

## **Work to First Hearing Standard Operating Principles**

### **1. Introduction**

This document sets out the steps to be followed during the work to first hearing (WTFH) process up to allocation for work after first hearing (WAFH), or case closure. Relevant documents include:

- Operating Framework
- Practice Direction 12B (The Child Arrangements Programme)
- Child Protection Policy/Guidance on duties under section 16A Children Act 1989
- Case Recording and Retention Policy
- The Quality Assurance and Impact Framework
- Interview plan for the Cafcass telephone call to both parties in preparing safeguarding letters
- Supporting guidance for WTFH/Outline of expectations of family court advisers at FHDRAs
- The suite of tools for evidence informed practice (although use of tools is not mandatory in EIT)
- Legal resources on 16.4 appointments
- Child Impact Assessment Framework
- Practice Direction 12J/Finding of Fact Hearing Guidance
- Police checks handbook
- Guidance on Special Guardianship applications and identifying parties

### **2. Applications on a C100 form for a Child Arrangements Order (CAO)**

- Screened by Central Intake Team (CIT) Family Court Adviser (FCA) for immediate risks that warrant a referral to the relevant local authority.<sup>1</sup> If a referral is required then the case is processed and transferred to the local team within two hours of the referral being made.
- If the case does not identify immediate risk, then it is processed and transferred within three working days of receipt by CIT.
- Police National Computer checks are commissioned and usually produced within two working days from date of transfer to the local team.
- Checks are commissioned with local authorities for all known current and previous addresses for the children and parties.
- Welcome letters are sent in cases that will proceed to FHDRA, unless to do so would present a risk to a party or child.
- No welcome letter will be sent if the application is without notice and a record should be made on the on the contact log accordingly.

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<sup>1</sup> See the Child Protection Policy.

### **3. Non CAO applications, including applications for leave to apply for a CAO**

#### Specific Issue Orders and Prohibited Steps Orders

- CIT screen the application. If no work is ordered for Cafcass and no safeguarding issues are identified, CIT send the application back to court with an email confirming that we are closing the case.
- Cases are transferred to the local team only if the court has ordered safeguarding or if safeguarding issues are identified for further assessment.
- Checks are commissioned by CIT and welcome letters sent only if the court has ordered safeguarding.
- Cases where safeguarding has not been ordered but safeguarding issues are evident are sent to the local team for decision making regarding welcome letters, telephone interviews and commissioning of checks (checks subject to professional judgement, no consent required).
- Local team files a safeguarding letter if ordered to do so or where work has been undertaken, in accordance with the Reporting to Court policy.

#### Enforcement Orders

- CIT screen the application. If no work is ordered for Cafcass and no safeguarding issues are identified, the application is returned to court.
- Where safeguarding concerns are identified, the case is transferred to the local team for further assessment. No welcome letter is sent or checks commissioned by CIT unless professional judgement determines this is necessary (parties must consent to checks).
- If safeguarding is ordered, welcome letters are sent and checks are commissioned by CIT (no consent needed where this is court ordered).

#### Leave to apply for a CAO

- Where a person needs leave to apply but the court has directed work to be completed by Cafcass, CIT screen the application and send welcome letters and commission safeguarding checks if directed by the court.
- Case is transferred to local team to complete telephone interviews and safeguarding letter.
- If the issue of leave has not been dealt with by the court and no work has been directed from Cafcass, the application is returned to court.
- If a CAO application is made at the same time as an application for leave to apply, checks are not commissioned on any party unless Cafcass has been ordered to complete safeguarding.
- In cases where leave has not been granted but we are ordered to complete safeguarding the letter should be disclosed to the Court only, unless the Court has specifically directed Cafcass to file and serve a copy on the Court and Parties.

## Special Guardianship

- CIT screen the application, which is made on a C1 with a supplementary statement on form C13A. If no work is ordered for Cafcass and no safeguarding concerns are identified, the application is returned to the court.
- Where safeguarding concerns are identified, the case is transferred to the local team for further assessment. No welcome letter is sent or checks commissioned by CIT unless professional judgement determines checks are necessary (consent required).
- If safeguarding is ordered, welcome letters are sent and checks are commissioned by CIT and telephone interviews undertaken with parties.
- If an application is made to discharge or vary a Special guardianship order and the original order was made at the conclusion of care proceedings, the parties to the application will be the same as those who were involved in the care proceedings and so will include the local authority and the child and a guardian will have to be appointed under Rule 16.4. See the Cafcass [Special Guardianship Applications legal guidance](#) for more information.

## **4. Early Intervention Team (EIT)**

Cases transferred from CIT are accepted by EIT and allocated within one working day and reviewed within two working days (with duty systems in place to ensure cases are reviewed if the allocated FCA is absent). EIT complete safeguarding letters in all new CAO applications in accordance with the Child Arrangements Programme.

In cases of abridged notice hearings, the FCA will endeavour where possible to have some information available for the court, and the completed safeguarding letter will be filed 17 working days from date of receipt.

- Outcomes of Police and LA checks are reported on as relevant, checks are recommissioned if needed when new information such as date of birth or spelling of name/alias has been identified.
- Telephone interviews with adult parties are conducted in all cases where a contact number is available, including cases currently open to the LA, using the interview plan for telephone call document.
- Reasonable attempts should be made to obtain contact details (e.g. sending welcome letter, sending appointment letter asking for missing information and speaking with solicitors where available. There is no expectation that FCAs follow up missing information with the court due to the time delays this may create). Where contact details are available a minimum of two attempts should be made to establish contact. Reasonable attempts should be made to contact parties who are in prison by contacting the prison switchboard and asking to speak with the single point of contact for Cafcass.<sup>2</sup>
- If a case is open to the LA attempts should be made to hold a discussion with the social worker.

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<sup>2</sup> More information on the expectation of prisons is set out in HMPPS' [Strengthening Prisoners' Family Ties Policy Framework](#) at sections 4.6 and 5.6.

- Discussions with other agencies such as probation or school can only be undertaken with the consent of the party and should only be considered if the additional information would clarify a risk concern and whether a referral was then needed.
- Postal and email addresses should be checked during the telephone interview to reduce data incidents, including the details of any solicitors instructed by the parties.
- Where a party has not been spoken to, or risk information has not been received, this is reported in the safeguarding letter.
- Information from parties and safeguarding checks is analysed to assess potential risk and impact on the child, using the suite of tools available to FCAs.
- Where the FCA has assessed that it is a low risk case, the low risk safeguarding letter template should be used. For all other cases where safeguarding or welfare issues are identified, continue to use the original safeguarding letter template. The templates can be generated in ECMS.
- Any information reported to court as part of enquiries, including police and LA information, should be proportionate and relevant to the application
- Advice is given to the court, including any potential ways forward as set out in the menu of options in the supporting guidance for WTFH document. If a 16.4 appointment is suggested, a discussion should be held with the manager of the receiving WAFH team prior to the safeguarding letter being filed.
- The safeguarding letter (or updating letter) is not shared with parties where to do so would present a risk to either party or the child. It will be stated in the letter that it has been filed with the court only, and parties notified, with clear reasons given. It may not be appropriate to share the letter where there is an active CP or police investigation which may be jeopardised if shared.
- In all other cases, the safeguarding letter is filed with the court and shared with parties – by email where possible and in all other cases by post - 17 working days from receipt of the application, or at least three days prior to the FHDRA.
- If a party has not been spoken to and their address is not confirmed, the safeguarding letter should not be sent to an unconfirmed address. This prevents the risk of sensitive information being sent to an incorrect address.
- A copy of the safeguarding letter, and contact log, is available electronically for the FCA attending court.
- Where information is obtained after the filing of the safeguarding letter, an updating letter is provided to the court.
- All work is recorded on the contact log in accordance with the Case Recording and Retention Policy.

### Diversity monitoring

Diversity information for the adult and child should be collated during the risk screening telephone interview. Where a safeguarding interview is required to take place at court it is unlikely due to time constraints that diversity information can be collated but the family court adviser should consider if possible asking the party for such information. Child's needs should be added to the case where significant issues are identified.

## 5.0 Work at the first hearing<sup>3</sup>

The court will list the FHDRA to facilitate the attendance of a FCA who will:

- Meet the judge or legal advisor, prior to the case being heard, to agree the work required by the FCA.
- Interview parties separately, where practicable, when the telephone interview has not taken place.
- Depending on local arrangements, consider the suitability for dispute resolution if all safeguarding has been completed and the parties have been interviewed. Parties should be seen separately unless they agree to be in the same room and it is safe to do so.
- In cases of abridged notice hearings, attempt to gain sufficient information prior to the hearing where possible, to assist the court. If an FCA is at court they may be asked for advice by the court but this is limited to the outcome of any checks undertaken.
- Record the outcome of the FHDRA on the contact log and save any interview notes to ECMS, update the FHDRA outcome on ECMS and report back to the EIT administrator for further processing as required.

## 6.0 Work after the first hearing

Cases with further work directed are transferred within two working days to the local team (**see the case transfer process in the Operating Framework**) with the required section of the case plan completed, identifying any outstanding issues from the FHDRA.

## 7.0 Case closure

The case is closed in accordance with the Case Recording and Retention Policy. If parties have not been spoken to, or safeguarding checks are required but not complete, the case is referred to the Service Manager or Practice Supervisor for a decision on closure.

Cases that remain open to Cafcass due to inability to complete safeguarding (i.e. if the court is awaiting the disclosure of a party's whereabouts) and where no future hearing has been set should be closed two months after the FHDRA. A letter is sent to court advising that the case should be sent back to Cafcass for the completion of safeguarding once whereabouts have been determined.

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<sup>3</sup> Please see the 'outline of expectations for FHDRA' document for full details