

FAMILY GROUP CONFERENCES IN THE COURT ARENA

Practice guidance on the use of Family Group Conferences for children who are in, or are on the brink of, care proceedings.

**Developed by Family Rights Group
in consultation with the
Family Group Conference Network and CAFCASS**

September 2011

Endorsed by the Family Justice Council



For further information contact:
Sean Haresnape,
Policy Adviser, Family Rights Group
Sharesnape@frg.org.uk

Bridget Lindley
Deputy Chief Executive & Legal Adviser, Family Rights group
blindley@frg.org.uk

1. Introduction

Family Group Conferences¹ (FGCs) are increasingly being used to make plans for children who are the subject of, or are on the brink of, care proceedings. This context creates potential challenges in relation to accommodating the ‘family led’ nature of the FGC alongside the court-led processes.

This guidance has been developed in consultation with the Family Group Conference Network² and CAF/CASS to assist the family and professional network involved in the FGC to understand the roles and decision making responsibilities of the different participants, the principles underlying the FGC process and how the legal context of the case may affect the decision making process. It should be read in conjunction with Principles and Practice Guidance drawn up by Family Rights Group, Barnardo’s and NCH (Action for Children) in 2002.³ These principles have been cross-referenced where relevant. This guidance will be kept under review as practice develops.

What is a family group conference?

A family group conference (FGC) is a family-led decision making and planning process whereby the young person, parents and wider family group make a plan for the child or young person at risk

(see Appendix A for details on the process)

2. Why and how might FGCs be used in the court arena?

When the local authority has concerns about a child’s safety and well-being, and is considering issuing, or has issued care proceedings (because there is evidence that the child cannot remain safely in their current situation), the offer of an FGC provides the family with an opportunity to take the lead in making safe plans for the child which address the identified concerns. It also:

- Helps build a working partnership between the family and the local authority;
- Engages with both parents, the wider family and community, including non-resident fathers, paternal and maternal relatives;
- Addresses concerns, by sharing information and harnessing the resources of the wider family, agencies and the community;

¹ Also known in some localities as Family Group Meetings (FGMs)

² Led by Family Rights Group, this is an informal network of FGC services in England and Wales which meets four times per year to discuss practice issues and develop protocols which promote best practice. For further information about the network, contact dedwards@frg.org.uk

³ Principles and Practice Guidance 2002. See appendix 2 and available at <http://www.frg.org.uk/pdfs/FGC%20Principle%20and%20Practice%20Guidance.pdf>

- Provides information and support to parents and wider family members so they understand their rights and options;
- Ensures the child's views are heard;
- Explores alternative care arrangements within the family, if the child cannot live with their parents, thus enabling a child to remain within their family network, where possible, provided it is safe and in the child's interests to do so.

The FGC is a voluntary process which is child-centred and family-led. This means that neither the child nor the family can be made to have an FGC. However if the family take up the offer of being referred to an FGC service, then any plan they make for the child will only be agreed by the referring agency (usually the local authority) if it addresses the stated 'bottom line' (i.e.: what the referring agency considers is not safe for the child, for example living with parents who continue to misuse drugs or living with a suspected abuser).⁴ Potentially the court could make an order consistent with the FGC plan even if the local authority did not agree to it, if it considers that this is consistent with the child's welfare, but the circumstances in which this might occur will rarely arise.

Typically, an FGC in these circumstances results in an agreed family plan being made in which relatives either help the parents to care safely for their child, or offer to take on the care of the child in the short or long term because the child cannot remain safely with his/her parents. If the FGC decides it is not feasible for the child to remain living with their family, the plan may involve contact arrangements being worked through and actions being put in place that could eventually result in reunification (e.g. parents undertaking drug treatment).

Family Group Conferences are identified in revised Children Act Guidance⁵ to local authorities on preparing for care proceedings, as being '*an important opportunity to engage friends and members of the wider family at an early stage of concerns about a child, either to support the parents or to provide care for the child, whether in the short or longer term*' (para 3.8).

The guidance also states that before reaching a decision to apply for a care or supervision order, '*the local authority should have taken such steps as are possible, perhaps through a family group conference or other family meeting, to explore whether care for the child can be safely provided by a relative or friend, have assessed the suitability of possible arrangements and have considered the most appropriate legal status of such arrangements*' (para 3.24).

⁴ Further details about the stages of an FGC can be found in Appendix 1.

⁵ Children Act 1989 Regulations and Guidance, Volume 1 Court Orders revised 2008

<http://www.dcsf.gov.uk/everychildmatters/publications/documents/childrenactguidanceregulations/>

Furthermore, the Public Law Outline (2010)⁶ requires the court to:

- consider what work has been undertaken with the family prior to the issue of proceedings except in emergency cases, in accordance with the above guidance. This includes an expectation that records of discussions with family⁷ (which could include a family plan arising out of an FGC) should be filed at First Appointment, along with Other Checklist Documents, when the court will also identify family and friends as proposed carers (paras 12-13); and
- encourage the parties to use alternative dispute resolution (ADR) where it is readily available, demonstrated to be in the interests of child and reasonably practicable and safe. Indeed, the court may adjourn the hearing for a specified period to enable the parties to obtain advice about ADR and where the parties are agreed to enable it to take place (para 19). This is likely to include the use of FGCs.

3. FGC practice for children at risk of harm

FGCs give the family⁸ a central decision making role in relation to their children. The role of the professionals or information givers in the FGC is to furnish the family with the right information to enable the family to make an effective plan and then, on behalf of their agency, agree and support their plan if it is safe.

See Appendix 1 for a brief description of the FGC process⁹.

There is now substantial evidence of the efficacy of the model when considering the use of FGCs where there are concerns about the risks to children within families. FGCs provide an opportunity for families to draw on the natural supports to increase resilient elements within the wider family network to keep children safe.

FGCs have been successfully held in situations where there has been substantial abuse, domestic violence etc (AHA 2009¹⁰ and Pennell and Burford 2000¹¹). These positive outcomes

⁶ The Public Law outline: Guide to case management in public law proceedings Ministry of Justice April 2010. This replaces the earlier version (2008), as the new court protocol for managing care proceedings.

⁷ It is important in maintaining the family led nature of the FGC that the record of discussion with the family clearly reflects their decision making and those of the agencies participating.

⁸ Family refers to the wider extended family of the child and may include other non family members of the child's network.

⁹ For a more detailed explanation of the model see Family Rights Group Advice Sheet, 'What is a Family Group Conference' http://www.frg.org.uk/advice_sheets.html

¹⁰ American Humane Association (2009) *Protecting children; family group decision making* Denver, AHA.

are not just in the immediate period after the FGC. Various longitudinal studies demonstrate that the welfare and safety of children is not compromised by FGCs in the longer term (Titcomb and Lecroy 2003¹², Kiely and Bussey 2001¹³, and Pennell and Burford 2000¹⁴). There is also evidence of a significant reduction in the number of proceedings after FGCs (Morris 2007¹⁵, Sawyer and Lohrbach 2008¹⁶, and Walker 2005¹⁷).

In order to preserve the family-led nature of the FGC and deliver the benefits of the FGC process that research has identified, it is essential that the following principles of good FGC practice, alongside the established principles and practice guidance outlined in Appendix 2, are adhered to and supported by all those participating:

3.1 An FGC should be considered as early as possible once concerns about the child are identified.

The possibility of an FGC should be kept under review throughout the involvement of Children's Services with the child¹⁸. Consideration should be given by local authorities to establishing or commissioning FGC services that enable families to be referred for an FGC as soon as there are concerns about a child's welfare.

Ideally an FGC would occur in a 'child in need' context (s.17), but if that is not possible, it should certainly be a priority when the local authority Children's Services are involved in drawing up a child protection plan for the child following child protection (s.47) enquiries. An FGC in these circumstances would enable the wider family to contribute to maintaining the child's safety and may avert unnecessary legal proceedings.

Except in emergency situations, a referral to the FGC service should be ***no later than the issue by the local authority of the 'Letter before Proceedings'*** with sufficient time

¹¹ Pennell, J and Burford, G (2000) *Family group decision making: Protecting children and women*. Child Welfare 79(2), 131-158.

¹² Titcomb, A., & LeCroy, C. (2003). Evaluation of Arizona's family group decision making program. *Protecting Children*, 18 (1-2), 58-64.

¹³ Kiely, P and Bussey, K (2001) *Family group conferencing: A longitudinal evaluation*. Sydney, Australia: Macquarie University.

¹⁴ Op cit

¹⁵ Morris, K (2007) *Camden FGC service: An evaluation of service use and outcomes*.

¹⁶ Sawyer, R.Q, and Lohrbach, S (2008) *Olmstead County Child and Family Services: Family involvement strategies*. Rochester, MN: Olmsted County Child and Family services.

¹⁷ Walker, L (2005). *A cohort study of 'ohana conferencing in child abuse and neglect cases*. *Protecting children*, 19 (4), 36-46.

¹⁸ See Flowchart in Appendix 3 for typical stages at which referral to FGC may be made.

allowed for the FGC to be properly convened so that the local authority can consider the family plan before a definite decision is made to proceed with issuing care proceedings.

Where a pre-proceedings referral has not been made (for whatever reason) and care proceedings are now under way, the approval of the court by the local authority must be sought for any interim care plan which includes a referral for an FGC.

As circumstances change during the course of a case there may need to be a further review FGC to consider new issues/circumstances that were not addressed at the earlier FGC. Again, court approval for such a review must be obtained.

3.2. The FGC will only proceed if someone with parental responsibility (PR) or an older child agrees to the referral and to the sharing of information.

An FGC can only proceed if a person with parental responsibility (typically, one or both parents) or the child who is over 16 agrees, since their agreement is required to any plan (unless the child is in care under a care or emergency protection order). This agreement should be based on full information about the process having been provided¹⁹.

If there is concern that such a person lacks the mental capacity to consent to an FGC being convened or to agree to any plan for the child arising out of it (e.g. through the onset of mental ill-health), practitioners should follow guidance from the Family Justice Council on how to approach parental incapacity in such cases²⁰. This guidance confirms that ultimately any decision as to a person's capacity should be determined by the court. Practitioners should also seek their own legal advice on how to proceed.

However, if the local authority has parental responsibility (under an interim or full care order) it could also consent to an FGC proceeding, for example if the child and wider family wishes to go ahead with an FGC and it is in the child's interests to do so, but the parents are opposed/unable to consent. This should be a last resort as it is always preferable to work in a consensual partnership with the child's parents.

¹⁹ Principle 1 Families have the right to clear, appropriate information about the family group conference process.

²⁰ <http://www.judiciary.gov.uk/about-the-judiciary/advisory-bodies/fjc/publications/Guidance-and-papers-published-by-FJC-committees/Parents-who-lack-capacity>

3.3. Once the referral is received by the FGC service, a co-ordinator will be allocated who should be independent of the decision-making of the referring agency.²¹

A fundamental principle of best practice in FGCs²² is that the FGC co-ordinator is both independent and neutral (i.e. that s/he has no case holding, statutory or decision making responsibilities in relation to the child) hence FGC services should be run independently of the local authority team responsible for the child's safety and well-being. Further, the co-ordinator should not have any previous involvement with the family or represent the views of any agency working with the family. They will however, work to a confidentiality policy that includes a reporting procedure if they are provided with new information, not already known to the local authority that a child or vulnerable adult is at risk of harm.

3.4. Sufficient time should be provided to enable full preparation of all family members for the FGC²³.

The FGC is not an emergency response. Its effectiveness and family-led nature can be compromised if insufficient time is made for the planning of the meeting. National practice standards²⁴ suggest that this should normally be no longer than 4-6 weeks without good reason.

3.5 It is for the child and those with parental responsibility to identify the wider family and friends network and to be assisted in doing this by the co-ordinator.²⁵

This overarching principle that the consent of those with parental responsibility (or young persons aged 16 or over) to an FGC proceeding, also extends to deciding who is involved in the FGC.

The FGC is a voluntary process and, as such, any person can choose not to participate.

The co-ordinator should plan the FGC with the aim of achieving a consensus approach as to who participates. This will be guided by:

²¹ Principle 2b A co-ordinator who is independent will work with the family to arrange the family group conference.

'Independent' means that they have not and will not be involved in making any decisions about the child

²² Principles and Practice Guidance (Barnardo's et al, 2002)

²³ Principle 2 Families have the right to be involved in the planning of the meeting.

²⁴ Principles and Practice Guidance (Barnardo's et al, 2002)

²⁵ Principle 3 Family members have the right to be acknowledged as decision-makers in the family group conference process.

- the child, whatever their age, who has a role in identifying who from their network should be involved. It is important that their voice is heard and that they are encouraged to express their viewpoint. They should always be offered the option of an independent advocate or supporter to help them. The child, however, does not have a veto on who should be involved (unless they are over 16) although in practice it may be counter productive to ignore the views of older children who can choose to vote with their feet or undermine a plan that doesn't reflect their views. Where there are differences between a child and those with parental responsibility as to who should attend the FGC then the co-ordinator should explore ways that enable the involvement of both, e.g. through split meetings, or through individual views being represented in other ways.
- the parents and others with parental responsibility (or young person over of 16 or over) ultimately determine who should attend the FGC. Where more than one person has parental responsibility, then all of their views will need to be taken into account in the planning of the FGC. Whilst the FGC can go ahead with the consent of one person with parental responsibility, the views of others with parental responsibility will need to be taken into account in respect of any plans made.

Therefore upon receipt of the referral, the co-ordinator, in conjunction with the child/young person (whatever their age) and those with parental responsibility, identifies who is in the family network for the child and should be invited to the meeting. This can include anyone who is from the child/family's close friendship and community network. The co-ordinator then meets with those identified.

Where it is not possible to achieve a consensus on who should attend, it is for the co-ordinator to try to find an agreed formula for proceeding, which maximises participation. The views of all participants (including the children) concerning who should attend should be explored and discussed with those with parental responsibility/older child. Where there is disagreement between both parents with parental responsibility and the extended family as to how to proceed, sometimes a ***split meeting*** can take place to gather the views of all family members.

3.6. Whilst working closely with the family, the co-ordinator also liaises with the referrer and other relevant agencies, and invites them to the FGC where appropriate.

Other agencies, which are generally involved in an FGC, are those who are already working with the child and/or family. Typically this will include the local authority (normally the referring agency), and others providing professional support, for example in relation to drug or alcohol misuse or mental ill-health.²⁶

The role of the referrer (normally a social worker) and any other agencies that attend the FGC is firstly to provide information (e.g. about the identified concerns and also support available) to enable the family to make an effective plan, and secondly to respond to the decisions made by the family. A key factor in determining the attendance of agency representatives is therefore whether they have important information to contribute and whether they have a key role in agreeing and supporting the implementation of the plan that the family make.

Where the child is a looked after child the referrer will need to ensure that the child's independent reviewing officer is aware of the FGC and that the parameters for decision making reflect the needs of the child's care plan.

The referrer may have their own view as to who should be involved or not in the FGC. However, as with the issue of consent to proceed, if the parent has sole parental responsibility the final decision as to who participates lies with them or an older child. Where parental responsibility is shared with the local authority then, through the social worker, the parent/person with parental responsibility can express a view as to who attends. The social worker can override this but a partnership approach is clearly preferable.

In exceptional circumstances, the co-ordinator may decide to exclude individuals, for example where they pose a significant risk to other participants such that their presence would be counter-productive. However, this is rarely exercised by the co-ordinator. Such a decision would need to be explored with the family and those with parental responsibility. However the co-ordinator would ultimately have the final say if it concerned the safety of the meeting. If someone is excluded, other means of presenting their views should be considered.

²⁶ See section 3.15 agreeing the plan

3.7. The referring social worker should keep the guardian informed about the FGC

Where there are legal proceedings, which have led to the involvement of a child's guardian appointed by the court, it is critical that their role in relation to the FGC is clearly understood. Where there is disagreement about their role it is important this is addressed as early as possible in the process of planning the FGC, in order that any misunderstandings can be resolved and to help establish clarity about the status of information and decisions made, prior to the FGC itself.

The referring agency (normally the local authority) should inform the child's guardian that the family are currently participating in the FGC or that the agency is making a referral to the FGC service. This will normally be raised at the First Appointment.

It is also good practice for the co-ordinator to contact the child's guardian to confirm that the FGC is taking place and ensure they have accurate information about the FGC process. S/he will have discussed with the family whether it would be appropriate and beneficial for the child for the guardian to attend the FGC and, with their agreement, will make the necessary arrangements for the guardian to attend the information sharing and review stages of the FGC.

The co-ordinator should make it clear to the referrer that it is their responsibility to share all key documentation including relevant sections (or if appropriate all) of the family plan with the guardian and the court. The family also has the option, where the local authority has failed to do so, to share their plan with their own solicitor.

3.8 It is for those with parental responsibility to determine whether the guardian should attend the meeting.

Co-ordinators should consider the role of the guardian in the FGC and where appropriate encourage family members to consider the benefits of the guardian's involvement in the FGC process, where s/he has information to contribute to the family's decision making.

As with other information givers, if the guardian attends the FGC s/he would attend the 'information-giving' and final stages of the meeting; s/he would NOT be present during private family time.

Whilst it is not the role of the guardian to agree the family plan, it is likely to be helpful to the family in devising a realistic plan if the guardian is able to express his/her views prior to the discussion so that the family knows what issues they need to resolve. As with information provided by the referrer, the co-ordinator should receive the guardian's information for the FGC prior to the meeting. Their information should be clear stating factual concerns, and avoiding being prescriptive.

The guardian may also wish to respond to the decisions the family make **although it is for the local authority to agree to the plan or not** (subject to the court's agreement if proceedings are pending). Where the guardian is not in agreement with the local authority's response to the family plan there should be an opportunity for the family to respond to his/her views. Where different views persist there is always the opportunity for these to be subject to scrutiny by the court.²⁷

The FGC is a family-led planning meeting; it should not be regarded as an opportunity for professionals including the guardian to assess family members. It is important in planning the conference that the co-ordinator clarifies these issues with the professionals attending the FGC; however the co-ordinator cannot be responsible for how participants use information that is shared in the meeting.

3.9. It is the role of the co-ordinator in collaboration with the family to ensure the effective preparation and involvement of the child

It is the responsibility of the co-ordinator to meet with the child and his/her family to determine how best to enable his/her effective participation in the meeting.

Those with parental responsibility and the child themselves, subject to their level of understanding, will determine whether the child should be at the FGC. The co-ordinator should encourage the child's involvement in the process, even if they decide not to attend the meeting itself.

Through discussion with the co-ordinator (and their advocate, if they choose to have one) the child will agree how best s/he can be supported during the meeting and how he/she wishes their information to be presented.

²⁷ See 3.15 on agreeing the plan

The child needs to be aware of the purpose of the FGC, how this fits with other processes and how decisions will be agreed. Where it is agreed that the guardian will be involved, the coordinator will explain his/her role to the child and his/her parents. (CAFCASS website has useful explanatory leaflets).

The co-ordinator should offer the child the option of an independent advocate²⁸ or supporter to work with the child to enable their participation in the FGC. The advocate must have no other function in the FGC aside from helping the child to have a voice. It would not be appropriate for this role to be taken by the guardian because they already have a role in the FGC process as an information giver and a statutory function of reporting to the court, hence they are not independent of the decision making process. Under no circumstances, should the guardian act as an independent advocate for the child during the FGC.

Many children will choose to have an independent advocate; others may choose to have a supporter from their own network as their advocate.²⁹

In preparing the child for the FGC, the central focus should be the child's views and response to the key questions posed by the information giver for the meeting. This information should form the basis of discussion with the child.

Any information provided to the FGC, as a result of work between the advocate and the child, is the property of the child and cannot be used in other processes unless explicitly agreed with the child and with the family or disclosure is necessary to protect a child or adult who is at risk, in accordance with the organisation's safeguarding procedures or, in very rare circumstances, because the advocate may be subject to a subpoena from the court.

²⁸ The term advocate is often used in legal circles. It has a different meaning to that when used in the FGC. In the FGC the advocate or supporter's role is to enable the child to participate in the FGC through effective preparation and through supporting them in the meeting itself. National standards available at http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4018893.pdf .

²⁹ To read more about a child's voice at their FGC, see Ashley et al (2006) FGC Toolkit (DFES, FRG, National Assembly of Wales) and Dalrymple's chapter children and young people's participation in fgcs in Ashley and Nixon (2007) Family Group Conferences – Where Next (FRG)

3.10. The co-ordinator needs to ensure that family members have appropriate information in order to be able to make decisions.³⁰

This should include:

- The reason for the conference;
- Any child welfare concerns that will affect what can be agreed in the plan (e.g. that the child must not have contact with a particular person);
- Information about resources and support that the agencies are able to provide; and any assessment processes and their time scales;
- Information about local authority and court processes;
- What action will be taken if the family cannot make a plan or the plan is not agreed? This should be presented to the family in clear, jargon free language.

It is good practice for the family to have this information in writing before the date of the FGC. If information provided by the referrer is challenged by the family then the co-ordinator may be able to negotiate agreed wording or include the parents' view of this information. This may be enough to allow the parents to agree to share the information with their wider family. However if there is disagreement and there is a fundamental refusal to share information it may be necessary for proceedings to be issued and a 'finding of fact' made to resolve the dispute.

It is important that the family have access to accurate and relevant legal resources and information in order to be able to make informed decisions about the child. For example information concerning waiting lists for local drug treatment programmes or sources of independent advice on the pros and cons of different legal orders for relatives considering taking on the care of a child, may be critical to the family being able to make an effective plan.

It is good practice that the information provided to the family is in the language of the family, and that the meeting itself is conducted in their language. Any interpreters that are provided are there for the professionals at the meeting and not the family.

Some family members may not want to attend the FGC but may want the co-ordinator to pass relevant information on to the local authority. There needs to be clarity in recording

³⁰ Principle 1 Families have the right to clear, appropriate information about the family group conference process.

that any information that is shared with the Local Authority is with the family member's consent.³¹

3.11. All information gathered by the co-ordinator in preparing for the FGC will remain confidential³².

Co-ordinators keep minimal case notes. All information the co-coordinator gathers in the preparation of the FGC remains confidential unless it is new child protection information that poses a risk of harm to the child or information concerning risk to other participants whereupon the co-ordinator would follow their organisation's safeguarding procedures.

3.12. The only document to come out of an FGC will be the family plan, which should set out the question(s) that the family was asked to address and their response.

If the case is in proceedings, the co-ordinator will also need to inform the family that, save in the most exceptional circumstances, their plan will be shared with all parties to the proceedings as well as the Judge.

3.13. The FGC should enable the family to make decisions as they see fit unless this would place the child at risk

The FGC is initiated on the assumption that there are decisions to be made by the family i.e. that a decision about the child's future has not been pre-determined. If there are no conceivable decisions for the family to make then an FGC is not appropriate and the FGC service manager should not accept the referral.

Where there are differences between the referring social worker and the guardian as to the parameters for decisions, these need to be fully explored prior to the meeting; however it is for the local authority as the commissioning agency to have the final say.

When these parameters have been fully explored the co-ordinator needs to ensure that this information is presented to the family in as clear a way as possible.

³¹ See recording information guidance drawn up by FRG at http://www.frg.org.uk/fgc_toolkit.html

³² An exception being if there is information that would place the child or an adult at risk.

Whether the FGC is happening within the context of court proceedings or not, it is good practice that the information to be shared with the family is in written form and is made available to all participants prior to the FGC.

The FGC is not a static process, where views are expressed and remain fixed. At its most effective, the FGC is a dynamic forum for the family to exchange views, explore possibilities and reach consensus where possible. One of the benefits of an FGC is that the views of participants when subjected to the views of others may change.

3.14. A fundamental principle of the FGC is that *the family is the key decision making group and that they are enabled to do this through informed private discussion.*³³

In the process of the FGC, the family will always have private time to discuss how they want to proceed. It is for the family to determine the membership of this private discussion, and it is the coordinator's task to ensure that it is resourced and supported properly and not undermined.

In planning for the FGC, family members may want to treat discussions between themselves in private family time as being legally privileged, although this has never been tested in law in relation to FGCs³⁴. As such family members could agree that their discussions held in private time remain private and cannot be disclosed by participants and used against each other unless there was new information not previously disclosed about harm, or potential harm, to a child. The only information resulting from the private discussion would be the family's decisions recorded during private time and reported back in the third stage of the meeting i.e. the family plan.

3.15. There is a presumption that the family's plan will be agreed by the referring agency unless there is evidence that it would put the child at risk of harm³⁵

However where court proceedings are under way, the referring agency (i.e. the local authority) will need to make it clear to the family that their agreement to the plan will ultimately be subject to the decision of the court.

³³ Principle 4 Families have the right to private family time and a supportive and safe environment to make plans.

³⁴ However there is case law which confirms that private discussions in family mediation are legally privileged – see Re: D Conciliation: Legal Privilege Re D (Conciliation: Legal Privilege) [1995] 1 FLR 932

³⁵ Principle 5 Families have the right to have safe plans agreed and resourced.

Where the child is looked after, the social worker should ensure that the family's plan is compatible with the child's overall care plan. Where the plan is not compatible it is for the social worker as the representative of the agency at the FGC to clarify the parameters of decision making for the family. Where necessary this may require the social worker seeking clarification (either during or after the FGC) from his/her manager or from the child's independent reviewing officer., The social worker is responsible for judging the plan against other decision making processes, and, where necessary, being clear about any limitations these may place on decision making. Where there are limitations these should be clearly expressed at the beginning of the FGC. Where the FGC plan contradicts the child's care plan the social worker will need to seek agreement from the independent Reviewing Officer to a change and inform the family within an agreed timeframe.

Once the family plan is agreed by the social worker in respect of a child who is in need (including a looked after child) it is the role of the social worker to ensure that the family plan is reflected in the local authority's plan for the child, and recorded within the Integrated Children's System, and presented to the court where proceedings are issued. The resulting plan for a looked after child should be forwarded to the child's Independent Reviewing Officer.

3.16. There is an assumption that the support asked for in the family plan will be provided by the relevant agency unless it is unreasonable or unnecessary for the plan to be implemented.

The referring agency should aim to respond to the family's request for support as soon as possible, preferably during the last stage of the FGC.

Support requested by the family should always be negotiated and where reasonable agreed in the third stage of the meeting. There is an assumption that the support asked for in the plan will be provided by the relevant agency unless it is unreasonable beyond their scope of responsibility or unnecessary for the plan to be implemented.

When this is not possible the family should be given clear information as to the decision making process and timescales for their request to be responded to.

3.17. There should be a clear process for reviewing the implementation of the plan.

In accordance with the principle of those with parental responsibility giving informed consent to the FGC, they also need to give their agreement to a review FGC proceeding. Further the approval of the court would be required where this is part of any interim care plan. The timing of this can be agreed as part of the plan from the initial FGC.

Appendix 1: Key stages of a Family Group Conference

There are three distinct stages to the conference:

i) Information giving:

The beginning of the conference is chaired by the co-ordinator. S/he will make sure that everyone present understands the purpose and process of the FGC and agrees how the meeting will be conducted, including any explicit ground rules desired and agreed by the family. This may include discussing whether family members want to treat discussions between themselves in private family time as being legally privileged, subject to any new disclosure of potential harm to the child.

The referring agency will then give information to the family about:

- the reason for the conference;
- any child welfare concerns that will affect what can be agreed in the plan (e.g. that the child must not have contact with a particular person);
- information about resources and support they are able to provide; and
- what action will be taken if the family cannot make a plan or the plan is not agreed. This should be presented to the family in clear, jargon free language.

Other agencies could also be involved at this point to share any relevant issues and most especially to inform the conference about the type of support or services they could provide. The child/young person and family members may also provide information, ask for clarification or ask questions. The child's advocate will usually assist the child in presenting their views during this part of the meeting.

Sometimes, information provided by the referrer is challenged by the family, for example where there is disputed medical evidence about the cause of alleged injuries to a child. In these circumstances it may be necessary for the proceedings to be issued and a finding of fact made to resolve the dispute, but this need not prevent or delay an FGC being convened as the family can be asked to make plans for the child's care in the interim and contingency plan for the longer term depending on the court's findings.

ii) Private family time:

Once the referring agency has provided this information, they, together with any other information givers and the co-coordinator, leave the family to have time to talk among themselves and come up with a plan that addresses the concerns raised in the information-giving part of the conference, identifying resources and support which are required from agencies, as well as within the family, to make it work. Occasionally an advocate for a child will remain present for some of private family time, depending on the wishes of the child and the family. Otherwise the advocate will be available to the child outside of the private time to assist them in communicating their views to the meeting. A fundamental principle of the FGC is that ***the family is the key decision making group and that they are enabled to do this through informed private discussion.***

iii) Considering the plan:

When the family has made their plan, the referrer and the co-ordinator meet with the family to discuss and agree the plan and negotiate resources. This may involve contacting someone else in the referring agency who has sufficient authority to make the necessary decision. If an advocate is present they will normally be available to the child to ensure that their views continue to be central to the decision making.

There is a presumption that the family's plan will be agreed by the referring agency unless there is evidence that it would put the child at risk of significant harm (e.g. it does not take account of the referring agency's '***bottom line.***')

Contingency plans, monitoring arrangements and how to review the plan also need to be discussed and agreed. The co-ordinator will ensure that everyone gets a copy of the plan.

Where the plan is not agreed by the referring agency, the reasons for not accepting the plan must be made clear immediately by the referring agency and the family should be given the opportunity to respond to the concerns and change or add to the plan.

iv) Implementation of the plan

Once the family plan is agreed by the social worker in respect of a child who is in need (including a looked after child) the social worker will ensure that the plan is subsequently

considered within the relevant local authority processes so that it is reflected in the individual child's plan, and recorded within the ICS. Where the child is looked after, this plan will be agreed at the review of the child's case, chaired by an Independent Reviewing Officer.

The support asked for in the plan will be provided by the relevant agency unless it is unreasonable or unnecessary for the plan to be implemented. The social worker should record the agreed plan for the child within the ICS, if the plan is for a child in need, including a looked after child. Implementation of the plan should be reviewed at the child's care review, chaired by an Independent Reviewing Officer. However, where court proceedings are pending, the referring agency (i.e.: the local authority) will need to make it clear to the family that their agreement to the plans will ultimately be subject to the decision of the court.

All parties must then implement their parts of the plan within agreed timescales and communicate and address any concerns that arises.

v) Review of the plan

There should be a clear process for reviewing the implementation of the plan. A review FGC or other meeting can be arranged, subject to the same consents as the initial FGC, to consider how the plan is working, and to make adjustments or change the plan if necessary. If the child is a child in need (including a child who is looked after) the review FGC would be part of the process of reviewing the child's plan or the care plan as set out above and any changes recorded on the child's electronic record held by children's services.

APPENDIX 2: FAMILY GROUP CONFERENCES : Principles and Practice Guidance.

Family Rights Group, Barnardos and NCH action for Children 2002

Principle 1 Families have the right to clear, appropriate information about the family group conference process.

- a) Families must be given clear information about what a family group conference is and why they have been offered a family group conference.
- b) Families must be informed about timescales and possible delays.
- c) Information must be available in a way that meets the needs of the family.
- d) All family members invited must be told who they can contact if they have any questions about the process and about how they can make a complaint.

Principle 2 Families have the right to be involved in the planning of the meeting.

- a) Where possible, coordinators should reflect the local community and families will be offered a coordinator who speaks their language and who has an understanding of the way religious beliefs, cultural traditions and other lifestyle issues influence how the family operates.
- b) A coordinator who is independent will work with the family to arrange the family group conference. 'Independent' means that they have not and will not be involved in making any decisions about the child.
- c) The meeting will take place at a time, date and place agreed with the family.
- d) Adults and young people will need to consent to information held by agencies being shared at the meeting.
- e) The coordinator will work with the family and young person to decide who needs to be at the meeting.
- f) The family will decide what language will be used at the family group conference, with interpreters provided for the others present as needed.
- g) The coordinator may decide to exclude individual family members from the meeting if there are concerns that their presence would be a risk to anyone's safety.

Principle 3 Family members have the right to be acknowledged as decision-makers in the family group conference process.

- a) The agency that referred the family for a family group conference must be clear about what decisions, if any, they may be unable to support and must give reasons for this.
- b) The child or young person and any other family member who requires it will be offered someone to help them make their contribution throughout the process. This person may be called an advocate or supporter, and may be someone within the family network or someone outside the family. They will not be someone who is able to make decisions about the family.

- c) The family must be given relevant, factual and jargon free information about the agencies' concerns and the resources available.
- d) Parents must be given written information about the agencies' concerns at least 24 hours before the conference.
- e) Reasonable travel costs and other expenses will be paid for family members who need it.
- f) Family members will have the opportunity to share their concerns and have their questions answered before and at the meeting.
- g) Family members unable to attend for any reason will be supported in contributing in other ways.

Principle 4 Families have the right to private family time and a supportive and safe environment to make plans.

- a) Families must be given time to meet on their own without the coordinator or staff from agencies being present.
- b) The coordinator must ensure that there is a suitable area and time allocated, with appropriate refreshments, for the family to make decisions.
- c) Childcare provision should be available if required.
- d) The coordinator will work with everyone to enable them to make a plan that meets the needs of the child.

Principle 5 Families have the right to have safe plans agreed and resourced.

- a) The referring agency must agree to support the family's plans unless it places a child at risk of harm and must provide reasonable resources to make it happen.
- b) All family members and agencies who attend the conference will receive a copy of the plan within a stated time. The plan will include details of what resources the family needs and how the proposals in the plan will be carried out and monitored.
- c) The family, referring agency and coordinator will agree how the plan will be reviewed and whether a follow-up review should take place, and who will be responsible for making this happen.
- d) Every effort should be made to respond to the family's plan at the meeting. Families will be informed who will give them a written response, and when and how, if the plan or some of the resources cannot be agreed at the conference.
- e) Agencies whose support is required to carry out a plan should respond within ten days to say whether they can provide the support requested and, if necessary, how long this will take to provide.

Principle 6 Families have the right to be involved in the development of family group conferences.

- a) All families will be offered the opportunity to give their opinion of the service they have received.
- b) Where possible, families will be kept informed about changes made as a result of their comments.

- c) Families should have the opportunity to have contact with other families who have used the service.
- d) Families who have attended a family group conference should have the opportunity to be involved in developing policies and practice about family group conferences.

Appendix 3 - Managing cases on the threshold of care



