JUDICIARY OF
ENGLAND AND WALES

South East North – Practice Note- Public Law

Effective 1 January 2026

Introduction

1. This practice note guides local authorities, practitioners and professionals on the expectations of the Family Court in South East North. It follows the principles adopted in the London Practice Note. It has been written by the Family Presider for the South East South and it has been adapted and endorsed by the Presider of the South East North together with the DFJs for Norfolk, Cambridgeshire, Essex and Suffolk, Bedfordshire and Hertfordshire.

2. This practice note replaces all previous local practice directions and customs that have developed in relation to public law proceedings in South East North.

3. The note is based on the Public Law Outline (PLO), FPR part 12.22-30 and PD12A. The note contains nothing new; it is a reminder of the approach the family justice system in South East North should be taking in Public Law cases.

Guidance

4. Parties are required to help the court further the overriding objective – FPR r 1.3.

5. Parties are required to have regard to the relevant rules and Practice Directions as well as the Guidance the President of the Family Division issues from time to time and Keehan J's Ten Principles.

The Public Law Outline

6. It is vital that local authorities operate the PLO as it was intended.

7. The Public Law Working Group's Final Report on Best Practice Guidance 'Support for and Work with Families Prior to Court Proceedings' must be followed. When the family have been the subject of pre-proceedings work, the evidence in support of the application must include a completed record on the relevant template which must be uploaded onto the portal. This is to include an outline of the pre-proceedings work that has taken place and the outcome. This is essential to avoid duplication of assessments which have already taken place.

8. The parents will be expected to put forward potential alternative carers during the pre-proceedings stage. This may avoid the need for the children to have to go into foster care.

9. When a case is issued:

    a. A properly pleaded and evidenced Threshold Document, fully compliant with *Re A (A Child)* 2015 EWFC 11, must be filed and a fully completed draft Standard Directions Order ("SDO") must be uploaded with the application. Specific courts may have their own template SDOs.

    b. Recent parenting assessments will stand as the assessments in the proceedings unless further assessments are necessary. The mere passing of time will not be a good reason to order further assessments.

    c. Proceedings must be issued promptly after a decision has been taken to issue.

Urgent Hearings

10. An urgent hearing rarely will be required before the Case Management Hearing ("CMH"). Urgent hearings must have a genuinely urgent issue which needs the court's determination. The court will be rigorous in policing the question of urgency.

11. Where an application is not demonstrably urgent, the court will refuse to hear it as such and will list the case in accordance with the Rules between Days 12 and 18.

12. When listed, the urgent hearing must be used purposefully and for the reason it was listed.

13. Paragraph 2.4 of the PLO states as follows:

    Where a party has requested an urgent hearing a) to enable the court to give immediate directions or orders to facilitate any case management issue which is to be considered at the CMH, or b) to decide whether an ICO is necessary, the court may list such a hearing at any appropriate time before the CMH and give directions for that hearing. It is anticipated that an urgent preliminary case management hearing will only be necessary to consider issues such as jurisdiction, parentage, party status, capacity to litigate, disclosure and whether there is, or should be, a request to a Central Authority or other competent authority in a foreign state or consular authority in England and Wales in an international case. It is not intended that any urgent hearing will delay the CMH.

14. It is not possible to circumvent the requirements of the local Practice Direction by, for example, requesting the listing of a hearing in a number of days' time in a case that does not otherwise meet the criteria for urgency in the Practice Direction.

Hearings - In General

15. The prompt determination of care proceedings under Part IV of the Children Act 1989 is required by law (*Re S (Parenting Assessment)* [2014] 2 FLR 575 and *London Borough of Enfield v RE* [2024] EWFC 183).

16. Every hearing must be effective. There will be robust case management at each hearing.

17. In most cases there will only be the CMH, the Issues Resolution/Early Final Hearing ("IRH/EFH") and Final Hearing ("FH"), if necessary.

The CMH

18. The CMH will be listed not before day 12 and not later than day 18. 'Day 12', 'Day 18' and 'Day 25' are respectively the 11th, 17th and the 24th business days after the day of issue of proceedings (Day 1).

19. At the CMH, the court will expect to be addressed on all the issues required by the PLO to be considered at this hearing including any jurisdiction /international/ designation issues with any EX660 uploaded to FPL if not already done.

20. To ensure this hearing is effective and purposeful there must be an Advocates' Meeting ("AM") no later than two business days before the CMH. At the conclusion of the AM, the local authority advocate must file a draft CM order ("CMO") in the prescribed form by no later than 11 am on the business day before the CMH.

21. The court expects a full parental response to be filed and served in good time to enable the AM and the CMH to be effective.

22. The parental response should include as a minimum:

    a. A full response to the pleaded threshold. Any application for extensions of time to respond to threshold will need to be specifically justified.
    b. Identification of all persons put forward in these proceedings as alternative carers if the child(ren) cannot be cared for by their current carers.
    c. Identify all or any experts for whom permission to instruct will be sought.

23. At the CMH the court will draw up the timetable for proceeding with a view to disposing of the application without delay and in any event within 26 weeks beginning with the day on which the application was issued (s32(1)(a)(ii) Children Act 1989). 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/ren 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.

Threshold

24. In most public law cases the s31 threshold criteria does not require judicial determination yet in very many of those cases threshold remains at large/not determined until very late in the proceedings. All parties and the court have a responsibility to resolve/determine/narrow the threshold (where appropriate) at an early stage of the proceedings, particularly at the CMH.

25. Parental response documents must have been served as directed and threshold discussed at the AM prior to the CMH which offers an opportunity to prepare a suitable threshold document for judicial consideration.

26. Parties can expect judges to refuse applications for extensions of time to file response documents and for the judge, where appropriate, to determine threshold on the evidence at the CMH by giving a short judgment

Parenting Assessments

27. If a parenting assessment is to be conducted during the proceedings, a Parenting Assessment Plan (PAP) must be filed before the CMH. The plan must set out why the assessment is necessary, what the focus of the assessment is, the timetable (including dates of meetings) and what is expected from the parents.

Initial Viability Assessments ("IVA")

28. Alternative carers must be identified and assessed in these proceedings at the earliest opportunity, usually in pre-proceedings. Early IVAs mean that cases are concluded more quickly.

29. Unless the local authority has already convened an effective Family Group Conference ("FGC") (or equivalent) prior to issuing its application, within 14 days of issue the local authority must convene a FGC or equivalent to ensure that individuals who may support the family or may be assessed as alternative carers are identified.

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

31. A parent putting forward an alternative carer must provide full name, address, telephone number and email address as well as confirmation of having spoken to the proposed carer in advance.

32. The local authority will usually complete the IVA within 14 days of having been provided with full alternative carer information (or in the event that removal from home is sought then more promptly).

33. The court will not ordinarily require the local authority to undertake more than 3 IVAs at any one time.

Full assessments (connected person/SGO)

34. Full assessments will begin immediately on completion of a positive IVA and will be completed usually within 12 weeks of the full assessment commencing.

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

36. 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. In the event that they do not the court should be asked to consider whether the assessment should continue. The same will apply to medicals and references.

Whether a fact-find or split hearing is necessary.

37. The question of whether a fact-find is held as part of public law proceedings is a matter for the court's discretion.

38. 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 fact-findings 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.

39. Split hearings, including fact findings, 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 mut be reasoned and those reasons must be recorded on the face of the order.

40. 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.

Experts

41. S13 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.

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

43. It is important when applying to instruct an expert to follow the procedural requirements.

44. Where two or more parties require to put expert evidence before the court, the court may direct that the evidence is given by a single joint expert.

45. The court when deciding whether to give permission to instruct must have regard to the issues to which the evidence will relate; the questions the expert is required to answer; the impact of the report on the timetable, duration and conduct of the proceedings and the cost.

46. The court will not direct an expert to attend a hearing unless it is necessary to do so in the interests of justice. Proportionate written questions can be put to the expert within 10 days of the date of service.

Further Case Management Hearings ("FCMH")

47. A FCMH 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 PD12 A 2.6).

Extending the Statutory Time Limit

48. An extension to the statutory time limit (26 weeks) may be necessary to enable the case to be resolved justly (s32(5) CA 1989 applied) but *extensions are not to be granted routinely* and require specific justification.

49. 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.

50. 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- PD12A 6.2 & 6.3.

The Issues Resolution Hearing/Early Final Hearing

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

52. An AM can only be effective and consider the issues in the case if, prior to it taking place, all the evidence has been filed and there is a Guardian's Final Analysis available.

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

54. The expectation of the court is that proceedings will conclude at the IRH/EFH. Narrow disputed issues can be dealt with on submissions at the hearing or the hearing of brief, relevant oral evidence, where necessary.

55. 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/ren. 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 ("FH") and it is NOT simply a pre-trial review hearing. Ideally IRHs will be listed for up to ½ a day to facilitate robust case management and resolving or narrowing the issues.

56. When a case is listed for FH:

    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 have been 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 witness template must make full use of the court sitting day.
    e. The time estimate for the FH must be proportionate to the issues in dispute and include time for judgment preparation.

57. Cases will not be listed for FH until after an effective IRH unless they are exceptional or complex.

58. The ADM must fit in with the court's timetable for the children.

Bundles

59. PD27A applies to the bundles which must be prepared for the hearing whether the case is proceeding in paper form or electronically. No document is to exceed the page count permitted in PD27A.

Compliance

60. 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.

61. Where there is non-compliance, the parties have an immediate obligation to actively engage with each other to resolve the breach and discuss proposed directions in order to ensure that each hearing remains as listed and is effective. That may, for example, include a revised draft timetable.

62. Where re-timetabling is sought (by consent or otherwise) a C2 application must be made at the earliest opportunity on FPL which should 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. That enables 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.

The Family Public Law Portal ("FPL")

63. 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 or the court must stop as it increases unnecessarily email traffic and results in correspondence not being on the court file and not visible to others who will not have sight of emails sent to a particular judge.

Mrs Justice Arbuthnot (Family Presider SEN)

HH Judge North (DFJ Norfolk)

HH Judge Newport (DFJ Chelmsford)

HH Judge Gordon-Saker (DFJ Cambridge and Peterborough)

HH Judge McKinnell (DFJ Luton)

HH Judge Vavrecka (DFJ Hertfordshire)

26 November 2025

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.