



Family Department

Pre Proceedings & Care Proceedings

This Guide is not intended to be comprehensive. It highlights and explains some common legal and related issues which may arise in Pre Proceedings and Care Proceedings. It should also help you understand some of the steps we take on your behalf and the terms that we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat advice or information provided in this Guide when writing unless we need your specific instructions on some aspect of it.

What is the Pre Proceedings Process?

Pre Proceedings are entered into when a Local Authority has concerns in relation to the care that a child is receiving. The aim is to try and avoid Court Proceedings. The Local Authority will try to work in partnership with you to assess your needs and to identify what support can be offered with the aim of reducing the concerns. Pre Proceedings will only be entered into when there are no immediate and pressing concerns about the child's welfare.

Upon entering into Pre Proceedings the Local Authority will send you a "Letter Before Proceedings" which you will need to take to your solicitor. This letter will set out

- A summary of the Local Authority's concerns
- A summary of what support is being provided
- What you and any other parent/partner needs to do, how you will be helped to do it and how quickly you are expected to do it.
- Details of when and where the Pre Proceeding meeting will take place.

It is vital that you engage with this process and take it seriously as this is the final step before the Local Authority issues Care Proceedings. If you do not engage, then it could lead to the Local Authority issuing Care Proceedings which in turn could mean that the Local Authority seek to remove your child/children.

What happens at Pre- proceedings Meetings with the Local Authority?

At the first meeting you will discuss the contents of the Pre Proceedings Letter and agree on a plan for the child/children. It will be made very clear at this meeting what is expected of everyone and the timescales for carrying out that plan. Your solicitor will attend this meeting and any future Pre Proceeding Meetings with you.

The plan will then be revised usually within 6-8 weeks to see if things are getting better or if the court will need to be involved. There are generally a number of meetings which your solicitor will attend with you and so it important that you engage with your solicitor at all times.

How long will the Pre Proceedings last?

The Pre Proceedings Process generally lasts up to 6 months although can sometimes be shorter or longer than this.

Will I be entitled to Legal Aid?

Yes as long as you provide your solicitor with a copy of the "Letter Before Proceedings" Any parent who is subject to the Pre Proceedings Process is entitled to Legal Help.

What if the Pre Proceedings do not work?

If the Local Authority decides that progress is not being made or is not being made quickly enough to meet your child/ children's needs then the Authority is likely to issue an application to the court. This is known as Care Proceedings. If this is the case then you should receive a "Letter of Issue" which you must provide to your solicitor to obtain urgent legal advice. This letter will enable a parent to obtain free legal advice and representation throughout the court proceedings.

What are Care Proceedings?

Care Proceedings are when a Local Authority issues an application to a court for a "Care Order" or "Supervision Order". During these proceedings the Court will be asked to look at your child/children's situation and decide if your child/children need a legal Order to keep them safe. At the time of issuing an application to the Court, the Local Authority will file a detailed statement and supporting evidence. This will include details as to why they believe that the child/children are suffering or are at risk of suffering harm along with details of where they believe the child/children should live until a final hearing is heard and the interim contact arrangements. You will be given an opportunity to respond to this evidence in an initial statement which must be filed before the First Hearing.

What is a Care Order and who can apply for one?

A Care Order is an Order which places a child/children under the care of a Local Authority. This Order gives the Local Authority Parental Responsibility for a child/children which means that they can make decisions about the child/children's living arrangements and day to day care without needing the parents' consent. This does not remove a parent's Parental Responsibility however it can mean that the Parents' wishes can be overridden if it is deemed to be in the child/children's best interests.

Under a Care Order, the Local Authority is under a duty to promote the relationship between the child/children and their parents through contact. If a parent does not believe that there is enough contact then they can apply to the court for a Contact order and the decision will be made by the court as to the correct frequency.

What is an Interim Care Order and when can it be made?

If the Local Authority believes that your child/children need to be removed from your care before a final hearing, they will ask the court to make an Interim (temporary) Care Order. There will be a Hearing which you should attend at which the Court will consider the following:

- Whether an Interim Care Order should be made
- Where your child should live pending a final hearing i.e. with you, a family member or in foster care.
- What contact your child/children should have with you and other parties pending a final hearing
- What needs to be done before any final hearing including assessments, reports, statements etc.

If the Court believes that a Care Order is necessary and proportionate then the Order is likely to last for the duration of the Court proceedings.

An Interim Care Order will only be granted if the court feels that there is good reason to believe that the child/children may be or are likely to be at risk of significant harm.

What is a Family Group Conference?

During the Proceedings the Local Authority will arrange a conference so that any family members or friends who wish to be assessed as a potential carer for your child/children can attend. This can also be used to formulate a plan to keep your child/children safe if your child/children remain at home with you.

How many times will I need to attend Court?

There are generally three hearings in Court. These are:

Case Management Hearing

This Hearing must take place within 12 days of the Local Authority issuing its application. The Court will consider what evidence it needs to make a final decision. This will include assessments of the parents and family members, statements, reports etc. It is important that you inform your solicitor of any family members or friends that you would wish to put forward as a carer for the child/children in the event that it is deemed that you cannot care.

Issues Resolutions Hearing

The Court will see if any agreement can be reached by everyone involved in the case including where the child should live, contact arrangements etc. This hearing will identify what the issues are and whether or not any of those issues can be agreed. If an agreement can be reached then it may well be that the Proceedings could be concluded. However if an agreement cannot be reached then the matter will need to be listed for a Final Hearing. The Court will also consider whether any further evidence is required. The Court must be satisfied that it has sufficient evidence to enable final decisions to be made in relation to a child/children.

Final Hearing

This is where final long term decisions will be made by the Court in relation to your child/children including where they will live, what contact they will have with you and other family members and under what Orders. A Final Hearing can vary in length from one day to a number of weeks, dependent upon the number of witnesses to be called, the complexity and issues in dispute.

What orders could be made by the Court?

At a Final Hearing there are several possible final orders that the court can make including:

Final Care Order - This means that your child/children will remain in the care of the Local Authority until they reach 18 years old.

Supervision Order - This means that the Local Authority must advise, assist and befriend you/any carers of the child/children

Child Arrangements Order - This Order would say where your child/children will live and what contact they will have.

Special Guardianship Order - This Order will state where your child/children live. This tends to be made when a child/children is placed with a family member such as a grandparent. It is intended to be a more permanent order as is it generally a very difficult to end/discharge it. This Order gives the Special Guardian Parental Responsibility. It would not remove a parent's Parental Responsibility however it does enable the Special Guardian to make the overriding decision in the event that an agreement cannot be reached between the Special Guardian and the parents.

Placement Order - This is the most serious Order. It would enable the Local Authority to place your child/children for adoption, even if you do not agree, as the court could dispense with your consent if it deemed that the child's/children's welfare demands it.

What does a Final Order Mean?

At a Final Hearing a final decision will be made by the Judge in relation to the long term care of your child/children. The decision will be based upon the Judge considering all of the evidence before the Court including any oral evidence by you and any other witnesses such as the Social Worker. When making a final decision the Court's paramount consideration will always be the child/children's welfare. Any Orders that are made will be deemed final. This means that the court will decide where your child/children are going to live, what contact there should be between you and your child/children and under what order. The proceedings will then come to an end. This decision can generally not be changed save for in very rare circumstances such as an Appeal. You should speak to your solicitor urgently in the event that you feel that there are grounds for appeal as any such application must be made within 21 days of the Final Order.

This Guide is not intended to be comprehensive. It highlights and explains the common legal issues relevant to this topic. It should also help you to understand any steps we take on your behalf and the terms we and other professionals involved in your matter may use. Please read this Guide carefully and contact the lawyer dealing with your matter if you do not understand anything in it. We will not repeat the advice or information provided in this Guide when we meet you or write to you unless we need your specific instructions on some aspect of it.