friend'. Sometimes the court will permit you to have someone other than a lawyer to conduct the case on your behalf. Such an individual

is referred to as a 'Lay Representative'. In either case it is a matter for the discretion of the court and neither would be permitted if they are obviously connected with the case in some way. Generally, the court will not permit you to bring anyone else who is not a party in to some hearings because there are strict rules as to the confidentiality about hearings involving children, so other relatives or friends are not allowed to come into the courtroom. You should not bring a child to the court. There are no child care facilities, and the court environment is not suitable for children.

### **Who will be in the room where the hearing is conducted?**

The hearing will be presided over by a judge or three Lay Justices (Magistrates). If it is the first hearing, it will most often be the District Judge or a Legal Advisor who is in charge of the hearing and this hearing is called the First Hearing Dispute Resolution Appointment (FHDRA). The other adult parties involved in the proceedings should also be present and, if they are not there, then enquiries will be made as to the reason for any absence. There will also be a representative from Cafcass, called a Family Court Adviser (see below), at a FHDRA, who will be advising the Judge about specific welfare issues affecting the child or children with whom the court is concerned. At subsequent hearings a different Family Court Adviser may have been asked to attend by the court in order to advise with regard to particular issues relating to the welfare of the child(ren). Occasionally, where it is appropriate because Social Services have some connection with the case, the court may ask for assistance from the Local Authority and a representative of the Local Authority may have been asked to attend. If you are aware that a Local Authority Social Services Department is or has been involved in the family in the past then you must inform the court as quickly as possible and, if you can, provide the name of the Social Worker concerned.

### **What is Cafcass and what do they do?**

Cafcass is an independent agency which provides assistance and advice to the Court with regard to the welfare interests of a child or children with whom the court is concerned. The representatives you will meet from Cafcass are all trained and experienced in social work, but they do not work for a Local Authority. The court treats them as experts in the provision of information about a child. You may meet a Cafcass representative in one or more of the following circumstances:

- At the very first hearing when the Cafcass representative who attends will engage with you in the course of the hearing to ascertain whether there are any specific welfare concerns relating to a child about which the court should be made aware. Before this hearing Cafcass will have made some preliminary enquiries which will be passed on to assist the court and may be referred to by the court at that hearing.
- If Cafcass is directed by the court to prepare a report about a particular aspect of the case then that will be undertaken by a Family Court Adviser (FCA) appointed by Cafcass for this purpose and he or she will want to make contact with you so that you can provide relevant information on the issue in question. It is vital that you co-operate fully. The court will have identified what precisely is required in this respect following discussion with you. When the report has been prepared the FCA will present it to the court, and ensure that a copy is made available for you. It will form the basis for discussion at the next hearing before the court so you must read it carefully, and note that a recommendation made to the court by an FCA is likely to be followed by the court unless there is a clear reason for not doing so based on the welfare interests of the child. (The same provisions will apply where the Local Authority has been asked to provide a report)
- In serious cases, where the court sees a particular purpose for so doing, Cafcass may be asked to provide a Guardian to look after the interests of a child or children. This is an exceptional course which is only taken where there is a clear need for it, and only after discussion with Cafcass



- Where Cafcass has become involved in a case, either to report or to provide a Guardian for a child, the Cafcass representative appointed will attend all the important hearings in the case, unless given permission not to do so by the court. At case management hearings, which are hearings at which the court directs the progress of the case rather than making any final decisions, you will be able to discuss any interim position taken by the Cafcass representative. At the final hearing the court will ensure that you have the opportunity to ask him or her any questions which you want to raise with regard to the recommendations made to the court.

### **Why are these proceedings ‘conducted in private’ and what does it mean?**

It is a very important aspect of all proceedings which concern children that they are dealt with on a strictly confidential basis. This is to protect the interests of any child involved. It means that no-one other than the actual parties to the proceedings, or someone obviously connected to the process in an official way, should ever get to know anything about what has been discussed in the case. This is a principle which is taken very seriously, and if the rule of confidentiality is breached, the court has power to impose very severe penalties, including a fine or imprisonment. For this reason it is very important that you do not discuss the case with anyone outside the court hearing, and you must not cause any information about or documentation from the proceedings to be published or reported to or by anyone else. This includes any reference on Facebook or any other social media. The Court will remind you about this obligation, but please treat it very seriously as if you breach this rule of confidentiality you will be in serious trouble.

### **How does the court approach the issues?**

It is very important to understand that any hearing relating to children will focus on the interests of the child or children concerned, and that you are required to do so as well. Every question which the court has to deal with will be determined by reference to the child’s welfare. This will be explained to you very carefully by the court at the hearing. The Court will do all that is possible to put you at your ease and to give you the opportunity to set out your case. For this reason, the hearing will be conducted in a less formal way than you may have anticipated. There are no wigs and gowns, however senior the Judge is before whom you are referring. However, the Family Court is every bit as much a court of law as any other and certain standards of behaviour are expected. So that the hearing is fair to everyone, it is important that you treat everyone involved in the hearing with respect no matter how much you may disagree with what may be being said. Do not interrupt, and wait patiently for your turn to speak; it will come. You may find the proceedings are distressing because you will be concerned about the child or children concerned but try very hard not to let yourself become upset or angry. It will be much harder for you to tell the court what your case is all about if you are overwrought. The court will ensure that you have the opportunity to have your say, and it is important that everyone else concerned has the same opportunity. When the court makes a decision a careful analysis of the reasons for it will be given. Try to concentrate on what the court is explaining at that stage, even if you are unhappy about the decision, because it is very important that you should understand why the court has adopted a particular course.

### **What do I call the Judge or Magistrate, and others in the hearing room?**

It is very unlikely that any point will be taken if you do not conform to the normal court etiquette. But if you are worried about this the safest approach is to address the judge as ‘Judge’, and the Magistrate or Legal Adviser as Sir or Madam (often pronounced ‘Ma’am’). You should refer to the Family Court Adviser or Guardian as Mr or Ms ‘X’ (surname). When you refer to another party then call them by the name by which you know them, and be polite and patient.

### **What is case management?**

This is the process by which the court controls the case and makes sure that it is dealt with as quickly as possible. The court will be very anxious to ensure that the case is resolved as quickly as possible in the interests of the child. Efficient case management enables this to be achieved, and ensures that all the relevant information is before the court when it has to make its final decision.

The court will give case management directions which is effectively a timetable and attached to this guide is a form which sets out the directions which will be made in a straightforward case (Appendix 4). Take a copy into the hearing with you so that you can write down what the court has directed you should do.

Ahead of any hearing it is a good idea to think about what directions you might need to be given which you could suggest to the court based on the form. All case management steps directed by the court have to be complied with by the date which the court will specify. They are always contained in an order and a court order must be followed to the letter. If they are not, then delay may be caused, which is contrary to the interests of the child or children concerned, and in a serious case of non-compliance the court may regard the party who has defaulted as being in contempt of court and make an order punishing it. If, for good reason, you are prevented from complying with a direction given by the court do not ignore the problem! You should write to the court explaining the difficulty and state when you will be able to comply. If you seek to be released from an obligation to take a step in the proceedings you must notify the court and make clear why it is impossible for you to comply. The court may order a further hearing and require you to show why you cannot comply. The court makes all its case management decisions, just like every other decision in the case, in the best welfare interests of the child and in accordance with the Overriding Objective which is set out at the end of this Guide in Appendix 1

### **Do I need to attend every hearing?**

The short answer is yes! All the hearings which the court convenes are important to you, but most particularly they are important in the context of the interests of the child or children about whom the court is concerned. If you don't attend then the court may conclude that you are not committed to the protection of the child's interests. If there is a good reason why your attendance is prevented then you must inform the court as quickly as possible, but you should be aware that the court will enquire into non-attendance and if the reason given is spurious or unreasonable, then the court may draw an adverse conclusion about you and your case. Obviously there may be unforeseen difficulties which prevent attendance, but the court will need to be satisfied that there is a genuine reason for an absence which was unavoidable, and if it is not, then the court is unlikely to defer making a decision.

### **Will I have to give evidence?**

In most cases all the parties and their witnesses will give evidence at the final hearing of a case, or at an interim stage of the proceedings, if there is an issue which must be determined which requires the court to hear evidence. However, the court will do its very best to ensure that disputed issues are resolved with the minimum possible conflict, so in the great majority of cases evidential contests can be avoided by sensible discussion. If evidence is required, you must be prepared. You should re-read any statement which you have provided and make sure it is correct in every detail. If it isn't, you must let the court know as soon as possible because you will be asked to confirm your written evidence. Because it can sometimes be difficult to think of all that you might want to say which is relevant, it is very important that you should take great care in putting together the written evidence which the court will direct you to prepare. Written statements are very important, often crucial. You must listen carefully to what the court directs you to do in preparing your statement and ensure that it is as clear a document as possible. Often the most effective statements are the shortest ones which set out only the relevant evidence. Rambling statements which introduce all sorts of irrelevant issues are the least effective and you

should avoid falling into the trap of getting carried away! The more relevant and focussed the written evidence, the less the need for lengthy oral evidence, and the greater the ability of the court to understand precisely what you want to say in support of your case. Appendix 6 to the Guide is a template for drafting a straightforward statement. You can follow its form and put in all the relevant information you want the court to know.

It goes without saying that you must not try to mislead the court in either your written or oral evidence. To seek to do so constitutes a criminal offence. Almost certainly the court will recognise a position in which it is not being told the truth, or the whole truth, by a witness, and this will have consequences as to your credibility as a witness, and perhaps lead to very serious consequences

You will be given the opportunity to ask questions of other witnesses in the case. It is sensible to take paper and writing materials into court and to jot down important questions that you want to ask as the evidence unfolds. The court will have questions which it will want to ask as well.

### **What happens when the evidence has been heard?**

The court will consider the evidence and arrive at its decision. Usually the court's determination will be delivered on the day either at, or shortly after, the conclusion of the hearing. The decision will be in two parts – the order which the court is making and the reasons why it is doing so. You should listen carefully to both and, whenever possible write down what is said so that you have a clear understanding of it. Occasionally, in a complex case or where time does not permit the delivery of an instant decision and reasons the court will set a separate date for the announcement of its decision. You will be required to attend on that day.

### **What factors does the court take into account when reaching decision?**

Mention has already been made in this Guide to the Overriding Objective which appears at the end of the document. The court will always give effect to it, and in particular will be concerned to avoid delay in reaching decisions. In order to arrive at a final outcome, or to resolve a preliminary dispute about an issue with regard to the welfare of the child(ren), the court must apply a number of criteria to the circumstances as it has found them to be so as to ensure that whatever decision is reached it is in the best welfare interests of the child concerned. These criteria are set out in the welfare checklist which is to be found in s.1 (3) of the Children Act 1989, which is fully set out in Appendix 2 to this Guide.

### **What if I don't like the decision of the court?**

A direction, order or judgment of the court is binding on all parties and you are obliged to accept it whether you like it or not. This is why it is so important that you pay careful attention to what is said by the court when it makes a decision. Merely because you don't like, or it is not what you wanted, does not mean that an order is wrong. However, there is a right of appeal but only if you can show that the court's decision is plainly wrong either by reference to the evidence in the case or the law as it relates to the case, not simply that you don't agree with it. If you really believe that is the case then you should ask the court at the earliest opportunity for permission to appeal and you will be expected to demonstrate why there is a right to appeal by reference to the explanation of the reasons for the decision given by the court. If you cannot satisfy the court that an appeal is appropriate then permission to appeal will not be given. The route of appeal, i.e. the next stage in the process will be explained to you by the court when the decision is announced, because the appeal itself, if one is possible, is dealt with in a higher court. Again, please remember that getting angry or upset with the court or the parties will achieve nothing and may place you in contempt of court. If it would help to ask for five minutes or so to consider your position, then you should do so. Any reasonable request for time will normally be granted.

### **Are there any alternatives to the usual court process?**

Yes, there are! Furthermore the court has to consider at every stage that the case comes before the court for a hearing whether any of the methods of 'alternative dispute resolution' should be employed. Some cases are suitable, and others are not but you should certainly consider all the options available which the court may suggest and, in particular the following:

- **Mediation**

There are specialist family mediation services which are available. You will find some information about them in the court waiting area, or if it is not immediately obvious, ask an usher and you will be given appropriate explanatory leaflets. In fact, you should have considered seeking mediation before you became involved in court proceedings. It is not part of the court process, but it can lead to a swift and appropriate resolution of difficulties arising out of family disputes, and you may be directed by the court to participate in mediation after court proceedings have been commenced because it is suitable in your particular case. The process involves a referral to a trained mediator, who is completely independent. You will find helpful information on the family mediation website at [www.familymediationcouncil.org.uk](http://www.familymediationcouncil.org.uk) If there is a representative of the mediation service available with the court you will be directed to him or her so that a full explanation of the available service can be explained to you. Although mediators charge for their services, public funding may be available to you for this purpose if you are financially eligible. A proper assessment will always be carried out before any mediation work is carried out, and you will be told what the costs will be before you are asked to commit to it.

- **Judge led Conciliation**

The court may direct that the case be referred to a process of judicially led conciliation. This will only occur in a case which is identified by the court as being suitable for this process. This process differs from mediation in that you will be directed to attend a meeting with a Judge who will discuss the issues which are involved in the case with you and the other parties in an informal setting. He or she will analyse the issues and the position which each party takes and identify whether that position is reasonable or unreasonable in the context of the interests of the child. The purpose will be to endeavour to guide you towards the type of outcome which the court might have otherwise arrived at after a lengthy hearing of all the evidence. It is designed to avoid the hostility and rancour which formal court proceedings sometimes cause and to bring about a speedy conclusion. If you are directed to participate then it is in your interests, but most particularly those of the child(ren), that you should do so. If the conciliation hearing is brought to a successful conclusion the court will make an appropriate order and the proceedings will be brought to an end. If the process is not successful, then the case will be returned to the ordinary court process, and to a different judge who will not be aware of what has been said in the course of the conciliation in terms of the likely outcome of the case.

- **Other forms of ADR**

There are other options which may be available, but they will depend entirely on local conditions and resources. You will be guided by the court and/or Cafcass where they exist and how they might be accessed. If in doubt, do not be afraid to make clear to the court that you think that your case might benefit from intervention from an independent third party.

Hopefully, this guide will have been helpful and you will have some idea of what to expect when you go into the hearing. Please remember that the court is anxious to hear anything relevant which you have to say. You should not feel overwhelmed by the process and help will be at hand if you need it; all you have to do is ask. Finally, your attention is drawn

again to what is described as the Overriding Objective to which anyone involved in proceedings relating to children must adhere. Please think carefully about it and ensure that the way you conduct your proceedings is entirely consistent with it. It is set out in full in Appendix 1 which follows.

## **The Overriding Objective**

**The parties are required to help the court to further the overriding objective of enabling the court to deal with cases justly having regard to the welfare issues involved. Dealing with a case justly involves, so far as is practicable:**

**(a) ensuring that it is dealt with expeditiously and fairly**

**(b) dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues**

**© ensuring that the parties are on an equal footing**

**(d) saving expense and**

**(e) allotting to it an appropriate share of the court's resources while taking into account the need to allot resources to other cases**

**[Family Procedure Rules 2010 Rr 1.1 & 1.3]**

## **The Welfare Checklist(s)**

### **In respect of all Children Act applications:**

- a) the ascertainable wishes and feelings of the child concerned.
- b) the child's physical, emotional and educational needs
- c) the likely effect on the child of any change in circumstances
- d) the child's age, sex and any other relevant characteristics
- e) any harm which the child has suffered or is at risk of suffering
- f) how capable each of the parents and any other relevant person is in meeting the child's needs
- g) the range of powers available to the court

### **Section 1(3) Children Act 1989**

#### **In respect of all Adoption and Children Act applications:**

- (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding)
- (b) the child's particular needs
- (c) the likely effect on the child (throughout his life) of having ceased to be a member of the original family and become an adopted person
- (d) the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant
- (e) any harm (within the meaning of the Children Act 1989) which the child has suffered or is at risk of suffering
- (f) the relationship which the child has with relatives and with any other person in relation to whom the court or agency considers the relationship to be relevant including:
  - i. the likelihood of any such relationship continuing and the value to the child of it doing so
  - ii. the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs
  - iii. the wishes and feelings of any of the child's relatives, or of any such person, regarding the child.

## Section 1(4) Adoption and Children Act

### GLOSSARY

**Alternative Dispute Resolution:** processes whereby disputes before the court might otherwise be resolved. The Court is under a duty to consider whether ADR is appropriate at every case management hearing

**Appeal:** process whereby the decision of a court can be re-considered by a higher court for which permission must be obtained. The grant of such permission and routes of appeal should be explored with the court whose decision is challenged. (See Part 30 FPR 2010 and FPR 30 PD)

**Application Notice:** the document within which the nature of the application to be brought before court must be set out, and the grounds stated. (See Parts 12 and 18 FPR 2010 and FPR 12 PD 12B and FPR 18 PD 18A)

**Cafcass:** Children and Family Court Advisory and Support Service is an independent agency which provides services to the court by means of advice and recommendations with regard to welfare issues affecting children and is responsible for the representation of the interests of children who are parties to court proceedings

**Capacity:** There is a presumption in respect of all adults that they have the capacity to conduct litigation, but the presumption is displaced in circumstances if at the material time that person is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain. If capacity is lacking then the interests of such a person must be represented by a Litigation Friend or the Official Solicitor.

**Care Order:** An order which commits the responsibility for the care of a child to a Local Authority

**Case Management:** the control exercised by the court over the progression of cases

**Chambers:** hearings conducted in private, which includes all proceedings relating to children, are sometimes referred to as being held 'in chambers' in order to distinguish the hearing from one conducted in open court.

**Children's Guardian:** the adult appointed by the court to represent the interests of a child who is a party to proceedings, almost exclusively a social worker allocated to the role by Cafcass. For appointments see FPR 2010 Rules 16.3 and 16.4.

**Children's Solicitor:** the solicitor instructed to represent the interests of the children, generally by the Children's Guardian.

**Committal Order:** an order by which an individual is sentenced to a term of imprisonment by reason of being in contempt of court

**Competence:** a minor under the age of 18 year is not generally competent to conduct proceedings but may be said to be 'Gillick competent' in circumstances in which he or she understands the nature of the proceedings and can give instructions on the issues involved.



**Conciliation:** a judicially led process which in the interests of the child and to avoid delay enables the parties to explore the resolution of the issues between them without the necessity for a court hearing

**Contempt:** the state in which an individual (the contemnor) is placed having breached an order or requirement of the court

**Consent order:** an order made by the court to which all parties agree

**Contact order:** an order whereby the court provides for one party to exercise contact with a child. See also *Contact Activity Order* which an order is prescribing the manner in which contact is to be exercised.

**Costs:** the expense incurred in the conduct of court proceedings. The court has a wide discretion with regard to the orders for costs it can make including the imposition of a costs liability where a party has behaved inappropriately in the course of the proceedings

**Directions:** case management orders made by the court in order to ensure the smooth progression of the case

**Disclosure:** the process by which documentation is made available by one party to another in the course of proceedings

**(Deputy) District Judge (including DJ(MC)):** a full or part time professional judge sitting in the family court

**Domestic violence:** violent conduct within a family setting which can include physically or emotionally abusive behaviour

**Expert evidence:** opinion evidence from an expert identified and appointed or otherwise permitted by the court to deal with a specified issue in the case

**Family Assistance Order:** an order of the court which provides for an officer of Cafcass or a Local Authority Social Worker to advise, assist and (where appropriate) befriend a named individual usually to give effect to an order of the court (See s.16 Children Act 1989)

**First Hearing Dispute Resolution Appointment:** the first hearing in court of an application for an order in respect of a child in private law proceedings when the court will identify all of the issues in the case, seek to narrow or resolve them, and give case management directions leading to the hearing of any contested issues.

**Human Rights:** rights of the individual protected by the European Convention on Human Rights

**Injunction:** an order of the court restraining certain conduct as specified in the order

**Interim Order:** an order made in the course of proceedings to provide temporary relief until such time as a final order is made

**Judgment (or order):** the determination of an issue by the court whether delivered on a final or interim basis

**(Deputy) Justices' Clerk:** a senior officer of the magistrates' Court with administrative and judicial responsibilities

**Jurisdiction:** the defined parameters within which a court can deal with proceedings

**Lay Justices: (MA to complete)**

**Legal Advisors: (ditto)**

**Legal Aid Agency:** independent agency responsible for the public funding of qualifying proceedings

**McKenzie Friends (Take in MT note as amended.)**

**Mediation: (AG to complete)**

**Occupation Order:** a court order whereby the occupation of a dwelling or home is regulated.

**Official Solicitor:** the public official who may be invited to act as litigation friend on behalf of a protected person (including a child) who is not otherwise competent to conduct proceedings and where no other litigation friend is available. The Official Solicitor's address is:

81, Chancery Lane

London WC2A 1DD

**Order:** a determination of an issue pronounced by the court and reduced into written form which is binding on all parties to proceedings and any other person named in the order or directed to be served with it.

**Parental Responsibility Order:** an order whereby the court vests the responsibility for the making of parental decisions and the exercising of parental responsibility in an adult.

**Parties:** those individuals who are joined to proceedings either by being named on the face of the originating application or at the direction of the court.

**Prohibited Steps Order:** an order whereby the court forbids the taking of a step of a kind specified in the order without the consent of the court

**Residence Order:** a court order whereby the court directs with whom a child is to live

**Rules:** the Family Procedure Rules (2010) [FPR] or Civil Procedure Rules (1998) [CPR]

**Service of documents:** the transmission of court documentation between parties to proceedings.

**Special Guardianship Order:** a court order vesting parental responsibility obligations in respect of a child on an adult who is not a parent (see s.14A Children Act 1989)

**Specific Issue Order:** a court order determining a specific question raised in the course of proceedings relating to a child

**Supervision Order:** a court order placing a child under the supervision of a Local Authority

**Welfare Checklist:** see Appendix 2

**Welfare of Child:** the principle applied by the court when making orders in respect of a child which is viewed by reference to the statutory welfare checklists set out in s.1 Children Act 1989 and s.1(3) Adoption and Children Act 2002

**Welfare report:** a report directed by the court to deal with issues connected with the welfare of a child in most cases compiled either by a Cafcass Family Court Adviser or a Local Authority Social Worker

**Witness:** an individual who is not a party to the proceedings but is called by a party or by the court to give evidence on an issue in the case

## APPENDIX 12

### McKENZIE FRIENDS – Guidance Note

1. Litigants in person are entitled to have reasonable assistance from a lay person, sometimes called a McKenzie Friend. Such lay persons have no independent right to provide assistance and have no right to act as advocates or to carry out the conduct of litigation.
2. Litigants in person who are assisted by McKenzie Friends remain litigants in person
3. A McKenzie Friend may provide moral support for the litigant in person, take notes, help with case papers and quietly give advice on any aspect of the conduct of the case.
4. A McKenzie Friend may not act as the litigant in person's agent in relation to the proceedings, manage the litigant in person's case outside court (for example by signing court documents), address the court, make oral submissions nor ask questions of witnesses.
5. The court can refuse a litigant in person the assistance of a McKenzie Friend if the court considers that its provision may undermine the proceedings or if the court is not satisfied that the McKenzie Friend fully understands the duty of confidentiality. Where the services of a McKenzie friend are refused the court must give reasons which should be recorded.

### McKENZIE FRIENDS – Further Guidance\*

All Judges should be aware of the Practice Guidance issued on the 12<sup>th</sup> July 2010 (see page 2863 of Red Book) and (2010) to FLR 962.

At paragraph 13 of the Guidance it is stated:-

“A Litigant may be denied the assistance of a MF because its provision might undermine or has undermined the efficient administration of justice. Examples of circumstances where this might arise are:

- i) The assistance has been provided for an improper purpose.
- ii) The assistance is unreasonable in nature or degree.
- iii) The MF is subject to a Civil Proceedings Order or a Civil Restraint Order.
- iv) The MF is using the Litigant as a puppet.
- v) The MF is directly or indirectly conducting the litigation.
- vi) The Court is not satisfied that the MF fully understands the duty of confidentiality.

As a very basic requirement all McKenzie Friends should be required to:

- a) Sign a confidentiality agreement.
- b) Provide a CV (confirming whether or not they themselves are involved in Children Act Proceedings and whether or not they have been the subject of Civil Proceedings Order or Civil Restraint Order).

If it appears to the court that a McKenzie Friend may have convictions (in particular if there is a concern that he or she may be a Schedule 1 offender) the case and the court file must be referred to the DFJ immediately.

Some concerns have been expressed as to the quality of McKenzie Friends.

All Judges should follow the Practice Guidance of 12<sup>th</sup> July 2010 (2010) 2 FLR 962 (also in The Family Court Practice 2011 at page 2882).

In particular, attention is drawn to paragraph 10 wherein it is stated:

“The Court may refuse to allow a litigant to exercise the right to receive assistance at the start of the hearing. The Court can also circumscribe the right to during the course of a hearing. It may be refused at the start of the hearing, or later circumscribed where the Court forms the view that a MF may give, has given, or is giving, assistance which impedes the efficient administration of justice. However, the Court should also consider whether a firm and unequivocal warning to the litigant and/or MF might suffice in the first instance”.

Further, reference should be made to paragraphs 11, 12 and 13 of the Guidance.

In particular paragraph 13 is to the effect that “a litigant may be denied the assistance of a MF because its provision might undermine or has undermined the efficient administration of justice. Example of circumstances where this might arise are:-

- i) The assistance has been provided for an improper purpose;
- ii) The assistance is unreasonable in nature or degree;
- iii) The MF is subject to a civil proceedings order or a restraint order;
- iv) The MF is using the litigant as a puppet;
- v) The MF is directly or indirectly conducting the litigation;
  
- vi) The Court is not satisfied that the MF fully understands the duty of confidentiality.

It should further be noted under paragraph 17 that:-

“The High Court can, under its inherent jurisdiction, impose a Civil Restraint Order on MFs who repeatedly act in ways that undermine the efficient administration of justice”.

The above does not in any way affect the general principle that litigants have the right to reasonable assistance from a lay person sometimes called a McKenzie Friend.

All Judges should be aware that if an order under paragraph 17 of the Guidance is sought there needs to be evidence of a person who “repeatedly” acts in ways which undermine the efficient administration of justice. In those circumstances the Judgement of the particular Court should reflect that and should be disclosed to the Designated Family Judge.

*\*with due acknowledgement to Her Honour Judge Margaret de Haas QC*

*Designated Family Judge Cheshire and Merseyside*

## APPENDIX 13

### RIGHTS OF AUDIENCE –

#### Lay Representatives in the Family Court

1. This Guidance Note relates to rights of audience and specifically attendance before the court by those who do not ordinarily possess such a right in order to advocate a case on behalf of a party or proposed party in proceedings relating to Children.

2. It is unexceptional for those who do not possess any qualification conferring a right of audience to act as a representative on behalf of parties to litigation to be permitted to do so in proceedings conducted 'in chambers'. Increasingly, the court is being requested to permit lay representation in Children Act cases, notwithstanding that neither Public nor Private Law Children Act cases are conducted 'in chambers'. They are, save where the Court otherwise specifically directs, court hearings conducted in private. The exemption from the normal requirement that an advocate must have a right of audience in order to appear before the court, which applied hitherto in proceedings conducted before a Judge of the County Court in Chambers, accordingly has no application. The same principle applies throughout all of the tiers of the Family Court.

3. Within the category of persons who do have a right of audience, and are thus authorised to appear before the Family Court, are those who have been granted a right of audience in relation to specific proceedings (See para.1(2) of Sch.3 Legal Services Act 2007). This enables the Court to grant a 'special' right of audience in a particular case. Such permission is contemplated as being permissible in the judgment in *D - v - S (Rights of Audience)* (1997) 1 FLR p.724.

4. Permission is discretionary, and must be sought from the Court before a right of audience is assumed. All of the relevant information supporting an application for permission with regard to the representative concerned and the circumstances of the case should be laid before the court in advance of the hearing. This may be done by letter where no objection is raised to the audience requested, or on notice to all parties where objection has been intimated. If permitted, the grant of a right of audience should be referred to on the face of the order concluding the hearing ensuring that the name of the representative, the party represented and the grant of permission are detailed.

5. By way of guideline only, save in the most exceptional circumstances, the following principles should be applied:

5.1 A special right of audience will not generally be granted in respect of any contested hearing, nor usually permitted in any hearing before a Circuit Judge or Recorder.

5.2. It is the responsibility of any Solicitor supervising the conduct of a case who proposes that a special right of audience be granted in favour of an employee or agent of his practice for a particular hearing to ensure that the credentials of the individual concerned are laid before the court, and that the application is justified by reference to the circumstances of the case. The grant of a special right of audience shall not of itself be construed as any acknowledgement of the Court with regard to the skill or competency of the individual on behalf of whom any such application is made.

5.3 By its nature, a 'special' right can neither be applied for nor conferred in respect of more than one hearing or case, and cannot be sought as a general exemption. Furthermore the right should not be granted save and except where, following due consideration of all of the circumstances, it is appropriate so to do by reference to the matters alluded to in this guidance.

HHJ Rawkins, DFJ.  
March 2014.

## APPENDIX 14A

### DISCLOSURE

This document sets out provisions with regard to the process of disclosure between the family and criminal jurisdictions and is to be read in conjunction with and supplemental to the Lancashire Disclosure Protocol. It is to be taken as guidance with regard to the approach to disclosure between jurisdictions with a view to avoiding unnecessary delay to the conduct of proceedings in either jurisdiction. Its content has been approved by or on behalf of the Chief Constable of Lancashire, the Regional Director of the Crown Prosecution Service, the Clerk to the Justices and the Designated Family Judge for Lancashire and is indorsed by the Lancashire Family Justice Council]

#### Disclosure by the Police/CPS into family proceedings

1. Once the preliminary interview with a suspect in connection with a criminal investigation has taken place any family proceedings which are concerned with the welfare of a child and which are connected to events which are the subject of the police investigation shall assume paramountcy and, subject to the following provisions, no objections to the principle and process of disclosure will be raised.
2. Disclosure may conveniently be regarded as a two stage process involving a classification of primary and secondary disclosure
3. Once the stage referred to at Para 1 above has been reached Primary disclosure will be given within 20 working days of the receipt by the Police/CPS of a Protocol compliant request and will consist of copies of any documentary material used in connection with the interview of a suspect, witness statements made by any parties to the family proceedings and the typed transcript or other comprehensive record of any interview(s)
4. Secondary disclosure relates to all other documentation, whether used or unused, which is relevant to the family proceedings which has not been provided by way of primary disclosure. The obligation to provide secondary disclosure is ongoing once a charging decision has been made or, if earlier, when a point in time is reached at which there can be no detriment to the investigation if disclosure is given. In circumstances in which a charging decision has been delayed or deferred and disclosure has been withheld the Family Court may be invited to make an order for disclosure. An application for such an order should not be delayed beyond a reasonable time by reference to the progress of the family proceedings and, in particular, by reference to the timescales of the subject child(ren). Such orders will not be made unless either the Police or CPS have had notice of the disclosure order sought and the opportunity to make representations as to whether the order should properly be made and, if so, form of the order or, in an appropriate case, when an order is made in the absence of the Police or CPS they are given a reasonable opportunity to apply to the Court for any such order to be set aside or varied before it is implemented.
5. There should be no delay in identifying the need for disclosure. At the first possible hearing in family proceedings the necessity for disclosure into family proceedings should be raised with the Court which should be notified whether and when the Protocol has been engaged. The court should be invited to set a timetable recording when Primary disclosure should be completed and any Secondary disclosure (subject to the ongoing obligation of disclosure) should be regarded as coming into effect.
6. Any Protocol request should be specific as to the documents of which disclosure is sought, and the category into which they fall. Any application made to the Court for secondary disclosure shall be made on notice specifying the document or category of document of which disclosure is sought.
7. The Courts should not be invited to make orders for disclosure against the Police or CPS which are non-specific with regard to the documents or categories of documents

of which disclosure is sought. Applications, whether by Protocol or to the court, should not be made for the disclosure of documents which are non-disclosable or which have no relevance to the family proceedings.

### **Disclosure out of family proceedings**

1. Applications for disclosure out of family proceedings are 'Other Applications' for the purpose of FPR Part 18 and FPR PD 18A and should be made on notice in Form C2. They are made within the family proceedings and should be supported by a statement setting out the documents of which disclosure is being sought and the nature of the proceedings or investigation to which they are said to be relevant.
2. The application should be served on all parties to the proceedings by the Court immediately on issue and will be returnable either at the next case management hearing fixed in the proceedings or if there is no imminent hearing at a discrete hearing before the allocated Judge or Legal Adviser. Notice of such hearing shall be served with the application notice.
3. All parties involved in family proceedings should be astute to ensure that whenever appropriate the Police/CPS should be notified of any information received in family proceedings which may be relevant to any ongoing criminal investigation or proceedings or which ought properly to be the subject of police inquiries and should invite the court to grant permission to disclose such information as may be appropriate to enable the Police/CPS to arrive at a decision as to whether a disclosure application should be made.
4. In cases in which there are linked case management hearings in the criminal and family courts the parties to the criminal proceedings should be notified of the scheduled dates for case management hearings in the family proceedings so that in the event that disclosure applications are necessary they can be notified beforehand and made at such hearings.



## APPENDIX 14 B

### *Linked Criminal and Care Directions (Annex I)*

#### **2013 PROTOCOL AND GOOD PRACTICE MODEL DISCLOSURE OF INFORMATION IN CASES OF ALLEGED CHILD ABUSE AND LINKED CRIMINAL AND CARE DIRECTIONS HEARINGS**



**In the Court  
Sitting at [Place]**

**No:**

#### **The Children Act 1989**

**The Protocol concerning the disclosure of information in cases of alleged child abuse and linked criminal and care directions hearings dated [dd/mm] 2013 (“The Protocol”)**

#### **The Marriage/Civil Partnership/Relationship/Family of XX and YY**

**The Children** AA (a boy/girl born on dd/mm/yyyy)  
BB (a boy/girl born on dd/mm/yyyy)  
CC (a boy/girl born on dd/mm/yyyy)

*Adapt as appropriate*

After hearing *[name the advocate(s) who appeared]*...

After consideration of the documents lodged by the Parties

**ORDER MADE BY [NAME OF JUDGE] ON [DATE] SITTING IN OPEN  
COURT/PRIVATE**

#### **The Parties**

1. The applicant is XX (“The Local Authority”)  
The respondent is YY  
The second respondent is ZZ  
*Specify if any party acts by a litigation friend*  
The third respondent is AA (acting by his/her guardian FF)  
The third respondent is BB (acting by his/her guardian FF)  
The fourth respondent is CC (acting by his/her guardian FF)  
*Delete or Adapt as appropriate*

#### **Recitals**

2. *[name]* has been charged with offences of *[specify the alleged offences and against whom they were committed]* to which (s)he pleaded not guilty on *[date]* and the proceedings under case number *[xxx]* are listed for *[trial]/[plea and case management]* on *[date]* at the *[name]* Crown Court].
3. This court on *[date]* made a police disclosure direction order. The order *[was complied with on] / [is expected to be complied with by] [date]*.
4. *(for example)* ZZ is *[to be] / [being]* assessed by Dr *[name]*, Consultant Psychiatrist, in readiness for the Plea and Case Management Hearing on *[date]*.
5. It is recognised that the CPS will seek disclosure of the papers from these proceedings *[and*

Linked Criminal and Care Directions (Annex I)

*Linked Criminal and Care Directions (Annex I)*

from the previous proceedings] regarding [names of children] the children of [name] and [name] [deceased] as well as documents held by the Local Authority on its Social Services files.

6. The Local Authority is expected to ensure that a copy of the Protocol is made available to the CPS solicitor with conduct of the criminal proceedings and the defence solicitor(s) (who will supply it to instructed counsel).

**Request**

7. Pursuant to Part C of the Protocol this court considers that a linked directions hearing is appropriate. This court by this order requests that the Resident Judge should nominate a judge to be responsible for the management of the criminal case with a view to listing a linked directions hearing at the [name] Crown Court before the nominated judge and the Allocated Case Management Judge in this case namely [name].

**IT IS ORDERED (BY CONSENT):**

8. These proceedings and the criminal proceedings are listed for a linked directions hearing at 10.00am on [date] before His/Her Honour Judge [name] and His/Her Honour Judge [name] sitting at the [name] Crown Court, [address] (estimate 1 hour).
9. The Local Authority shall by 14:00 on [date] serve on the Crown Court, the CPS and the defence solicitors a case summary as set out in para 17.6 of the Protocol, and shall file and serve a copy of it in these proceedings.
10. In accordance with para 17.7 of the Protocol the Local Authority and the CPS shall agree a schedule of issues, setting out those matters which are likely to be considered at the linked directions hearing and the Local Authority shall circulate the schedule to the solicitors for the other parties in the criminal and care proceedings by no later than 16:00 on [date].
11. The Local Authority shall by 12:00 on [date] file with the Court an agreed bundle prepared in accordance with the Family Procedure Rules 2010 PD 27A to include the case summary, the schedule of issues (agreed if possible), and the proposed directions to be sought. The Local Authority shall by the same time file and serve on each of the respondents an index to the bundle. If any respondent is unrepresented the Local Authority shall supply him/her with a full copy of the bundle.
12. The Governor of HM Prison [name] is directed to ensure that the respondent (father) ZZ is produced at 09:30 for the hearing on [date].
13. The Local Authority shall serve a copy of this order on the CPS prosecutor with conduct of the criminal proceedings and on the defence solicitor(s) (who shall provide copies to instructed counsel).

Dated

## **APPENDIX 15**

### **LINKED CRIMINAL AND CARE DIRECTIONS HEARINGS PROTOCOL FOR LANCASHIRE.**

#### **1. CRITERIA.**

The Protocol shall apply where;-

1.1 Proceedings for a care or supervision order under Part IV of the Children Act 1989 have been commenced and such proceedings have been transferred , or, are due to be transferred to the Blackburn or Lancaster care centre, or have been commenced in either care centre;

AND

1.2 A person connected with the child who is the subject of the care proceedings [ including, by way of example but not limited to, a parent ,cohabitant, member of the household, carer, neighbour or friend] or the child himself is to be tried at a Crown Court within Lancashire for any violent or sexual offence or for an offence of cruelty/neglect etc pursuant to s1 of the Children and Young Persons Act 1933, against the child or any other child or any person connected with the child;

AND

1.3 The Local Authority, Crown Prosecution Service, or any party to the care proceedings (including the child's guardian) considers that the care and criminal proceedings do, or may, impinge on one another;

OR

1.4 In any care proceedings in either care centre or in any proceedings in the Crown Court a Judge is satisfied that the Protocol does apply.

#### **2. OBJECTIVES OF THE SCHEME.**

2.1 To timetable each set of proceeding so as to ensure that each is heard without avoidable delay.

2.2 To ensure that those involved in relevant, related proceedings have some knowledge of the other proceedings; of what information and evidence is, or may be, available, and the impact it may have in respect of the effective conduct and presentation of the proceedings.

2.3 To determine, so far as is possible, any procedural and evidential issues in one case which may impinge upon the other. These will include disclosure of evidence as between the two sets of proceedings; requests for third party disclosure in the criminal proceedings and any issues of public interest immunity arising there from; and any requests to interview children in care for the purpose of the criminal proceedings.

#### **3 ARRANGEMENTS FOR LINKED DIRECTIONS HEARINGS.**

3.1 In any care proceedings to which this protocol may apply, the Local Authority shall ascertain from the CPS the details of the criminal proceedings. This information should include;

- the identity of all defendants
- the charges preferred
- the calendar number
- the court through which proceedings are progressing
- the stage reached in the proceedings.

The Local Authority shall provide this information to the family court and the parties in those proceedings as soon as it is available.

3.2 The DFJ, or her deputy, shall consider whether or not there is likely to be a need for a linked directions hearing. If so, the DFJ shall liaise with the Recorder of Preston, or his deputy, to invite him to nominate a judge to be responsible for the management of the criminal case.

3.3 Once a Judge has been identified to manage the criminal proceedings, the Recorder shall direct the criminal listing officer to liaise with family listing to agree the listing of the criminal and care cases for a linked directions hearing at the appropriate Crown Court.

#### **4. PREPARATION FOR A LINKED DIRECTIONS HEARING.**

4.1 In every case involving a linked directions hearing the Local Authority shall, with the permission of the family Court, prepare and serve on the Crown Court, CPS and the defence solicitors a case summary no later than 5 days prior to the linked directions hearing.

4.2 The case summary shall set out;

- i) the Local Authority's contentions in respect of the threshold criteria;
- ii) the current arrangements for the children;
- iii) details of any proposed social work or expert assessments; and
- iv) if set, the timetable for the proceedings within the family court.

4.3 The legal representatives for the Local Authority and the CPS shall agree a schedule of issues which shall identify those matters for consideration at the linked directions hearing. The Local Authority shall circulate the schedule to the parties in the care proceedings and the CPS shall provide a copy to all defence solicitors in the criminal proceedings no later than 2 days before the linked directions hearing.

4.4. On the day of the linked directions hearing the advocates in the criminal and care proceedings shall meet no later than 30 minutes prior to the time fixed for the hearing to discuss the schedule of issues with a view to identifying what directions may be required with particular reference to trial timetable, disclosure and expert evidence.

#### **5. THE HEARING.**

5.1. The criminal case shall be listed before the Judge in the Crown Court in public with the linked directions appointment in the care proceedings listed for hearing in private immediately thereafter. Subject to any specific objections raised by the parties, it is likely that the advocates appearing in the criminal case will be invited to remain during the directions appointment in the care proceedings. The directions hearing will be linked but not wholly combined because of the different parties and different procedural rules. The Judges shall determine whether it is appropriate for some or all of the directions to be issued at a joint hearing or separately.

5.2 At the conclusion of the hearing in the criminal case the Crown advocate will be invited to draw the minute of order, to be agreed with the defence, which will be submitted to the Judge for approval, on the day of the hearing.

5.3 The approved minute of order made in the criminal proceedings will be copied to the parties in the care proceedings by the CPS.

5.4 With the permission of the family Court, the order made in the care proceedings will be copied by the Local Authority to the prosecution and defence lawyers in the criminal proceedings.

## **6. MATTERS TO BE CONSIDERED AT THE LINKED DIRECTIONS HEARING.**

6.1 The timetabling of both the criminal and care proceedings so as to ensure the most appropriate order of trial and that each case is heard as expeditiously as possible.

6.2 Disclosure of evidence, with particular reference to disclosure of evidence from one set of proceedings into the other with such permission as may be required by the relevant rules.

6.3 Third party disclosure.

6.4 Any directions in relation to issues of public interest immunity.

6.5 Expert evidence with particular reference to the identification of expert witnesses and their role within the criminal and care hearings.

6.6 Arrangements for the interview of children in care for the purpose of criminal proceedings.

6.7 Any restrictions as to publicity

6.8 Identification of any relevant material as to the issue of bad character or other alleged reprehensible conduct, of any defendant or other person.

6.9 Directions to ensure that a transcript of relevant evidence or judgment in the trial heard first in time is available in the subsequent proceedings.

## **7. COURT FILES.**

7.1 The Court files in the criminal and care proceedings shall be cross-referenced and shall be clearly marked as “linked” cases.

## **8. JUDICIAL CONTINUITY.**

8.1 Any adjourned linked directions hearing shall be listed before the same Judge (unless the Judge directs otherwise).

8.2 The Judge in the care proceedings shall not preside over the criminal trial; pass sentence if there is guilty plea or give a “Goodyear direction”.

8.3 The Judge in the criminal trial or the sentencing Judge shall notify the Judge in the care proceedings of the outcome.

## APPENDIX 16

### INTERPRETER AND TRANSLATION

#### SERVICES

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#### GUIDANCE NOTE

(August 2012)

1. It is apparent that there is an element of misunderstanding with regard to the court's obligations in respect of the provision of interpreter/translation services. This Practice Note is intended to remove any confusion which has been permitted to occur.
2. The Court is under no obligation to provide the services of an interpreter but will, on proper request having been made, arrange for an interpreter for the purpose of the giving of oral witness testimony at any hearing at which live evidence is to be taken.
3. For the purpose of Para 2 above a proper request must be submitted in writing and must identify:
  - 3.1 the name of the individual for whom the interpretation service is required and whether or not that person is a party or a witness
  - 3.2 the language(s) from and to which interpretation is required
  - 3.3 the date(s) upon which attendance is required for the specified purpose.
4. A request made pursuant to Para 3 above must be made by a Solicitor on the court record in the case, or in the case of an unrepresented party by the party personally and it must be certified in the request that the services of an interpreter are necessary. It will generally not be acceptable for such a certificate to be given in circumstances where written evidence has been tendered for which translation giving rise to the appropriate written certificate was not found to be necessary.
5. Such a request must be received by the court office not less than 28 days prior to the date of the hearing at which the interpreter service is required.
6. The court is under no obligation under any circumstances to provide translation services, as distinct from interpreter services. Consequently where it is perceived that a party to Family proceedings requires the services of a translator during the course of a hearing to facilitate that party's understanding of the proceedings it is for the party concerned, or his solicitors, to make the necessary arrangements.
7. In the event that delays are occasioned by a failure to follow this guidance costs consequences may be occasioned.

HHJ Rawkins

Designated Family Judge

August 2012.

## APPENDIX 17

### Guidance with regard to the Instruction of Experts in the Lancashire Family Courts

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1. This Guidance Note is issued with particular reference to Public Law Children Act proceedings, but it also provides useful guidance with regard to all other family proceedings in which expert evidence may be contemplated or requested. It has been compiled following extensive deliberation by the Expert's sub-committee set up under the aegis of the Lancashire Family Justice Council, and its purpose is, in line with the Overriding Objective, to minimise expense and avoid delay when applying to the court for, and thereafter obtaining, expert evidence.
2. The guidance should be read in conjunction with FPR 2010, r.25.1, Practice Direction: Experts in Family Proceedings Relating to Children PD 25A, and the general guidance which has been issued through a number of recent authorities and, importantly, the dicta of Butler-Sloss LJ in *Re M & R* 1996 2 FLR 195.
3. Before directing expert evidence the Court should as a general rule be satisfied that it is necessary and should ask of itself the following:
  - (a) Is there an identified issue which the court cannot determine on the basis of the evidence currently before it?
  - (b) If so, is it an issue which ought to be addressed by a witness already engaged in the case?
  - (c) If not, is it a question which ought to be asked of an independent expert because there is no witness (e.g. a social worker) already involved in the case who can provide the answer?
  - (d) If so, what precisely is the issue which the court must address and into that specialist field does it fall?
4. It follows that if the court must ask itself such questions before making a direction for the engagement of an expert, then a party requesting the direction of expert evidence, so as to comply with the requirements of PD 25 A, must be able to demonstrate that these criteria apply before making an application for an independent expert.
5. The court when considering an application for and contemplating expert evidence will require to be able to identify the following :
  - (a) The issue with which the expert is to deal and which the court cannot deal without expert evidence
  - (b) The expert's name, qualifications and discipline
  - (c) The date by which the expert's written evidence will be delivered, which must not exceed a period of 12 weeks from the date of instruction {unless the court specifically approves and records the reason why a protracted period is required}.
  - (d) The cost of the (assessment and) report.
  - (e) Whether the expert is required to see the child(ren)

\* *NOTE: A form of order which might conveniently be used appears at the end of this Note.*

6. Applications for expert evidence should generally be made no later than the first Case Management Conference, and it will be exceptional for the court to approve the instruction of an expert after this stage of the proceedings unless there are clear reasons for so doing.

7. To assist the court with the case management issues which arise in respect of expert evidence the following procedure should be adopted at the Advocates' Meeting immediately preceding the Case Management Conference:

7.1 The parties should agree a written summary of the background of the case derived from the Initial Social Work Statement, the Chronology, the Core Assessment, the Respondents

Statements in Answer and the Threshold Document. This history may then provide the basis for instruction of any expert instructed in the proceedings. It will record the history which is agreed and that which is not agreed by reference to the source material referred to above. The document will provide the only historical context for the expert instruction, and experts should be informed in the letter of instruction that they are not required to re-visit or amplify the history save and except in so far as it is obviously necessary to do so in order to comply with the expert's instruction.

7.2 The issues in the case should be analysed and the scrutiny referred to at Para 5 applied with a view to identifying what, if any, issues require referral to an expert for the assistance of the court. A list of specific questions which will focus attention upon such issues should be formulated.

7.3 Where a joint instruction of an expert is to be recommended to the Court the Request should be made by the Children's Solicitor who should properly complete the written application and comply with the Practice Direction in time for the Case Management Conference.

7.4 Consideration should always be given as to whether an expert report should be commissioned on a conditional basis e.g. as to the delivery of an interim report as to positivity with regard to potential outcome, and if it is appropriate the request should so stipulate.

*\* A draft order which may be useful when ordering an Advocates' meeting appears at the foot of this document.*

8. At the Case Management Conference, or any other hearing at which an application for the instruction of an expert is considered, the court will consider the issues referred to at Paragraph 5 and, if satisfied that the instruction of an expert is justified, will make a direction which details:

- i. the identity and specialty of the expert
- ii. the precise issue (specific questions) with which the expert is to
- iii. deal
- iv. the disclosure of relevant documentation which is to be permitted
- v. to the expert
- vi. the date by which the report is to be delivered
- vii. the cost of the expert and how it is to be defrayed
- viii. (if so required) that the expert has permission to see the child(ren).

9. In respect of a joint instruction, the letter of instruction should be agreed in draft form at the Advocates' meeting preceding the CMC and, if the instruction is approved by the Court, sent immediately after such approval is given. In the case of a unilateral instruction, the draft letter should accompany the application and will only be sent following approval by the Court. In either case the letter should incorporate:-

- i. the agreed history
- ii. the specific questions
- iii. the documents disclosed



- iv. the matters set out at 8.4,8.5 and 8.6 above
- v. an instruction to the expert to conclude the report by reference to his/her responses to the specific questions by reference to findings
- vi. contained in the body of the report.
- vii. confirmation that a failure to comply with the terms of instruction whether by reference to date for delivery or construction of the report
- viii. may result in the application of sanctions against a party, the parties or the expert.

10. It is the responsibility of the lead solicitor (or the solicitor for the party giving instructions in the case of a unilateral report) to ensure that the report is delivered and disclosed in accordance with the court's timetable and to report any delay, and the reasons for it. Upon receipt of an expert report the parties should immediately consider the content and, if questions are appropriate, identify them. Any proposed questions should be the subject of discussion and, whenever possible, they should be agreed, submitted and the answers obtained before the next case management hearing. If questions are necessary because of a failure by the expert to carry out instructions then the expert must be specifically advised by the solicitors responsible for the instruction that the court may consider disallowing all or part of the expert's fee, and the expert should be invited to make representations with regard to any apparent failure to comply with his/her instructions in time for the next case management hearing.

### *Expert's direction*

*Permission to the Solicitor for ..... to instruct .....{expert} in the field of ..... to present a report with regard to the issue of ..... The letter of instruction shall be agreed between all parties by 4.00 pm today. The report shall be delivered by no later than 4.00 pm on ..... and disclosed forthwith. Any questions which arise from the report shall be agreed by the parties and submitted in writing by 4.00 pm on ..... (7days after the date for delivery of the report) and answered by 4.00 pm on ..... (7 days thereafter). The expert is permitted to see the child(ren) for the purposes of assessment. The cost of the preparation of the report shall not exceed £..... OR shall be such sum as may be allowed by reference to prescribed rates and shall be divided equally between the parties and as so apportioned shall be a proper charge against the Public Funding Certificate of any assisted party.*

### *Advocates' Meeting*

*There shall be an Advocates meeting to be held by no later than ..... (not less than 3 days before the CMC) which shall be attended by all advocates in the case and ..... The meeting will be chaired by the Solicitor for the child. The business of the meeting shall include (though not by way of any restriction):*

- (i) the preparation of a historical background to the case. This will be an agreed document but will identify areas in which there is an issue with regard to the history by setting out any areas of dispute by reference to competing versions.*
- (ii) the identification of any issues which must be referred to an independent expert, the identification of such expert, and where instruction is to be jointly given the drafting of an agreed draft letter of instruction.*

*Where joint instruction is agreed the application for a case management direction shall be made by the Children's Solicitor. An application for a unilateral direction shall be made by the party seeking the direction in either case at the next CMC following the Advocates' Meeting and in accordance with the FPR 2010 and PD.*

## **APPENDIX 18**

### **The Transmission of Court Files in Children Act cases**

This paper sets out guidance for the court staff and judiciary in respect of the carriage of files where cases are heard remotely from the Hearing and Administrative Centre (HAC) at which the file is normally held. The guidance is different in respect of public law and private law cases and, within those classifications, in relation to cases which are to be heard by Circuit Judge, District Judge and Lay Bench or Legal Adviser

#### **Public Law – hearing before all Judges.**

- The presumption is that the file will not be transmitted to the remote Hearing Centre (HC)
- The judge may direct, in good time and only where the circumstances require it, that the file shall be delivered to the HC and, if so, the HAC will be responsible for ensuring the delivery of the file in time for the hearing
- In respect of hearings at the HC the HAC shall ensure that the files are identified and available in the court office and that throughout the duration of the hearing a member of the court staff can be made available to deal with any query raised by the judge requiring examination of the court file. The court staff will be responsible for ensuring that even when such files have been isolated for the purposes of this requirement any incoming documents are filed and that the file is kept up to date drawing, when necessary, the attention of the judge to the receipt of any material document.
- The judge may direct that any judicial notes kept on the court file should be made available [for the judge's scrutiny only] at the HC, but it is recommended that judicial notes should not routinely be incorporated within, and do not form part of, the court file. Accordingly, Judges are encouraged to maintain their own discrete record of court hearings for ease of reference at subsequent hearings thus obviating the necessity for any such direction to be made

#### **Private Law – hearing before Circuit Judge**

All of the above provisions apply.

#### **Private Law – hearing before District Judge**

All of the following provisions apply save that they shall not apply in respect of:-

- FHRA hearings before the District Judge in respect of which the Court file must on all occasions be produced for the judge's reference
- Case management and/or final hearings/reviews where none of the parties is legally represented
- Any case in which a judge has directed that the file be produced for all or any hearing(s) in such circumstances the HAC is responsible for ensuring that the court file is produced to the judge in sufficient time before the hearing to permit adequate pre-reading.

In respect of all hearings.

In all cases where carriage of the court file is required to take place between courts the court staff shall ensure that the arrangements for transmission of the file are adequate to ensure the safety and integrity of the file at all times and that there is no avoidable risk that the requirement for confidentiality will be compromised. The court file must be returned to the HAC by the HC immediately following any hearing at which it has been required and on its return, any relevant document received by the HAC will be placed on the file and actioned forthwith.

HHJ Jeremy Rawkins

DFJ.

## APPENDIX 19

### Transfer of Proceedings Public and Private Law Children Act Cases.

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1. The transfer of proceedings between tiers of judiciary (e.g. from Lay Bench to DJ(MC) or District Judge to Circuit Judge) involves a case management decision to be taken by whosoever is charged with the case management of the particular case at the material time. As such the decision must be contemplated by reference to the precepts of the overriding objective, having regard to any welfare issues involved, thus:

- (a) ***ensuring that the case is dealt with expeditiously and fairly***
- (b) ***dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues***
- (c) ***ensuring that the parties are on an equal footing***
- (d) ***saving expense***
- (e) ***allotting to the case an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.***

2. Whenever a transfer is contemplated the starting point will be to consider the Allocation Guidance in order to identify:

- Whether the case is currently before the correct level of tribunal
- If so, why transfer is necessary
- If not, what is the correct level of tribunal
- If transfer is required what are the relevant criteria to be taken into account in re-allocating the case

3. Where any serious doubt arises in dealing with the issues set out at Para 2 above, or where there is a concern with regard to a resource issue impacting on the operation of the overriding objective, the case manager contemplating the transfer decision should consult with the DFJ. In the case that the Lay Bench seeks to transfer a case to the district judge or circuit judge or DFJ, the appropriate course to be adopted is for the case manager (generally the Legal Adviser) to contact the Justices Clerk for initial discussion and referral to the DFJ. In the County Court, a Judge considering transfer from District Judge to Circuit Judge should seek the approval of the DFJ or (in his/her absence) the Circuit Judge to whom a transfer is proposed before making such an order. This paragraph has no application to transfers between Lay Justices or between judges of the same level. Notwithstanding, as a matter of courtesy there should be discussion between the judiciary concerned.

4. Circumstances should never be permitted to arise in which delay is caused by any process of consultation with regard to the question of transfer. In a rare case, where there is an issue of complexity which arises with regard to the question, an application for transfer may be referred as a discrete issue to be determined by the DFJ or as delegated by him, but careful regard must be had with regard to the issue of delay. This facility is to be regarded as primarily available to the Lay Justices, and it is prudent to bear in mind that if the issue of transfer is in reality a complex one, then it is likely that the case itself has sufficient complexity about it to justify a transfer.

5. Any transfer from the Lay Justices to a full time Judge or between levels of Judges should be notified to the DFJ for the purpose of re-allocation of judicial resources. Accordingly, the reason why a transfer has been directed or proposed should always be clearly identified. A transfer decision which has not been reached by the application of the appropriate criteria may be set aside on review and remitted. In order to assist with the process of re-allocation the attached form should be completed by the case manager concerned and sent electronically to the Judge responsible for re-allocation. Currently, responsibility for reviewing transfer decisions is as follows:

- 5.1 Transfer from Lay Bench to DJ(MC) – Justices Clerk
- 5.2 Private Law case from Lay Bench to full time Judge - DFJ
- 5.3 Public Law case from Lay Bench to full time Judge - DFJ
- 5.4 Private Law case from District Judge to Circuit Judge - DFJ or Circuit Judge concerned
- 5.5 Public Law case from District Judge to Circuit Judge DFJ
- 5.6 Private or Public Law case to High Court Judge – DFJ or FDLJ
- 5.7 Private or Public Law case to s.9 List – DFJ.

## **APPENDIX 20**

### **NORTHERN CIRCUIT MONEY LIST**

The Northern Circuit Money List is a specialist jurisdiction for High Court financial remedy cases and cases of lesser value but of technical complexity or long duration making them difficult for the District Judges to accommodate. Cases accommodated in the Money List are heard by High Court Judges or Circuit Judges with appropriate experience sitting section 9 or in the County Court.

The gatekeeper judge for the money list is HHJ Wallwork. In his absence, HHJ Booth and HHJ Bancroft will act as deputies and be available to give allocation directions.

An application for transfer to the Money List can be made to the gatekeeper judge on application or thereafter with information to support the transfer. Normally such an application will be made to the District Judge at the FDA. If thought meritorious it will be referred by the District Judge to the gatekeeper judge by name who will consider the referral and either allocate the case to the Money List and a named judge or return the case to the District Judge and the County Court from whence it came. Applications will be considered from any County Court or from the PRFD. Suitable cases that cannot be tried at a particular location because of the personal circumstances of the parties are also accepted into the List.

*This Note issued June 2013 by Mr Justice Peter Jackson*

*Family Division Liaison Judge for the Northern Circuit*