

President's Guidance on Allocation and Gatekeeping for Care, Supervision and other Proceedings under Part IV of the Children Act 1989 (Public Law)

Issued in accordance with rule 21 of the Family Court (Composition and Distribution of Business) Rules 2014

Introduction

1. This Guidance is issued by the President of the Family Division and applies to all care, supervision and other Part IV proceedings commencing on and after 22 April 2014. It is issued following consultation with, and where applicable the agreement of, the Lord Chancellor, in accordance with rule 21 of the Family Court (Composition and Distribution of Business) Rules 2014, and is to be read with those Rules and PD12A (PLO 2014).
2. This Guidance applies to the allocation of all relevant proceedings to judges of the Family Court, including allocation to lay justices working with Justices' Clerks or Assistant Justices' Clerks (referred to in this guidance as "legal advisers"). The purpose of the Guidance is to ensure that all new care, supervision and other Part IV proceedings are allocated to the appropriate level of judge and, where appropriate, to a named case management judge (or case manager) who shall provide continuity for the proceedings in accordance with the President's Guidance on Judicial Continuity and Deployment (Public Law).

Gatekeeping teams

3. Each Designated Family Judge (DFJ) will lead a gatekeeping team in each Designated Family Centre. A gatekeeping team will consist of the Designated Family Judge, his nominated deputy, the Justices' Clerk (or his nominated legal adviser) and an equal number of District Judges nominated by the Designated Family Judge, and legal advisers who will be identified by the Justices' Clerk in agreement with the Designated Family Judge. The number of legal advisers and District Judges is to be consistent with the needs of the business and the expertise of those who are available. Members of the gatekeeping team are referred to in this guidance as "gatekeepers".
4. All applications for care, supervision and other Part IV orders which are received for issue by 4.00 pm will be issued by HMCTS and placed before gatekeepers for their joint consideration on the next working day. Applications that are considered urgent will be allocated to the first available judge of the Family Court (in accordance with rule 16 of the Family Court (Composition and Distribution of Business) Rules 2014).
5. Local Authority applicants are to complete the Allocation Proposal section of the

C110A application form when issuing proceedings. The Allocation Proposal section is to be used by the gatekeepers to record their allocation decision.

6. Members of the gatekeeping team are to be available at fixed times on each weekday to allocate jointly all relevant proceedings that have been issued. It is recommended that if they do not sit together at a fixed time in a court list for this purpose, they have a listed time for discussion between each other, for example, an hour at the beginning of the day. The gatekeepers will have access to information about existing allocated case volumes in the family court to help inform allocation decisions, as well as information about when and where Case Management Hearings can be listed. They will consider the file in each new application that has been issued on the preceding day and any outstanding applications and determine, in accordance with the Family Court (Composition and Distribution of Business) Rules 2014 and this guidance, the level of judge, and where possible the identity of the judge to which the proceedings are to be allocated. They will record their allocation decision on the Allocation Proposal section of the C110A application form.
7. When the allocation decision has been made, the case management judge or case manager will issue the Standard Directions on Issue and Allocation (SDO) in accordance with PD12A (PLO 2014) together with any appropriate Notice of Hearing. Court staff will notify by e-mail the relevant local authority of the date, time, location and identity of the allocated case management judge (or case manager) for the case management hearing and will list the case management hearing before an identified case management judge or case manager in accordance with the guidance of the DFJ and the allocation decision that has been made.
8. If the gatekeepers cannot agree on an allocation decision or they require further guidance, they must refer the allocation decision to the Designated Family Judge or his nominated deputy.
9. An allocation decision made by the gatekeepers does not prevent the possibility of a party to the proceedings making a subsequent application for a review of the decision.
10. If a care or supervision application is issued by a local authority as "urgent" with a request for an early hearing to authorise the removal of a child and permission to abridge time to serve the parties, the application for expedition and any consequential directions will be considered by the gatekeepers. These are exceptional cases which may include newborn babies who are about to be discharged from hospital where the issue of care and supervision order applications is part of planned pre-proceedings involvement with the family. In all other cases where there is an identified real and immediate safety risk to the child, the expectation is that an application will be made for an Emergency Protection Order.

This Guidance does not affect the existing procedures for dealing with Emergency Protection Order applications.

11. The Designated Family Judge shall monitor the allocation and gatekeeping process with a consultation group comprising: a Circuit Judge, a District Judge, a District Judge (Magistrates Court), the Justices' Clerk or his nominated deputy, a legal adviser and two members of the administration in the Designated Family Centre. The consultation group will meet at least once a month to identify any allocation questions upon which the advice of the Designated Family Judge or the Family Division Liaison Judge is required to ensure that there is consistency of allocation, effective use of resources and the identification of specific questions, the answers to which will be used as local guidance by the gatekeepers.

Principles

12. Allocation decisions must be made in accordance with the Family Court (Composition and Distribution of Business) Rules 2014.
13. This Guidance is consistent with those Rules, the guidance issued by the President of the Family Division in accordance with PD12A (PLO 2014), and decisions of the superior courts. It is intended to reflect the wide variation in the level of experience and expertise in the Family Court. Cases should be allocated to judges (including lay justices) and case managers with the appropriate level of experience to ensure that judicial resources are used most effectively.
14. In determining allocation, the gatekeepers shall consider each application having regard to the information provided on and with the C110A application form and shall determine the appropriate level of judge of the Family Court, in accordance with the requirements of rule 20 of the Family Court (Composition and Distribution of Business) Rules 2014:
 - (a) the need to make the most effective and efficient use of the local judicial resources that is appropriate, given the nature and type of application;
 - (b) the need to avoid delay;
 - (c) the need for judicial continuity;
 - (d) the location of the parties or of any child relevant to the proceedings; and
 - (e) complexity.
15. In the Family Court, no distinction is to be drawn between proceedings which may be heard by District Judges and District Judges (Magistrates Courts) ('judges of 'district judge level'). There is an expectation that judges of district judge level will

assume personal responsibility for all case management hearings in proceedings allocated to them, in accordance with the President's Guidance on Judicial Continuity and Deployment (Public Law).

Allocation Guidance

16. The factors set out at paragraph (14) above, include at (a) the judicial and HMCTS resources available in each court location, at (b) the needs of the parties to ensure that cases are listed before the appropriate level of judge with the minimum of delay, so that all proceedings are heard within the Timetable for the Child and within a maximum of 26 weeks or any extended Timetable for the Proceedings, as directed by the case management judge, at (c) the President's Guidance on Judicial Continuity and Deployment (Public Law) and at d) a location that is suitable for the parties, particularly if special requirements or circumstances exist.
17. The schedule to this Guidance sets out matters which are likely to be relevant to the consideration of the "complexity" factor referred to at paragraph (14)(e) above..
18. Subject to the guidance given below, all care, supervision and other Part IV proceedings may be heard by any judge of the Family Court (including lay justices) who has been authorised or nominated to conduct care and supervision proceedings and may be case managed by any judge or legal adviser who has likewise been authorised or nominated.
19. It is not expected that proceedings described in the schedule to this Guidance will be allocated to lay justices or the legal adviser acting as their case manager unless specifically approved by the Justices' Clerk (or his nominated deputy) in consultation with the Designated Family Judge. There is also an expectation that magistrates will not hear any contested hearing where the ELH is in excess of 3 days without the same having been approved from time to time by the Justices' Clerk (or his nominated deputy) in consultation with the Designated Family Judge.
20. It is expected that proceedings described in column 1 of the schedule to this Guidance will be allocated to a judge of district judge level .
21. It is expected that proceedings described in column 2 of the schedule to this Guidance will be allocated to a judge of circuit judge level or a judge of High Court judge level and will not be allocated to a judge of district judge level unless specifically released by the Designated Family Judge or one of his nominated deputies.
22. Proceedings described in paragraph H of column 2 of the schedule to this Guidance are to be issued in the Family Division of the High Court of Justice.