President of the Family Division

THIS IS A PRACTICE NOTE TO INTRODUCE THE 2026 PROTOCOL FOR CASES INVOLVING NEWBORN BABIES IN THE FAMILY COURT, ENGLAND AND WALES.

PROTOCOL

1. Referrals to local authority children's services should be received from health (predominantly midwifery services) at the latest, as soon as the pregnancy is confirmed as viable (usually around 12 weeks' gestation). Where there is local agreement for referrals to be made sooner, then that local agreement should continue to be followed.

2. *In England,* early referral and assessment by local authority children's services will consider the pre-birth position and ensure the timely provision of preventative Family Help. Family Help should include identifying and strengthening family network resources, where this is in the child's best interests.

   In Wales, early referral and assessment by local authority children's services will consider the pre-birth position and ensure the timely provision of support, which should include identifying and strengthening family network resources, where this is in the child's best interests.

3. *In England,* a Family Group Decision Making Meeting (FGDM) can be held early in pregnancy. In line with duties set out in the Children's Wellbeing and Schools Act 2026, a FGDM *must* be offered to families prior to the making of any care order application, and where this is in the child's best interests. Principles underpinning the safe and meaningful convening of a family group decision-making process should be adhered to.

   In Wales, working with the wider support network is established good practice and the local authority would be expected to convene a Family Group Conference (FGC) or Meeting to establish the support available from the wider family. This would be expected prior to the making of any care order application.

4. The pre-birth assessment/parenting assessment should be completed by week 30. Assessment should include evidence of Family Help/care and support services and support and should be informed by the FGDM/FGC process. Assessment must outline any key concerns, and the rationale for options being considered. Different local authorities will have different positions about an initial child protection conference('ICPC'), but all local authorities will be expected to complete this by week 30.

5. The Public Law Outline ('PLO') should be started as soon as possible and by week 30 at the latest where there is an indication that care proceedings may be initiated at birth. The first Pre-Proceedings Meeting (PPM) should be held

as early as possible. *In England* local authority Multi-Agency Child Protection Teams (MACPT) will be involved in informing decisions about initiating the PLO process. *In Wales,* the decision will be informed by the relevant social work team.

6. Any solicitors instructed by the parents within pre-proceedings will be expected to consider family, friends or connected carers at an early stage. Solicitors must communicate information about potential carers to local authority children's services, including those who might safely support children to remain with parents, as soon as possible.

7. A pre-birth assessment/parenting assessment leading to care proceedings should include details of help and support provided to the family as well as concerns, up to week 36. This written assessment must outline local authority care plans at birth and indicate how the plan is informed by the FGDM/FGC. This assessment must include a structured analysis of the necessity and proportionality of separation at birth, where this is sought.

8. The parents should be informed of the likely local authority plan no later than week 36. This discussion should take place at a pre-proceedings meeting. The completed pre-birth assessment/parenting assessment should be shared with the parents and their solicitor(s) in advance of this meeting.

9. At this pre-proceedings meeting, discussions should take place regarding the format of the court hearing, and any views that the local authority and parents have in respect of this, to inform the local authority's subsequent application. The views of the hospital safeguarding lead should also be obtained outside of the meeting, regarding the support the hospital can put in place to enable parents to participate in a court hearing.

10. Following this, during week 36 of the pregnancy, a copy of the post-birth plan should be shared with the hospital. This should include information regarding the local authority's plan to issue proceedings, what type of hearing is anticipated, the support that the parents will need to participate and who will care for the baby if the parents must leave hospital to attend a hearing. Parents' consent to these care arrangements must be recorded. The plan should also clearly set out any steps to be taken in the event of emergency e.g., should parents seek to leave the hospital with the baby prior to the hearing.

11. The local authority must give notification to Cafcass / Cafcass Cymru of a planned issue case by week 36, once they have had the first meeting with the parents to gain consent to notify. The local authority should complete the template attached and provide an outline timescale for issue where consent is obtained through the pre-proceedings process. The template should be sent under cover of an email stating that the template is provided pursuant to the 2026 Newborn Baby Protocol. Notifications should be sent to PublicLawIntake@cafcass.gov.uk (Cafcass) or CafcassCymruCAPT@gov.wales (Cafcass Cymru)

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12. The pre-birth Pre-Proceedings Meeting should be face to face wherever possible to ensure fair engagement with the parents.

13. It is recognised that concealed or late presentation of pregnancy will impact on the above timescale. General principles will still apply, and such cases will still be front-loaded as far as possible.

14. The local authority should give notification to the court when the birth is imminent by sending the attached completed template to the Court via the email address used for current/ongoing public law cases (please confirm with the court if you are unsure of the correct email address) under cover of an email identifying that this is a notification of an impending birth pursuant to the 2026 Newborn Baby Protocol.

15. Following the baby's birth, the hospital through the safeguarding lead, should endeavour to give the local authority through the allocated social worker or team manager details of when they foresee the baby being medically fit for discharge. Any changes in respect of this should be communicated in a timely manner.

16. The local authority should issue proceedings on the day of birth, or if the mother gives birth outside working hours, by 12 noon the following working day. The local authority should not wait until the baby is medically fit for discharge. If the local authority cannot adhere to this timeframe, a robust explanation must be provided for the court.

17. The pre-birth assessment/parenting assessment should be submitted with the C110A. A concise updating social work evidence template ('SWET') must follow as soon as possible, and in any event allowing sufficient time for representatives for the parent(s) and children's guardian to take instructions. The SWET can refer to the pre-birth assessment/parenting assessment rather than repeating its contents and should deal essentially with updating information and interim care planning. The SWET should not normally exceed 8 sides of A4 paper.

18. If the local authority seeks an urgent hearing there should be a concise statement of the reasons why, provided either in the C110A or in an accompanying document so that the judge and legal adviser who are allocating and gatekeeping the case have sufficient material to make the necessary decisions.

19. The local authorities will continue to work with hospitals to encourage a proportionate approach to discharge of the newborn child(ren), that allows for collaborative approaches to the timing of notification and progress of care proceedings.

20. The hospital safeguarding lead should be informed of the date for the initial court hearing at the earliest opportunity by the local authority allocated social worker or team manager.

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21. Should the hospital be unable to continue to care for the baby in hospital until this date, the hospital safeguarding lead or their nominee must clearly inform the allocated social worker or their team manager or emergency duty team at the local authority the date and time by which the baby must be discharged from hospital, and the reasons for this, so that the local authority can consider the need to seek an urgent hearing.

22. If the local authority seeks a same day hearing they should provide written evidence from the hospital of the following:

    a. that the hospital confirms that the baby is medically fit for discharge:
    b. that it is not possible to keep the baby in hospital any longer to avoid a same day hearing, giving reasons why.

23. The local authority shall set out in its C110A whether it asks for an attended hearing or a hybrid/remote hearing and that parents agree the format.

24. Where the hearing is to take place virtually or as a hybrid hearing, the parents' solicitor(s) should attend the hearing virtually from the same location as the parent (e.g., from the hospital if the mother remains an inpatient).

25. The hospital shall, if reasonably practicable, provide a private room to enable the parents to participate in any remote hearing.

26. The parents' solicitor should be present in the hospital and provide a laptop.

27. The contact details for all hospital safeguarding leads will be sent to the court for the use of the judiciary, court staff and legal professionals to enable direct communication where necessary. Updated contact details for all hospital safeguarding leads must also be provided to the local authorities.

28. Any communication from the court or legal professionals to ascertain a baby's fitness for discharge, and whether discharge could be delayed until a proposed court hearing, should go through the safeguarding lead at the hospital and not direct to midwifery staff on the ward.