

Annex to the Practice Direction: Principles of Application

The principles which govern the application of the Practice Direction and Protocol by the Courts and the parties

1 The **Aim** of the Practice Direction and Protocol is to reduce delay and improve the quality of justice for children and families by the following means:

- Proper Court control of proceedings
- Identifying and promoting best practice
- The consistent application of best practice by all Courts
- Providing predictable standards which the Courts will treat as the normal and reasonable approach to the conduct of proceedings by parties

2 In order to achieve the **Aim** the Practice Direction gives effect to:

- A **protocol** which sets out predictable standards as specific steps to be taken in all care proceedings by reference to identified best practice
- An **overriding objective** to provide consistency of case management decisions
- **Court plans** to maximise the use of judicial and administrative resources
- Best practice **guidance**

3 **Court Control:** Proper Court control of care proceedings requires forward planning so that:

- A specialist judiciary is identified and trained
- Arrangements are made for continuous case management in the High Court, and in each Care Centre and Family Proceedings Court
- The arrangements for continuous case management are supervised by the specialist judiciary in conjunction with dedicated court officers, in particular
 - the matching and allocation of judicial and administrative resources to cases; and
 - the allocation and listing of cases,
- There is continuous and active case management of each case by allocated case management judges / benches
- There is continuous monitoring of the progress of all proceedings against target times to help minimise delay

4 Continuity of Case Management: The continuity of case management is to be achieved:

- In the Care Centre and the High Court by a **care centre plan (CCP)**; and
- In the Family Proceedings Courts, by a **family proceedings courts plan (FPCP)**
- By the **identification of the specialist judiciary** and the **dedicated court officers** in the plans

Guidelines for the preparation and implementation of the plans are set out at appendix E to the protocol.

5 Active Case Management: Active case management is to be achieved by giving directions to ensure that the determination of proceedings occurs quickly, efficiently and with the minimum of delay and risk to the child (and where appropriate other persons) by:

- Identifying the appropriate Court to conduct the proceedings and transferring the proceedings as early as possible to that Court
- Identifying all facts and matters that are in issue at the earliest stage and then at each case management step in the proceedings
- Deciding which issues need full investigation and hearing and which do not
- Considering whether the likely benefits of taking a particular social work or legal step justify the delay which will result and the cost of taking it
- Encouraging the parties to use an alternative dispute resolution procedure such as a family group conference and facilitating the use of such a procedure
- Helping the parties to reach agreement in relation to the whole or part of a case, quickly, fairly and with the minimum of hostility
- Encouraging the parties to co-operate with each other in the conduct of the proceedings
- Identifying the timetable for all legal and social work steps
- Fixing the dates for all appointments and hearings
- Standardising, simplifying and regulating:
 - the use of case management documentation and forms
 - the court's orders and directions
- Controlling:
 - the use and cost of experts
 - the nature and extent of the documents which are to be disclosed to the parties and presented to the Court
 - whether and if so in what manner the documents disclosed are to be presented to the Court
- Monitoring the Court's timetable and directions against target times for the completion of each protocol step to prevent delay and non-compliance

6 Standard Directions, Forms and Documents: In order to simplify and provide consistency in the exchange of information: such standard variable directions, forms (appendix A) and standard documents (appendix B) as may be approved from time to time by the President are to be used unless otherwise directed by the Court.

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- 7 Controlling the Use and Cost of Experts:** Expert evidence should be proportionate to the issues in question and should relate to questions that are outside the skill and experience of the Court. To assist the Court in its control of the use and cost of experts a Code of Guidance is incorporated as appendix C to the protocol. The Code of Guidance is to be followed by the parties when a party proposes that the court gives permission for the use of an expert. The Code of Guidance should form part of every letter of instruction so that experts can adopt best practice guidance in the formulation of their reports and advices to the Court.
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- 8 Disclosure:** Disclosure of relevant documents should be encouraged at the earliest opportunity. Where disclosure is in issue the Court's control of the extent of disclosure will have regard to whether the disclosure proposed is proportionate to the issues in question and the continuing duty of each party to give full and frank disclosure of information to each other and the Court.
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- 9 Inter-Disciplinary Good Practice:** The Court's process and its reliance upon best practice should acknowledge and encourage inter-disciplinary best practice and in particular pre-application investigation, assessment, consultation and planning by statutory agencies (including local authorities) and other potential parties (an aide-memoire of local authority guidance is annexed to the protocol at appendix F).
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- 10 Target Time:** The target times specified in the protocol for the taking of each step should be adhered to wherever possible and treated as the maximum permissible time for the taking of that step. Where target times are expressed in days, the days are 'court business days' in accordance with the Rules. Save in exceptional or unforeseen circumstances every care case should be finally determined within 40 weeks of the application being issued. Simpler cases can often be finally determined within a shorter time. Target times should only be departed from at the direction of the Court and for good reason in accordance with the overriding objective.
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- 11 Monitoring and Compliance:** To facilitate directions being given to deal with a change of circumstances or to remedy a material non-compliance at the earliest opportunity the Court should consider requiring regular certification of compliance with the Court's timetable and directions by the parties, for example on interim care order renewal certificates. In addition the Court might consider other mechanisms to monitor the progress of a case without the need for the parties or their representatives to attend Court.
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- 12 Technology:** Where the facilities are available to the Court and the parties, the Court should consider making full use of technology including electronic information exchange and video or telephone conferencing.
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