

BRIDGEND COUNTY BOROUGH COUNCIL
CORPORATE PARENTING CABINET COMMITTEE

31 JULY 2013

REPORT OF THE CORPORATE DIRECTOR - CHILDREN

&

ASSISTANT CHIEF EXECUTIVE LEGAL & REGULATORY SERVICES

The impact of recent changes arising out of Family Justice Review 2011

1. Purpose of Report

- 1.1 To advise the Corporate Parenting Cabinet Committee of the impending changes to the Public Law outline and the impact on the Safeguarding and Family Support Service and the Legal and Regulatory Services.

2. Connection to Corporate Plan

- 2.1 It is a statutory responsibility to safeguard all children living within the county of Bridgend.
- 2.2 Looked after children are a key responsibility for the Council as corporate parents and connect with the theme 'Children Today Adults Tomorrow.'
- 2.3 Corporate Parenting supports the following corporate priorities:
- working together to develop the local economy;
 - working together to raise ambitions and drive up educational achievement;
 - working with children and families to tackle problems early;
 - working together to help vulnerable people to stay independent;
 - working together to tackle health issues and encourage healthy lifestyles.

3. Background

- 3.1 Since the inception of the Children Act 1989, there has been a drive to speed up the Court process behind the application for Care Orders. The rationale for this is that if children cannot be safely cared for at home by their parents and alternative accommodation (and families) are required to be sought for them, the younger the child, the better the outcome.

- 3.2 The Protocol for Judicial Case Management in Public Law Children Act Cases came into operation in November 2003, distilling good practice and focusing on a new approach to case management. At its core was a timetable of 40 weeks in which to conclude care proceedings. By 2006, areas had been identified where it had not achieved its objective and in which practice needs improvement.
- 3.3 Analysis of the causes of delay has revealed a number of exacerbating features. For example, many cases have proved unwieldy through having been brought to court before local authority pre-proceedings work was complete. In others, lack of robust judicial case management led to widespread failure to identify early, and concentrate upon resolving, the determinative issues in the case. It was also clear that children suffered where parents and families were insufficiently engaged in the process both pre-proceedings and during the progress of the case. Acting on those findings, the formulation of streamlined and simplified case management procedures were established which were enshrined in the Public Law Outline (PLO), and supported by a detailed Practice Direction.
- 3.4 The PLO came into force on 1st April 2008; its overriding objective was to ensure that public law cases were dealt with expeditiously and fairly. Whilst the PLO gave a flowchart for the progression of the case, no timetable was enshrined but instead the timetable was set as 'the child's timetable'. The expectation was that cases would go as fast as the child's timetable required it.
- 3.5 As from 1st July 2013 a new, revised PLO is in place in many Care Centres (Courts) across England and Wales and will be in force in Cardiff County Court and Bridgend Family Proceedings Court (the Courts which BCBC uses) as from 1st September 2013.
- 3.6 The Revised PLO has a new flowchart for case progression which is designed to speed up the process for bringing an application for a care order, such that each case must conclude within 26 weeks or less.
- 3.7 The impact upon local authorities in England and Wales is enormous and unprecedented. It demands that local authorities 'front load' the work that was previously undertaken during care proceedings so that, upon issuing their application, a local authority has concluded their assessments and is able to tell the Court exactly what it thinks the child's future care plan should be. The proceedings are then used as a mechanism to check the local authority's care planning.
- 3.8 There will be exceptions of course. Cases where the family were not previously known to social services but who present with emergency situations, such as non-accidental injuries, will not be able to fit into this model and allowances will be made for these cases. However, cases where social services have been working with families, but the level of parenting expected has not been achieved, will need to be fully explored and worked through to the completion of assessments BEFORE care proceedings are issued.

4. Current Situation

- 4.1 From a Legal and Regulatory Services perspective, the Revised PLO comes into force in the Cardiff Care Centre from 1st September 2013, but there is already an expectation that between 1st July 2013 and 1st September 2013 local authorities will take as many of the steps in the Revised PLO as are possible. New Court forms and standard orders are already in place and must be used. The Court Issue Fees have increased from £2,225 per case to £3,320. The fee to list a case for final hearing has increased from £1,900 to £2,155.
- 4.2 In the 2011-12 financial year, the Welsh Government transferred £116,000 into the RSG to cover Court fees. This allocation has not since been increased. The projected spend on Court fees for 2013-14 is £270,000 (£220,000 in 2012-13), more than double the amount BCBC was originally allocated.
- 4.3 The responsibility for case preparation is now placed solely on the local authority. In the past, this was shared between the local authority and the Children's Guardian, who assumed responsibility for the instruction of experts. This has resulted in the level of involvement of the local authority lawyer with conduct of the case being greatly increased. There are more tasks to be undertaken and these must now all be undertaken by the local authority. This means that each lawyer's caseload has to be reduced in order take account of the additional work each case now requires. In the future this may mean that more lawyers are required to maintain the level of service.
- 4.4 The childcare section of the Corporate Team has been understaffed since its return to BCBC in April 2012. There is currently still one vacant lawyer post for which there has been ongoing attempts to recruit to from April 2012 to date. The closing date for the current recruitment process is July 3rd 2013. Experienced childcare lawyers are few and far between and recruiting to posts that are less well paid than neighbouring authorities has proved difficult and time consuming.
- 4.5 Therefore, lawyers in the team have had to carry more cases each and this has resulted in excessive numbers of hours being worked, which cannot be sustained indefinitely and which raises concerns for the wellbeing of staff.
- 4.6 Non-compliance with Court directions will not be tolerated. If directions (orders) cannot be complied with the lawyer has to file an application for permission to have an extension of time. This attracts a fee of £90 and takes the lawyer approximately 3 hours to draft and issue. The number of these applications is running at a high level as social workers fail to comply with court orders. Her Honour Judge Parry has made it clear that she will order wasted costs against Local Authorities who do not comply with court orders.
- 4.7 From a Safeguarding and Family Support Service perspective, the impact of the current changes and impending changes to the Public Law Outline has been profound.

- 4.8 Frontloading of assessments – whereas previously specialist assessments such as psychological, psychiatric, independent social worker, cognitive, PAMS (Parenting Assessment Manual Software, which is an evidenced based assessment developed to assess parents with learning difficulties, developed by Dr. Sue McGaw.), etc. were completed within proceedings and were jointly commissioned between the parties and therefore the costs were also shared, now there is an onus of the local authority that where these assessments are needed, they are completed prior to care proceedings being issued. There has therefore been a sharp increase in the costs incurred within Safeguarding pre-proceedings. For example, a PAMS assessment which is an assessment specifically designed to look at the parenting capacity of parents who may have learning disabilities or difficulties on average cost £4000. Prior to October 2012 none were requested or completed; however since this time there have been approximately 10.
- 4.9 Family Group Conferences/Meetings - there is now an expectation that Family Group Conferences or meetings are utilised pre-proceedings to consider whether the parents and extended family members can work together to identify their own plan of action to safeguard the child(ren). Where possible social workers try to chair a family meeting, but if a formal conference arrangement is required then a specific service would need to be commissioned which costs £1750 per family/conference.
- 4.10 “The Social Worker is the expert” – there is now more emphasis placed on the evidence of the social worker than ever before. The social worker will therefore need to be confident about their assessment, analysis and report writing skills. They need to be particularly adept at ensuring there is clear evidence that thresholds have been met regarding the concerns and that appropriate processes have been followed without delay. They can no longer rely on the evidence of experts. This has been a challenging dynamic, especially as currently within the Safeguarding teams, the average level of experience is now far less than in previous years. For example, this time last year 5 newly qualified social workers were recruited when they finished their studies. This year the figure is 15 and set to increase further. Safeguarding social workers need to be analytical, they cannot simply describe what they have seen, they need to identify what the impact is on the child. For long term neglect cases, this can be particularly difficult as a single event may not be seen as significant and the social worker could be criticised for being overly zealous or judgemental, but the cumulative effect of neglect on a child’s self-esteem, confidence, attachment, education performance, happiness and so on can be profound. Social workers need to ensure that they don’t become reticent or complacent about the impact of neglect and collate the necessary evidence to support the concerns and take action to safeguard the child. There is a danger that has been identified in numerous Serious Case Reviews that the Social Worker has lost sight of the impact on the child and perceived the child’s experience as normal or not bad enough because it has prevailed for a long period.
- 4.11 “An Order is an Order” – Judge Parry in Cardiff County Court has made her expectations very clear. Every party needs to adhere to the order and file any

required reports or statements on time. Anyone failing to comply risks having wasted costs awarded against them. Social workers have struggled to balance all their responsibilities within the time available to them and there have been occasions when reports have not been shared with the team manager and legal services in a timely way because of other competing demands, which in turn has caused delay with the report being filed at court.

4.12 Disclosure of all documents – the local authority needs to file the following documents at the start of care proceedings

- a. Care plan – one for each child within a sibling group
- b. Initial statement
- c. Genogram
- d. Chronology
- e. Core assessment
- f. Viability assessments of any family or friend that parent(s) have suggested could be considered to be an alternative carer.

In addition there are also a number of cases where further additional assessments are required such as: -

- g. PAMS assessment
- h. Cognitive assessment

4.13 All bar the latter two documents are completed by the social worker and signed off by a team manager. In addition the social worker would need to ensure that the file recordings are up to date for each child within the family. This would include:

- a) Case recordings
- b) Core group minutes
- c) Statutory visit records
- d) Strategy meetings minutes
- e) S47 reports
- f) LAC review report
- g) Child Protection conference report
- h) CIN review reports

4.14 All public child care cases to be completed within a 26 week time period as a maximum – this is the maximum period now allowed for care proceedings to be completed in. There are distinct advantages to minimise drift and to try and identify and progress a permanence plan within timescales which are far more conducive to the child. Notwithstanding for the parent who needs to address the concerns and evidence change the timescale is very onerous. The 26 week is from start to finish, therefore the real time for the social worker to assess, review and make final recommendations is much less in order to allow for the other parties – parent(s), extended family members and the Children's Guardian to have time to consider the local authority's final evidence and file their own statements. When the revised PLO arrangements come in on 2nd

September the expectation will shift to expect that most cases are completed in around 20 weeks.

- 4.15 The tighter timescales means that team managers now have more court documents to check and these have to be done within shorter timescales. For example, there are a number of care plans submitted throughout the proceedings to update the court of any changes to the assessment, plan, placement, etc. which all needed to be quality assured to ensure that the proposals for contact, placement, permanence planning are robust.

Actions being taken to respond to these expectations and pressures:

- 4.16 With reference to points 4.9 and 4.10, Legal Surgeries were previously held on a fortnightly basis, but are now held on a weekly basis in response to the demand. These are chaired by the Group Manager for Case Management and the Principal Lawyer. Social Workers present cases where they have concerns that a child protection plan is not working, threshold of significant harm may have been reached and the child is in need of protection – usually by way of removal from the parent(s)'s care. In addition these meetings are used to track progress for pre-proceedings cases. In approximately 50% of cases where pre-proceedings arrangements are followed the result is an improvement in the child's care to the extent that care proceedings do not need to be instigated. Legal surgeries also identify when and if to commission expert assessments. The high cost of PAMS assessment and Family Group Conferences is prohibitive, but if used selectively and effectively they can progress a case more efficiently so that a child's permanence plan can be identified and actioned more quickly. For example children can be signposted for an adoptive placement sooner as care proceedings are concluded more quickly. Further work is needed to look at how to continually improve joint working arrangements with other agencies who have expertise that could benefit the parents such as whether cognitive or drug and alcohol assessments could be completed by colleagues in Adult Services who have the relevant expertise.
- 4.17 With reference to points 4.11 and 4.15, we have completed 3 successful recruitment campaigns this year for Social Workers and taken advantage of employing newly qualified social workers ahead of their qualification being received. They are then able to start work sooner and become familiar with the organisation in their role as a social work assistant.
- 4.18 We have restructured the Safeguarding teams to move from 4 to 5 teams. The new configuration of teams goes live on 8.7.13. This has decreased the number of direct reports for team managers so that they have less staff and cases to oversee which in turn can enable them to have more time to support the staff, check their work and ensure that cases are being managed appropriately. We have increased the number of senior practitioners from 8 to 10 (2 in every team) to support the team and the team manager. They routinely take on the most complex court cases.
- 4.19 We have liaised with our colleagues in the training department to ensure that practitioners undergoing their first 2 years in practice are supported with

training, mentoring and support. We have developed specific training events in relation to the Public Law Outline, giving evidence in court and assessment skills. This training has been identified specifically, but not exclusively, at social workers within the Safeguarding teams as nearly every public law case is undertaken by the Safeguarding teams. However the impact of the revised PLO has also affected other teams such as Fostering and Adoption.

- 4.20 The restructure of the Safeguarding teams was made possible due an increase in the Safeguarding base staffing budget which enabled the permanent appointment of a team manager, 2 senior practitioners and 3 social workers. (Some posts had existed on short term budgets, but the effect in real terms is still positive.). Notwithstanding challenges remain, notably due to increases in the LAC and CP numbers and PLO requirements and the work involved therein, combined with a high ratio of newly qualified practitioners in each Safeguarding team which are effectively incompatible with one another. These social workers cannot case manage child protection, court or complex LAC cases. Ideally they should be honing their assessment skills in their first year before taking on this type of work. Thankfully we have been fortunate to have some excellent practitioners who make up for their inexperience with commitment, enthusiasm and willingness to learn and assist their colleagues.
- 4.21 The Fostering team have also had to respond to the expectations to complete more kinship Form F assessments within these tight timescales. A Form F assessment previously routinely took 4-6 months – these timescales do not fall in with PLO requirements. The number of children being progressed for adoption has increased whilst the number of prospective adopters is falling. This has presented a major challenge as currently in South Wales there is only one adoptive placement available for every 7 children who have been identified as needing an adoptive placement.
- 4.22 Safeguarding social workers now all have laptop computers. This allows them to work from home which can be beneficial and enable them to complete this work uninterrupted. The amount of time spent on the computer is significant, though clearly the worker needs to ensure that they have spent sufficient time with the child, parents, extended family members and other professionals to try to effect change and avoid the need for care proceedings and removal to be considered.
- 4.23 Every Safeguarding team managers has now been provided with large whiteboards in their offices for them to track cases and have a permanent visual display of what needs to be completed and by when. Legal Services are proactive in making the expectations within a court order explicit of who needs to do what by when and helping to chase workers to ensure that things remain on track. In the last 3 years this authority has had no wasted costs awarded against it. I am not aware of any other that has this record, but there have been some near misses.
- 4.24 Assistance from our Business Support colleagues is essential to ensure these records are photocopied and sent to Legal Services. They also have a pivotal role to minute PLO meetings and Legal Surgeries.

- 4.25 Where required attempts are made to provide social workers with protected time where needed to complete these records.
- 4.26 A new database system is currently being commissioned. The present system called Draig has now been in place nearly 10 years and technology has moved on apace. The aspiration for the new database will be to have a system that is more practitioner friendly to make information easier and faster to input and collate. Currently practitioners frequently have to contend with duplication of work. For example when the Integrated Children's System (ICS) was introduced by the Welsh Assembly Government it required local authorities to follow particular pro formas for core assessments and care plans. Neither of these documents is accepted by the courts in Cardiff and Bridgend, therefore practitioners have to complete court versions of these documents. It is hoped that the relaxing of rules about ICS implementation will facilitate a new system where practitioners don't have to do a similar task twice.
- 4.27 As previously mentioned specific training has been identified to ensure social workers, senior practitioners and team managers are all familiar with the expectations upon them. New pro formas for court documents are being designed to assist practitioners provide the relevant commentary succinctly and without duplication.
- 4.28 It is clear that when the local authority is able to file comprehensive evidence at the start of the proceedings, the more straightforward a case becomes from there on in.
- 4.29 Examples of good practice are shared within the Safeguarding teams so that practitioners can benefit from knowing what a good court core assessment or care plan looks like.
- 4.30 In addition the Safeguarding teams are now more proactive in their efforts to minimise drift particularly with young children and babies. Over the past 3 financial years (2010 – 2103) 84 babies under the age of one have become looked after within Bridgend.

2010/11 – 24
2011/12 – 21
2012/13 - 39

- 4.31 43% of babies were removed from the care of their mother within 1 week following birth, 30% have entered care because of concerns about drug misusing parents, 25% due to domestic violence by the father and 33% because of mother's mental illness or depression. It is these kind of situations which require the local authority to act in a robust manner to ensure that the baby is appropriately protected and a permanence plan is identified earlier in their lives. Furthermore, frequently these babies are part of large sibling groups so the care proceedings also need to address the similar and different needs of these children. Out of 84 children, 62 were part of a larger group of siblings; this includes 5 sets of twins. Approximately 50% of mothers of these

babies were under the age of 25. Sadly the number of mothers who have been in local authority care and then had their baby removed has increased. The number of teenage mothers of babies entering care increased during 2012-13 with 12 babies in total taken into care where the mother is aged 19 or under. This compares to 4 during 2011-12 and 2 during 2010-11. This increase can be mainly attributed to the rise in teenage mothers in Bridgend generally and BCBC acting more robustly in relation to child protection concerns. Where possible and appropriate the local authority commissions mother and baby placements to give these young mothers the best chance of being successful parents. Such placements are expensive, but effective to either support the young mother make a move on to independence or identify that this would not be a conducive plan for the child and alternative permanency arrangements need to be identified without delay.

5. Effect upon Policy Framework and Procedure Rules

5.1 None.

6. Equality Impact Assessment

6.1 This has been considered but as there are no new or changed services policy / functions in this report, it is therefore not applicable at this time.

7. Financial Implications

7.1 As detailed above the changes to the Public Law Outline have many advantages, but also incur rising costs which are out of kilter with current budgets and further work is needed to consider the financial implications further.

8. Recommendations

8.1 It is recommended that the Committee note the contents of this report.

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Background Documents:

None