JUDICIARY OF
ENGLAND AND WALES

Midlands Circuit - Practice Note - Public Law

21st May 2026

Introduction

1. This practice note is intended to guide local authorities, practitioners and professionals on the expectation of the Family Court on the Midlands Circuit. It has been written by the Family Presiding Judge ("FPJ") in collaboration with the Midlands Designated Family Judges ("DFJs"), but draws heavily on the practice note published by Henke J on the South East Circuit (South) on 12th November 2025. It has been endorsed by the President of the Family Division.

2. This practice note replaces all previous local practice directions that have developed in relation to public law proceedings on the Midlands Circuit.

3. The note is based on the Public Law Outline ("PLO"), FPR rr.12.22-30 and PD12A.

4. All parties are reminded of their duty to help the court further the overriding objective – FPR r.1.3.

5. All parties are required to have regard to all other relevant rules and practice directions, any Guidance issued by the President from time to time and Mr Justice Keehan's 'Ten Principles'[i].

Context

6. Post-COVID, the Midlands Circuit has made enormous progress in reducing backlogs and minimising delay for children and their families. The average case duration for public law proceedings in December 2025 was 27 weeks. The progress we have made is due to the hard work and commitment of everyone across the family justice system. That progress is however fragile.

7. Public law receipts are steadily and persistently climbing with the result that the number of open cases has been increasing month upon month since March 2025. Against that backdrop, the Midlands Circuit has been allocated a reduced number of family sitting days for the sitting year 2026-27, which will significantly strain judicial resources within the courts. Much within this Practice Note will be very

familiar. However, given the pressures which are again growing within the system, this is an opportune moment to re-focus our energies on ensuring cases are fairly and justly but effectively and proportionately managed in the child's best interests.

8. We have a joint responsibility to minimise delay for all children. If one case is unnecessarily delayed or allocated a disproportionate share of our limited resource, it causes unfair prejudice to other children and families within the system.

Pre-proceedings

9. Key to ensuring the timely resolution of public law proceedings is the effectiveness of the pre-proceedings process, and ensuring due respect is afforded to pre-proceedings work in any subsequent court proceedings. Prior to issuing care proceedings, local authorities should ensure the following work is completed:

   i) Cognitive/neuro-diversity/psychological assessments of the parents if the social worker deems such assessments to be **necessary** in order to ensure they are working with and supporting the parents effectively.
   ii) Parenting assessments.
   iii) Assessment of the child's needs.
   iv) Help to access support services.
   v) Referrals to external agencies to provide intervention and support on issues of parenting, housing, domestic abuse, substance misuse, and mental health vulnerability.
   vi) Family meeting to explore the wider kinship support network and to consider both what support they can provide to help keep the children safe at home, as well as their suitability to provide alternative care if needed.
   vii) At the least, initial viability assessments of potential kinship carers.

10. To give greater visibility to pre-proceedings work, the evidence in support of the application must include a completed pre-proceedings record. It is helpful if this forms a separate document so it is immediately visible to all parties and the court. This should detail:

   i) Any previous court proceedings, including the findings contained within any previous judgments;
   ii) All assessments concluded pre-proceedings and their recommendations;
   iii) All support/interventions that have been offered to parents pre-proceedings and the outcome;
   iv) The outcome of the family group meeting, including support available from kinship carers and the outcome of assessments as alternative carers.

11. In addition, the initial SWET should have annexed to it a *support, intervention and assessment plan* setting out in focused terms the social worker's plan for any further work and assessment with parents or connected carers within the proceedings.

12. Where assessments have been completed pre-proceedings, further assessments will only be permitted by the court if it can be cogently demonstrated such assessments are *necessary* to dispose justly of proceedings. Generic arguments that contend pre-proceedings assessments lack fairness and independence will not suffice.

The Public Law Outline:

13. It is vital that the PLO operates as it was intended. Proceedings must be issued promptly after a decision has been taken to issue.

14. A properly pleaded and evidenced threshold, fully compliant with *Re A (A Child* 2015 EWFC 11, must be filed upon issue. Remember that the threshold is the gateway to the court's welfare jurisdiction. It should be clear, concise and easily comprehensible to all parties. The allegations relied upon should be sufficient for threshold to be crossed, but otherwise focused on that which is necessary and proportionate.

15. Most cases should require no more than 2 or 3 hearings per case. The Case Management Hearing ('CMH') and the Issues Resolution Hearing ('IRH') provide the essential core. Every hearing must be effective. There will be robust case management at each hearing.

Urgent Hearings

16. Urgent hearings must have a genuinely urgent issue which needs the court's determination before the CMH. All local authorities must comply with the Family Court Short Notice Applications Guidance issued by the President, which may be supplemented by local guidance agreed between the Court, relevant local authorities, and the gatekeepers at Court.

17. Urgent hearings must not delay the CMH, which must be listed as soon as the proceedings are issued or at the conclusion of the urgent ICO hearing.

18. When listed, the urgent hearing must be used purposefully and for the reason it was listed. Adjournments of urgent hearings to allow for the filing of further evidence or to allow additional oral evidence should be exceptionally rare.

19. The court will be rigorous in policing the question of urgency. Where an application is not, in fact, demonstrably urgent, the court will refuse to hear it as such, and it will be listed with a fixture in the ordinary way.

<u>The Case Management Hearing</u>

20. The CMH will be listed not before day 12 and not later than day 18. On the Midlands Circuit we count these as actual days not business days, although it remains open to an individual DFJ to take a different approach.

21. To ensure the CMH hearing is effective and purposeful there must be an Advocates' Meeting no later than 2 business days before the CMH. At the conclusion of the Advocates' Meeting, the child's solicitor must file the minutes of the meeting in the prescribed form by no later than 11am on the business day **before** the CMH. The Local Authority must file a draft Case Management Order ("CMO").

22. The gatekeeping order must be complied with by ***all parties***. The court requires the parents' response to threshold and separate response documents to be filed and served in good time to enable the Advocates' Meeting and the CMH to be effective.

23. The threshold response document must include a full response to the pleaded threshold, and specifically set out whether the parent accepts the threshold is crossed. Any application for extensions of time to respond to threshold will need to be specifically justified given the crucial importance of this document to effective case management at the CMH.

24. The parental response should include as a minimum:

    a. a response to the local authority's evidence to date;
    b. the parent's proposals for the placement of the child both in the immediate and the long term;
    c. the identity and contact details (phone number, address and email address) of any proposed alternative carer.
    d. where a family group conference (FGC) has not yet taken place, whether they agree to a FGC taking place
    e. If the father of any of the children is not yet joined as a party to these proceeding, or they believe the local authority may not have his contact details, the name, date of birth and all contact details that they are aware of in relation to that father, including where possible his parents' details, and any workplace that may assist in finding him, together with details of when he last saw the child[ren] and his involvement in their life.
    f. Identification of all or any experts for which permission to instruct will be sought.

25. At the CMH the court will draw up the **child's timetable for proceedings** with a view to resolving the application without delay and in any event **and as a maximum** within 26 weeks, beginning with the day on which the application was issued. When drawing up the timetable the court, will in particular have regard to –

    a. the impact which the timetable or any revised timetable would have on the welfare of the child to whom the application relates; and

    b. the impact which the timetable or any revised timetable would have on the duration and conduct of the proceedings.

26. If pre-proceedings work and assessment has been completed in accordance with this Practice Direction, the majority of cases should be capable of rapid resolution well within the PLO timetable. All parties are reminded when setting the child's timetable that the state's intervention into the life of the child starts not at the doors of the court, but when the local authority takes its first protective steps.

27. The Case Management Order setting the child's timetable must contain the warning that the IRH can be utilised as a final hearing and that final orders can be made at the IRH in the absence of the parties.

Issues to be considered at the CMH

a) Threshold

28. In most public law cases, the s.31 threshold criteria does not require a contested hearing, yet in many cases threshold remains unresolved until very late in the proceedings. All parties and the court have a responsibility to resolve or at least narrow threshold issues (where appropriate) before or at the CMH. The Advocates' Meeting held prior to the CMH offers an opportunity to consider a suitable threshold document for judicial consideration. When proper responses have not been filed, the parties may be expected to remain at court on the day of the CMH until threshold has been resolved. If it is accepted that the threshold is crossed, and there is some relevant dispute as to the exact remit of the threshold, that should be clearly recorded in the court order.

b) Parenting Assessments

29. The local authority will have filed and served a support, intervention and assessment plan on issue. In those relatively unusual cases where there has been no previous local authority involvement, the local authority will be directed to file and serve a Parenting Assessment Plan ("PAP") not less than 7 days before the CMH. If a

parenting assessment is to be conducted during the proceedings, the plan must set out why the assessment is required, what the focus of the assessment is, the timeline (dates of meetings) and the expectation of the parents. Any party seeking to challenge the PAP or place an alternative plan for assessment before the court, including any Part 25 applications for experts, must make their application not less than 24 hours before the Advocates' Meeting.

c) Initial Viability Assessments

30. Alternative carers must be identified and assessed at the earliest opportunity, including in pre-proceedings. Early Initial Viability Assessments ("IVAs") mean that cases are concluded more quickly.

31. The local authority should already have convened an effective Family Meeting prior to issuing its application. In those cases with no prior local authority involvement, a Family Meeting must be convened within 14 days of issue to ensure that individuals who may support the family or may be assessed as alternative carers are identified.

32. Parents will be told by the court that a failure to identify potential carers early may result in those people not being assessed because of the resulting harmful delay in planning for the child's future.

33. A parent putting forward an alternative carer must provide full names, addresses, telephone number and email address and have spoken to the proposed carer in advance.

34. The local authority will complete the IVA within 14 days of having been provided with full alternative carer information (or if removal from home is sought then more promptly), unless the court directs otherwise.

35. The expectation is that the Family Meeting will have identified any potential alternative carers and the IVAs completed prior to issue or be near completion at the point of CMH. The court will not ordinarily require the local authority to undertake more than 3 IVAs at any one time.

36. Family or friends seeking assessment beyond the CMH will be required to make their own C2 application supported by a statement setting out the reasons for the delay, why they say they are a realistic placement option for the child and why it is therefore *necessary* to extend the child's timetable to permit assessment.

37. The local authority is reminded that it is the court's timetable for the child, and they should not take any step that means they cannot comply with the court's directions for the filing of final evidence without returning the matter to court for judicial determination.

d) Full Assessments (Connected Person/Special Guardianship Order ("SGO")/Child Arrangements Order ("CAO"))

38. The Family Meeting should identify no more than two preferred connected persons to go forward for full assessment assuming the IVAs are positive.

39. Full assessments will begin immediately on completion of a positive IVA and will be completed within a **maximum** of 12 weeks of the IVA commencing. Full assessments should be completed on an 'all orders' basis (kinship foster care, SGO, CAO) so that all options remain available to the court.

40. DBS checks should be requested as soon as a positive IVA is completed.

41. The local authority should make it clear to the person being assessed that they must cooperate with DBS requirements (including identity checks) within a short period of time. If they do not, the court should be asked to consider whether the assessment should continue. The same applies to medicals and references. Any delays being caused by external agencies or individuals should be immediately referred to the court.

e) Whether a Finding of Fact Hearing ("FFH") or Split Hearing is Necessary

42. The question of whether a FFH is held as part of public law proceedings is a case management decision for the court.

43. The legal principles to be applied when making that decision are as set out in *A County Council v DP* [2005] EWHC 1593 as approved and developed in *H-D-H (Children) (Practice Note)* [2021] EWCA Civ 1192. Recently in *G (A Child) (Scope of Fact-finding)* [2025] EWCA Civ 1044, the majority of the Court of Appeal held that decisions about the scope of FFHs were core case management decisions which would be upheld on appeal unless it was shown that something had gone badly wrong with the balancing exercise.

44. Split hearings, including FFHs cause unacceptable delay. Split hearings should only be reserved for genuine single-issue cases, or where the welfare planning cannot be concluded without a determination of core disputed facts. A decision to direct a split hearing must be reasoned and those reasons must be recorded on the face of the order.

45. A split hearing is only justifiable where the delay caused is in furtherance of the overriding objective. Unless the delay is reasoned, the inevitable delay is wrong in principle.

f) Determining which Experts (if any) it is Necessary to Instruct to Decide the Issues in the Case Justly

46. Section 13 of the Children and Families Act 2014 and FPR Part 25 apply to the instruction of experts. A party cannot instruct an expert in proceedings concerning children without the prior permission of the court.

47. An expert will only be ordered where it is necessary to assist the court to resolve the proceedings justly.

48. It is important when applying to instruct an expert to follow the procedural requirements. The court cannot consider the relevant factors as set out in the legislation without the detail of the identity of the expert, cost and timescales.

49. The court when deciding whether to give permission to instruct an expert must have regard to: i) the issues to which the evidence will relate; ii) the questions the expert is required to answer; iii) the impact of the instruction on the timetable, duration and conduct of the proceedings; and iv) the cost.

50. Parties are reminded that the court's permission is required for an expert to attend a hearing to give oral evidence and such permission will not be given unless it is necessary to do so in the interests of justice. It is therefore essential the procedural requirements for putting proportionate written questions to the expert within ten days of the date of service of the report is complied with.

Further Case Management Hearings

51. A FCMH is the exception not the rule and will only be listed if it is necessary to do so. A FCMH must not be regarded as a routine step in the proceedings (see PD12A para 2.6).

Extending the Statutory Time Limit

52. An extension to the statutory time limit (26 weeks) may be necessary to enable the case to be resolved justly (s.32(5) Children Act 1989) but ***extensions are not to be granted routinely*** and require specific justification.

53. Applications for an extension should, wherever possible, only be made so that they are considered at any hearing for which a date has been fixed or for which a date is about to be fixed.

54. The decision to extend the timetable and the reasons for doing so should be recorded in writing in the CMO and orally stated in court (see PD12A paras 6.2 and 6.3).

55. If the child's timetable is to be extended beyond 32 weeks, notification, with reasons, should be given to the DFJ.

The Issues Resolution Hearing/Early Final Hearing

56. Before the IRH/EFH, advocates must have an Advocates' Meeting at which they will identify: the key remaining issues to be resolved or narrowed at the IRH/EFH; what further evidence is necessary to enable those issues to be narrowed or resolved at the IRH/EFH; the evidence that is relevant to the issue(s) in dispute; and the witnesses required at any final hearing.

57. An Advocates' Meeting can only be effective and consider the issues in the case if prior to it taking place all the evidence has been filed and the Guardian's final analysis is available.

58. The IRH /EFH will in most cases take place no later than week 19.

59. **Robust case management at the IRH can avoid stress and delay for children, their parents, and their carers. The court will *not* simply accept that the case is said to be contested. Waiting for a contested final hearing is *not* welfare neutral for the child. The parties should expect the court to give firm judicial indications (with the usual caveats). The IRH is *not* a prelude to a final hearing, and it is *not* simply a Pre-Trial Review ("PTR"). IRHs will usually be listed for 2 hours unless directed otherwise to facilitate robust case management and the narrowing /concluding of issues.**

60. The expectation of the court is that proceedings will conclude at the IRH/EFH. If the threshold cannot be resolved by agreement, at the IRH/EFH the court will scrutinise the admitted evidence and determine whether the threshold condition is met and whether it is necessary to determine any other issues (see *Re D (Threshold Findings and Final Orders at IRH)* [2025] EWCA Civ 1362 and *Re H (Final Care Orders at IRH)* [2025] EWCA Civ 1342). The court will also consider the permanence provisions of any care plan and the issue of contact (see ss.31(3A), 31(3B) and 34(11) of the Children Act 1989). At the IRH/EFH, narrow disputed issues (threshold and/or welfare) will be dealt with by submissions or the hearing of oral evidence, where necessary.

61. There is a responsibility on all parties, but particularly the guardian, to raise any issues of concern with the final care plan *as soon as it is filed* to enable the local authority to take immediate steps to address those concerns prior to the IRH.

62. When a case is listed for final hearing:

a. The contested issues must be clearly identified.

b. The witnesses required to determine the issues must be identified.

c. A fully completed witness template must be approved by the court. The witness template must set out the issue to which the witness required to attend is relevant and include an accurate time estimate for each witness.

d. The time estimate for the final hearing must be proportionate to the issues in dispute and include time for judgment preparation.

e. The court's permission is required for an expert to give oral evidence at the fact-find/final hearing. A formal application setting out why such evidence is necessary must be filed in advance of the IRH/PTR.

f. The DFJ must be consulted on any listing for a fact-find/final hearing that exceeds 5 days. It remains open to a DFJ to require listings of more than 3 or 4 days to be referred to them, depending on local policy.

63. Cases will not be listed for final hearing until after the IRH/EFH unless they are genuinely exceptional and complex.

Bundles

64. PD27A applies to the bundles which must be prepared for the hearing whether the case is proceeding in paper form or electronically.

Compliance

65. Every practitioner has a duty to help the court to further the overriding objective. Every practitioner, professional and witness has an obligation to comply with case management directions. The guardian is the voice of the child and has a particular responsibility to ensure the child's timetable is complied with.

66. Where there is non-compliance, the parties have an immediate obligation to actively engage with each other to resolve the breach and discuss propose directions in order to ensure that each hearing remains as listed and is effective. That may, for example, include a revised draft timetable. Where re-timetabling is sought (by consent or otherwise) a C2 application must be made at the earliest opportunity on FPL and include a draft order as well as an explanation for the default. Where a consent order is lodged with a C2 the party first in default should make the application and pay the fee. Such an application is to enable re-timetabling within the overarching timetabling by the court. It does *not* permit any party to extend the statutory

timetable by consent or to seek to re-timetable overarching timescales set by the court.

67. If non-compliance and any proposed re-timetabling jeopardises the effectiveness of the next hearing, the matter must be urgently restored to court by way of a C2 application or in accordance with non-compliance procedures within the particular DFJ area.

Final hearings

68. All parties are reminded of FPR 2010 r.22.1 that it is for the court to control the evidence by giving directions as to the issues on which it requires evidence, the nature of the evidence it requires and the way in which the evidence is to be put before the court.

69. The time estimate must include adequate time for the preparation and hand down of judgment.

FPL

70. FPL must be used by all parties as the means of communicating with the court. The practice, save in emergency situations, of emailing a judge / the court must stop as it unnecessarily increases email traffic.

Ms Justice Harris DBE

Presiding Family Judge of the Midlands Circuit

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[i] **TEN PRINCIPLES**

1) Pre-proceedings assessments must remain valid and should not be repeated during care proceedings unless there are compelling and justified reasons to do so. It is a key means by which proceedings can conclude quickly.

2) Following Pre-PLO support and assessments, the court will expect the Local Authority to be prepared to file and serve their final evidence promptly, typically within two weeks. Additional assessments often delay welfare decisions for the child, so any further assessment must be necessary rather than merely beneficial.

3) It is crucial that parents are asked to identify realistic kinship or alternative carers for the child during the Pre-PLO phase. This process should also be undertaken or

revisited at the Case Management Hearing (CMH). Family conferences play an important role in identifying kinship or alternative carers and should be encouraged both before proceedings and during them. Parents should be reassured that early identification of kinship or alternative carers does not weaken their case to care for the child. However, late identification risks the carers not being assessed or considered within the child's required timeframe.

4) Urgent or short-notice applications prior to the CMH (such as Interim Care Orders for removal) should only be made in genuinely urgent situations and must be supported by strong reasons for urgency. It is the court's responsibility to determine the urgency and whether the matter should be heard before the CMH. Urgent hearings must not delay the CMH. Applications made during business hours requesting a same-day hearing, or those made out of hours, will only be considered urgent if an order is needed to regulate the situation between its making and the next ordinary listing. Cases that do not meet urgency criteria will be declined and scheduled through the ordinary listing process. The court will strictly refuse to hear cases that fail to meet urgency standards. Applicants must justify urgency with evidence, including a statement explaining the urgency and a draft order conforming to the President's standard format.

5) Every hearing must be conducted effectively with robust case management. The overriding objective of the Family Procedure Rules (FPR) r 1.1 is to enable the court to deal with cases justly while considering welfare issues. Justice includes ensuring cases are handled expeditiously and fairly, proportionate to their nature and complexity, with parties equally positioned, minimizing costs, and appropriately allocating court resources (FPR r 1.1(2)). The court must advance this objective through active case management, encompassing all factors detailed in FPR r 1.4(2)(a)-(m).

6) 'Nothing else will do' is NOT a legal principle and is NOT a substitute for undertaking a comprehensive and holistic assessment of the future welfare best interests of a child and the placement which best meets these needs within the child's timeframe.

7) Part 25 applications MUST be filed and served in advance of the CMH. The court MUST stringently apply the test of necessity for the appointment of an expert. After a reduction in the number of experts being instructed, the numbers are increasing • A party must give compelling reasons why an application for an expert (if necessary) cannot be made at the CMH. The guidance on the limitations on the instruction of and use of intermediaries must be followed assiduously.

8) ROBUST case management of the IRH can avoid stress & delay for children & parents. The court should NOT simply accept that the case is said to be contested. Waiting for a contested FH is NOT welfare neutral for the child. The parties should expect the court to give firm judicial indications (with the usual caveats). The ISSUE RESOLUTIONS HEARING is NOT a prelude to a final hearing and it is NOT simply a pre-trial review hearing. For an EFFECTIVE IRH to take place the hearing should be listed for 2 hours. All advocates MUST be fully prepared to enable the case to conclude at the IRH. It should not be assumed that a final hearing will be necessary. It should NOT be assumed that oral evidence is

necessary and/or proportionate to resolve contested issues – they may be capable of being resolved at the IRH on the basis of submissions.

9) Non-compliance with orders MUST be notified immediately to the court by any party and MUST be remedied by the parties submitting a draft consent order to the court which does not adversely affect the timetable for the resolution of welfare decisions. The court may prefer to list the matter for an urgent non-compliance hearing, especially if the court wishes to impose a stricter timetable than the parties have agreed.

10) There SHOULD be no more than 2 or 3 hearings per public law proceedings which MUST conclude (where it can be done justly) within 26 weeks in accordance with the overriding objective. Where a care plan provides for rehabilitation of a child to the care of their parent(s) but a prolonged period of treatment, therapy and/or assessment is required, the court should consider making a final care order which the LA or a parent may seek to discharge at the appropriate time.