Reducing unnecessary delay in care and supervision proceedings

Overview

This guidance, published by the Ministry of Justice (MoJ), is for the organisations involved in care and supervision proceedings – Her Majesty’s Court Service (HMCS), local authorities, Cafcass, and the Legal Services Commission (LSC). Nine regional seminars attended by stakeholders earlier this year endorsed the need for agencies to work more closely together to reduce delays. The guidance sets out a framework for establishing local performance improvement groups to address unnecessary delays. It includes proposals for terms of reference, performance measures and membership. The MoJ will support this process by providing management information and advising on good practice through a National Performance Partnership. The guidance supplements existing inter-agency guidance and the Public Law Outline practice direction. It falls within the wider context of the Family Justice Review and other reforms relating to Cafcass and social work training.

A range of measures to streamline and improve outcomes in care proceedings have been made in recent years, however the increase in applications, influenced by the death of Baby Peter, has brought additional urgency to this issue. The guidance includes testimonials from areas where joint arrangements have proved effective. Where local areas do not already have performance oversight arrangements, the proposals for local improvement groups are a low-cost way of identifying and resolving some of the reasons for delays, although, of course, they will not be able to address the problems that stem from insufficient resources.

Briefing in full

Background

The guidance describes how there has been an unprecedented rise in the level of care order applications over the last twenty months, resulting in pressure on agencies and delays in legal proceedings, with some cases taking over a year to resolve. These delays are extremely detrimental for the children and young people involved. The length and scale of delays vary between areas.

The guidance indicates that no single agency is responsible, rather there is a complex range of factors such as unnecessary commissioning of expert reports, delays in receiving reports, late identification of family members, and limited availability of parties, including Cafcass guardians, to attend sittings.

Lord Laming’s 2009 report, The Protection of Children in England: a progress report, recommended an improved cross-system approach. Subsequently, a suite of national performance indicators to measure performance in each of the key agencies was developed. The proposal for local performance improvement groups aims to supplement these measures by building on local knowledge to identify the reasons for delays, address these, and monitor progress.

Suggested framework – key features

The guidance suggests that there should be membership from each of the key organisations (listed in overview, above) except for the LSC which would have virtual membership, attending a local group if required. Members should have the authority to make decisions regarding
resources, policies and practice. Suggested members from the local authority are the heads of legal services and safeguarding. Beyond the core membership, others may attend if required, e.g. representation from drug and alcohol teams, the police, or child and adolescent mental health services. The group would need to determine how best to involve local judiciary. The HMCS has offered to organise and chair the inaugural meetings, which will subsequently need administrative support from local partners.

In terms of catchment area, the guidance envisages a group for each care centre in England. Areas where there are many local authorities to a centre may need more than one group; however, the opportunity to meet to share good practice would promote better and more consistent outcomes. The group should engage with existing mechanisms such as local safeguarding children boards. The guidance acknowledges that groups with a similar purpose may already exist, but promotes the value of a meeting specifically focused on addressing delays; the improvement group could become a subgroup of an existing structure or a refocused group if appropriate. Topics the group would examine include:

- how local authority legal and children’s services implement the pre-proceedings process together
- how the LSC can work with children’s services to promote the use of level 2 pre-proceedings legal advice
- agreeing inter-agency protocols and improving communication on case managing and listing cases
- increased understanding, shared training, and benchmarking.

The guidance suggests that the group might meet every quarter after the performance information is issued by MoJ. The local authority indicator is based NLs 60 and 200 – the percentage of core assessments carried out within 35 days and the percentage of applications of care and supervision orders with a core assessment. Groups are ‘invited’ to collate brief quarterly performance progress reports.

A National Performance Partnership will bring together family justice agencies, policy makers and the judiciary to coordinate activity, establish a national direction, and support local groups. Membership includes representatives from the MoJ, DfE, LSC, HMCS and the Association of Directors of Children’s Services.

**Comment**

There has been increasing concern about delays to the care proceedings system in recent months. In October, Sir Nicholas Wall, president of the Family Division of the High Court gave evidence to the Commons Public Accounts Committee on the increased demand on Cafcass services. As well as commenting on the work of Cafcass, Sir Nicholas pointed to the variability in local authority assessments. He claimed that where assessments are done well and the care plan is appropriate the case will proceed relatively smoothly, but delays are caused when these documents are inadequate and have to be re-done. There is often a link between poor quality of assessment and areas of social deprivation where there is considerable pressure on services. Sir Nicholas said, ‘anything the government can do to improve the lot of the social worker, and to raise the profile of the social work profession, would be greatly welcomed by the judiciary, because we are dependent on social workers for the competence of the work they do.’

Barnardos has also highlighted the extent of and variation in delays in Wales. HMCS data revealed 836 cases waiting in Welsh courts at the end of 2009, 71% more than in 2008 (488). Children are waiting between 47 and 59 weeks in possibly unsuitable family homes or emergency foster care before a decision is made. Barnardos points to additional expert assessments being routinely ordered and lack of credence given to social workers as some of the causes for delays. It recommends fast-tracking for very young children and improved links between legal and children’s services staff.

In this context, an overarching system-wide approach is likely to be helpful in promoting inter-
agency co-operation and understanding, and improving systems and approaches.

External links

Reducing unnecessary delay in care and supervision proceedings
Evidence to Public Accounts Committee

Downloads

Related briefings

Protection of children in England: Progress report by Lord Laming
Protection of children in England: Action plan

Related events