



PRESIDENT OF THE
FAMILY DIVISION

**Speech of Sir Mark Potter
President of the Family Division**

at the Launch of the Public Law Outline

1st April 2008.

You have heard from the earlier two speakers of the genesis of the new approach to care proceedings set out in the Public Law Outline, and I want to add my own voice to congratulate and thank the various individuals and agencies who have worked together to achieve what I believe to be a model for good decision-making within the Timetable for the Child.

First, my Judicial Review Team of James Munby, Paul Coleridge and Ernest Ryder, who so effectively sized up and set about the task of improving and tightening up the case management process under the existing Protocol for Judicial Case Management in Public Law Children Act Cases.

The resulting PLO –as it is already known- will ensure that judges, magistrates and legal advisers focus upon identifying at an early stage the determinative issues in the case and concentrate on resolving these issues against the background of improved pre-action procedures by local authorities.

The PLO and its supporting detailed Practice Direction set out a streamlined process, which is simpler and will require fewer hearings than the Protocol which it replaces. The Practice Direction stresses the need for cooperation between parties in order to achieve its aim. Advocates' Meetings under the new regime will result in a Draft Case Management Order being provided to the court well in advance of the Case Management or Issues Resolution Hearing. This Draft CMO will be crucial to assist the court to identify the issues in the case and make appropriate directions to ensure their timely resolution.

Since the summer of last year the PLO has been tested in ten initiative areas. Cafcass, Cafcass Cymru, HMCS and the Judiciary formed an Implementation Steering Group which has helped these initiative courts to take on their task and report back to me on progress.

The feedback has been positive and the advantages reported are as follows

- a) By reason of the imperative to file check-list documentation (in the generality of cases) there is front-loading of information and the consequence is that the Court and the Parties are better informed as to the nature of the proceedings, the key issues and the purpose of the proceedings.

- b) In particular, parents faced with proceedings have more realistic expectations as to what the key social work concerns have been, in what respects they have failed to change and what is required of them.
- c) Social Work professionals are now more issue focused and analytical. Social work practice has generally improved by reason of the requirement to provide check-list documents evidencing the fact that they have done the requisite social work prior to proceedings.
- d) Cafcass and Cafcass Cymru Guardians are producing issue-focused reports concentrating on an analytical approach which is child-focused and alerts the Court to the timetable for the child.
- e) Advocates are better prepared in that the information is available for them to co-operate in the analysis of issues and resolution of issues. The Advocates' meeting generally achieves agreement of issues where feasible.
- f) By reason of analysis and a concentration on what can be agreed, there is a saving of resources particularly in terms of Court time. Final hearings are only being listed where there is a real issue to determine.
- g) In consequence delays have been reduced.

I am pleased to see that many of the Judges who were so pivotal to the success of these initiatives are here and I am glad of the opportunity to thank them publicly. They are Margaret De Haas, Janet Case, Judy Moir, David Brunning, John Altman, Linda Davies, Isobel Parry and David Tyzack who are all, I believe, here this evening. Kevin Barnett, Donald Hamilton and Antony Hughes have not been able to attend this celebration, but they are equally due warm thanks.

Cooperation between agencies has been a major feature in the development of the PLO and the Practice Direction. Kevin Brennan has mentioned the revised Section 7 Guidance introduced by the DCSF and Welsh Assembly Government, and I know what good work was done by the DCSF and the Judicial Review Team to ensure that this Guidance and the pre-proceedings stage of the PLO dovetail together to make the best use of resources. Bruce Clark of the DCSF, whose knowledge of child care law and procedure is unrivalled within that Department has been a tower of strength in this respect. I very much hope that this cooperative spirit will continue. The Section 7 Guidance has the PLO annexed to it, and I would encourage all those concerned with care proceedings to familiarise themselves with its provisions.

Warm thanks are also due to the HMCS teams who have worked closely with the judges and DCSF in the preparation of the supporting documentation including the impressive glossy booklet with its two "easy- to- follow" Flowcharts which, between them set out the steps to be taken from the time a child is referred to social services to the conclusion of any necessary care proceedings.

I am particularly grateful to the HMCS legal team and especially to the indefatigable Anne Herd whose drafting skills have produced such a clear and comprehensive Practice Direction, both against the clock and in the face of necessarily changing instructions as the initiatives have progressed.

Sterling work has been done by the trainers of the JSB under Margaret De Haas, the initiative judge in Liverpool, who has also organised and overseen judicial training events. Also by HMCS which have sponsored interagency training on the PLO, in

which Cafcass and Cafcass Cymru, and Children Law UK, have played a prominent part. I have attended several judicial events myself and been impressed by the enthusiasm of the Judges, magistrates and legal advisers who will have a key role in ensuring that the PLO achieves its aim of making the best decisions within the timetable for the child. I have every confidence that they will rise to the challenge.

And now may I introduce you to three members of the Cafcass Young People Board; Jasmin Bailey (Age 17), Ben Hitch (16) and Amy Lloyd (14), who will take over at this point.

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