



JUDICIARY OF
ENGLAND AND WALES

LINKED CRIMINAL & CARE DIRECTIONS HEARINGS

PROTOCOL FOR GREATER MANCHESTER

Explanatory Memorandum

1. The Protocol for Joint Directions Hearings (JDH Protocol) in linked criminal and public law Children Act (care) cases was introduced in June 2008 in respect of proceedings in the Crown Courts in Greater Manchester and the Manchester Care Centre. The main objectives of the scheme are to ensure that –
 - those involved in relevant related proceedings have some knowledge and understanding of the other proceedings, of what information and evidence is, or may be, available and as to the impact it may have in respect of the effective conduct and presentation of the proceedings;
 - the proceedings can be heard without avoidable delay; and
 - where possible any procedural and evidential issues in one case which impinge upon the other are determined fairly taking into account the relevant interests of all those effected by such matters.
2. The development and implementation of the Protocol was undertaken in consultation with the judiciary, practitioners, the police, Crown Prosecution Service and the administration within the Court Service. The operation of the Protocol has been monitored since its implementation and has proved to be of benefit in the limited number of cases where it has been used to date.
3. A review of the operation of the Protocol has been undertaken by the Working Group and amendments have been made to reflect practical experience over the last 12 months. In addition, it has now been decided to expand the scope of the type of criminal proceedings to be covered by the Protocol to include child cruelty and neglect cases with effect from **Monday, 1st June 2009**. It is anticipated that the inclusion of child cruelty and neglect cases will result in a significant increase in the numbers of Joint Directions Hearings which will be held.
4. The Protocol defines the criteria for identification of cases to which it will apply and upon whom that responsibility lies. It specifies the responsibility which falls on local authority and Crown Prosecution Service lawyers to share information about the issues to be considered at linked directions hearings with a view to identifying directions which may be required. The Protocol specifies a procedure to be followed for linked direction hearings and indicates the type of matters to be considered at such hearings such as timetabling, disclosure, use of expert witnesses and publicity issues.

5. The revised Joint Directions Hearings Protocol is very much a local initiative confined to the Greater Manchester Crown Courts and County Courts. This Protocol is an essential part of a framework available for practitioners and others in Greater Manchester which, together with other protocols provides for the disclosure and exchange of information and a narrowing of the interface between the family and criminal jurisdictions.
6. The other Protocols which are relevant include the *Protocol for Police/Family Disclosure* which was adopted and implemented in Greater Manchester by the police, judiciary and practitioners in November 2004 as part of a Pilot Scheme but continues to operate successfully. This is coupled with the *Revised Best Practice Guideline For the Disclosure of Third Party Material* implemented with the approval and support of the Resident Judges at the 3 Greater Manchester Crown Courts in March 2008. More recently in September 2008 the *Protocol for Service of Family and Civil Orders on Greater Manchester Police (PSFCO)* was added to complete the framework. The existence of these Protocols reflects the very good working relationships which exist within Greater Manchester between the different agencies and organisations involved in both the family and criminal justice systems which have been brought together under the umbrella of the Family Justice Council. The successful implementation of the revised Joint Directions Hearings Protocol will reinforce the commitment of all these agencies in seeking to protect vulnerable victims of crime, domestic abuse, violence and harassment as well as protecting the interests of defendants.
7. Electronic copies of the Joint Directions Hearings Protocol (and the others mentioned) are available and can be obtained from:-
Barbara Stone, FJC & Family Business Co-ordinator, Manchester Civil Justice Centre, 1 Bridge St West, Manchester M3 3FX. Tel: 0161 240 5953 or by e-mail at barbara.stone@hmcourts-service.gsi.gov.uk

His Honour Judge Knopf

May 2009



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1. The Joint Directions Hearings Protocol which was authorised by The Recorder of Manchester, His Honour Judge Gilbert QC, and the Designated Family Judge for Greater Manchester (“DFJ”), His Honour Judge Iain Hamilton, with the concurrence of the Resident Judges at Bolton Crown Court and Minshull Street Crown Court has now been in place and operating since the 2nd June 2008. **The operation of the Protocol has been reviewed and its scope is to be expanded to include child cruelty cases (and amendments have been made to reflect practical experience) with effect from Monday 1 June 2009**
 - 1.1 The Protocol specifies a procedure to be followed for linked direction hearings when there are concurrent criminal and care proceedings ongoing (it is intended that the directions hearings in both matters will be listed together and that the care proceedings directions hearing will be heard in private immediately following the directions hearing in the criminal case) and spells out the matters to be considered at such hearings such as timetabling, disclosure, use of expert witnesses and publicity issues.
 - 1.2 Both family and criminal judges and practitioners are reminded that on behalf of the Family–Criminal Interface Committee the Law Society published in November 2007 a Good Practice Guide entitled “Related Family and Criminal Proceedings”. The objective of the Guide is to assist criminal lawyers who are unfamiliar with the family justice system and vice-versa to understand what it is their colleagues are required to do and achieve and to help them to work together in concurrent proceedings. The Guide can be found on the Family Justice Council web site at <http://www.family-justice-council.org.uk> under Publications.

2 CRITERIA (“the criteria”)

The Protocol shall apply where:-

- 2.1 Proceedings for a care or supervision order under Part IV of the Children Act 1989 (“care proceedings”) have been commenced and such proceedings have been transferred, or are due to be transferred, to the Manchester Care Centre or have been commenced in that Care Centre; and
- 2.2 A person connected with the child who is the subject of the care proceedings (“the child”) [including by way of example but not limited to a parent, cohabitant, member of the household, carer, neighbour, or friend] or the child himself is to be tried at a Crown Court within Greater Manchester for any violent or sexual offence or for an offence of cruelty/neglect etc pursuant to

Section 1 of the Children and Young Persons Act 1933 against the child, or any other child or any person connected with the child; and

- 2.3 The Local Authority, Crown Prosecution Service (“CPS”), or any party to the care proceedings (including the child’s guardian) considers that the care and criminal proceedings do, or may, impinge on one another; or
- 2.4 In any public law proceedings in the Care Centre or in any proceedings in the Crown Court a judge is satisfied that the Protocol does, or may, apply

3 ARRANGEMENTS FOR LINKED DIRECTIONS HEARINGS

- 3.1 In any case to which the Protocol may apply in accordance with the criteria above, the Local Authority shall ascertain from the CPS the details of the criminal proceedings. This information should include the identity of all defendants: the charges preferred: the court through which proceedings are progressing: the calendar number and stage reached in the proceedings. The Local Authority shall provide this information to the family court and the parties in the family proceedings as soon as it is available.
- 3.2 The allocated case management judge (“ACMJ”) shall consider whether or not there is likely to be a need for a linked directions hearing in respect of the criminal and family cases. If the ACMJ considers that a linked directions hearing is likely to be appropriate he/she shall liaise with the relevant Resident Judge to invite him to nominate a judge to be responsible for the management of the criminal case.
- 3.3 In the care proceedings it is expected that the ACMJ will issue directions for the linked hearing which will spell out the respective parties’ obligations, and which may include, but will not be limited to, recordings and orders based on the model directions precedent set out in the Appendix hereto.
- 3.4 Once a judge has been identified to manage the criminal proceedings, the Resident Judge shall direct the listing officers to liaise with family listing to agree the listing of the criminal and care cases for a linked directions hearing before the nominated criminal judge and the ACMJ. In an appropriate case the Resident Judge may agree to the ACMJ undertaking the responsibility for the management of the criminal case if he/she is authorised to try criminal cases, and, where appropriate, serious sex cases.
- 3.5 If on receipt of a criminal proceeding sent or committed from the Magistrates’ and consideration of that case by the Resident Judge, or if during a Plea and Case Management hearing or other pre-trial hearing listed before the Crown Court, the Resident Judge or judge (as the case may be) is satisfied that this Protocol does or may apply but that no reference has yet been made to the ACMJ for consideration in accordance with paragraph 3.2 hereof, the judge shall notify the Designated Family Judge accordingly who shall consider with the relevant Resident Judge and the ACMJ, whether a linked directions hearing is required. If there is agreement on the need for a linked directions hearing, the Resident Judge shall nominate a judge to be responsible for the management of the criminal case and arrangements shall then be made for the criminal and care cases to be listed for a linked directions hearing in accordance with paragraph 3.4 hereof.

- 3.6 The criminal case shall be listed before the judge at the Crown Court in public with the linked directions appointment in the care proceedings listed for hearing in private immediately thereafter. Subject to any specific objections raised by the parties, it is likely that the advocates appearing in the criminal case will be invited to remain during the directions appointment in the care proceedings.
- 3.7 In every case involving a linked directions hearing the Local Authority's legal representative, **by no later than 4.00pm not less than 5 working days prior to the linked directions hearing**, shall with the permission of the family court prepare and serve on the Crown Court, CPS and the defence solicitors a Case Summary setting out the basis of the Local Authority's application, its contentions in respect of findings sought in relation to the 'threshold criteria', the current position in respect of the child(ren), details of the proposed assessments and/or expert(s) assessments being undertaken and the timescales for the same and the timetable (if any) set for the proceedings within the family court.
- 3.8 The Local Authority's legal representative and the Crown Prosecution Service shall agree a Schedule of Issues identifying those matters which are likely to be considered at the linked directions hearing. The Local Authority shall circulate the Schedule to the solicitors for the other parties in the criminal and care proceedings **by no later than 4.00pm not less than 2 working days prior to the linked directions hearing**.
- 3.9 On the day of the linked directions hearing the advocates in the criminal and care proceedings shall meet **no later than 30 minutes prior to the time fixed for the hearing** to discuss the Schedule of Issues with a view to identifying what directions may be required with particular reference to trial timetable, disclosure and expert evidence and such other matters as may be identified by this Protocol.
- 3.10 The respective court files in the criminal and care proceedings shall be cross-referenced and shall be clearly marked as "linked" cases. The criminal case log and the minute of order to be drawn in accordance with paragraph 12 hereof shall be copied to the care file and orders in the care proceedings shall be copied to the criminal file
- 3.11 The directions hearing will be linked but not wholly combined because of the different parties and different procedural rules (such as with regard to privacy and rights of audience) which apply. The judges shall determine whether it is appropriate for some or all of the directions to be issued at a joint hearing or separately and the order of any directions to be issued.
- 3.12 At the conclusion of the hearing in the criminal case counsel for the Crown will be invited to draw the minute of order, to be agreed with the defence, which will be submitted to the judge on the day of the hearing, for his approval.
- 3.13 The approved minute of order made in the criminal proceedings will be copied to the parties in the care proceedings by the Crown Prosecution Service.
- 3.13 With the permission of the family court, the order made in the care proceedings will be copied by the Local Authority to the prosecution and defence lawyers in the criminal proceedings

4 MATTERS TO BE CONSIDERED AT THE LINKED DIRECTIONS HEARING

- 4.1 The timetabling of both the criminal & care proceedings, with a view to such timetabling being coordinated to ensure the most appropriate order of trial and that each case is heard as expeditiously as possible.
- 4.2 Disclosure of evidence with particular reference to disclosure of evidence from one set of proceedings into the other with such permission as may be required by the relevant procedure rules.
- 4.3 Third party disclosure as required by Rule 28 of the Criminal Procedure Rules 2005 and the Best Practice Guidelines for Third Party Disclosure approved by the Resident Judges at the Crown Courts in Greater Manchester.
- 4.4 Expert evidence with particular reference to identification of expert witnesses, their willingness to act within the court timetable, their availability and role in the criminal and care hearings.
- 4.5 Any directions to be given in relation to issues of public interest immunity.
- 4.6 Arrangements for interview of children in care for the purpose of the criminal proceedings.
- 4.7 To ensure where appropriate that a transcript of relevant evidence or judgment in the trial heard first in time is available in the subsequent proceedings.
- 4.8 Issues relating to any questions of assessment or therapeutic input required by any child involved in the proceedings.
- 4.9 Issues in relation to restrictions on publicity which it is considered may be required.
- 4.10 Issues in relation to any relevant material which may be pertinent to the issue of bad character (in respect of previous convictions or other alleged "reprehensible conduct"), whether of Defendants or non-Defendants.

5 JUDICIAL CONTINUITY

Any adjourned linked directions hearing shall be listed before the same judge (unless the judge otherwise directs) but the judge who is the ACMJ shall not preside over the trial in the criminal proceedings, or pass sentence if there is a guilty plea, nor shall the judge give a "Goodyear indication". The judge in the criminal trial or who passes sentence if there is a guilty plea shall notify the ACMJ of the outcome



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Appendix

Model Directions

Examples of recordings

1. The local authority solicitor has spoken to counsel for the Crown Prosecution Service and has requested disclosure of the papers from the criminal proceedings. The father is being assessed by Dr [name], Consultant Psychiatrist, in readiness for the Plea and Case Management Hearing on the [date]. It is anticipated the prosecution will serve upon the local authority a list of all the papers in the criminal proceedings by the [date]. It is understood that the CPS will also be seeking sight of papers from these proceedings and the previous proceedings regarding [names] the previous children of the father and the late mother as well as documents held by the local authority on its Social Services files.

Or

2. Mr XX has now been charged with offences in relation to assaults on [the child] to which he has pleaded not guilty and the proceedings under Calendar Number T2008/OXXX are listed for trial on the [date] at the Manchester Crown Court, Crown Square, Manchester.

Plus

3. The court has considered the Linked Criminal and Care Directions Hearings Protocol for Greater Manchester and considers that a linked directions hearing is appropriate. The court will liaise with the Resident Judge to request that he should nominate a judge to be responsible for the management of the criminal case with a view to listing a linked directions hearing at the Crown Court before the nominated judge and the ACMJ, His/Her Honour Judge [name]
4. The court invites the local authority representative to ensure that copies of the Linked Criminal and Care Directions Hearings Protocol for Greater Manchester are made available to the CPS solicitor with conduct of the criminal proceedings, the defence solicitor and instructed counsel.

Examples of Orders

1. The proceedings matter are listed for a linked directions hearing and adjourned CMC hearing at 10.30am on the [date] before The Recorder of [Manchester]/His Honour Judge [name] and His/Her Honour Judge [name] sitting at the Crown Court, [address]. (ELH 1½ hours)

Or

2. The proceedings are listed for a linked directions hearing at 10.00am on the [date] before His/Her Honour Judge [name] and His/Her Honour Judge [name] sitting at the Crown Court, [address](ELH 1 hour)
3. In accordance with the Linked Criminal & Care Directions Hearings Protocol for Greater Manchester the local authority shall by 4.00pm on the [date] serve on the Crown Court, CPS and the defence solicitors a Case Summary as set out in the Protocol and shall file and serve a copy of the same in these proceedings.
4. The local authority's legal representative and the Crown Prosecution Service's representative shall agree a Schedule of Issues identifying those matters which are likely to be considered at the linked directions hearing and the local authority shall circulate the Schedule to the solicitors for the other parties in the criminal and care proceedings by no later than 4.00pm on the [date].
5. The local authority shall by 12 noon on the [date] prepare and file with the Court an agreed bundle prepared in accordance with the *Practice Direction (Family Proceedings: Court Bundles)* [2006] 2FLR199 to include the Case Summary & the Schedule of Issues (agreed if possible) and proposed directions to be sought. The local authority shall at the same time file and serve on each of the respondents an index to the bundle.
6. The governor of HM Prison [identify] is directed to ensure the father is produced at 10.00am for the hearing on the [date].
7. The local authority shall serve a copy of this order on the CPS solicitor with conduct of the criminal proceedings and the defence solicitor who may provide copies to instructed counsel.