

2. FLEXIBLE POWERS OF THE COURT

- 2.1** Attention is drawn to the flexible powers of the court either following the issue of the application in that court, the transfer of the case to that court or at any other stage in the proceedings.
- 2.2** The court may give directions without a hearing including setting a date for the Final Hearing or a period within which the Final Hearing will take place. The steps, which the court will ordinarily take at the various stages of the proceedings provided for in the Public Law Outline, may be taken by the court at another stage in the proceedings if the circumstances of the case merit this approach.
- 2.3** The flexible powers of the court include the ability for the court to cancel or repeat a particular hearing. For example, if the issue on which the case turns can with reasonable practicability be crystallised and resolved by taking evidence at an IRH then such a flexible approach must be taken in accordance with the overriding objective and to secure compliance with section 1(2) of the 1989 Act and achieving the aim of resolving the proceedings within 26 weeks or the period for the time being specified by the court.
- 2.4** Where it is anticipated that oral evidence may be required at the CMH, FCMH or IRH, the court must be notified in accordance with Stages 2 and 3 of the Public Law Outline well in advance and directions sought for the conduct of the hearing.
- 2.5** It is expected that full case management will take place at the CMH. It follows that the parties must be prepared to deal with all relevant case management issues, as identified in Stage 2 of the Public Law Outline. A FCMH should only be directed where necessary and must not be regarded as a routine step in proceedings.

3. COMPLIANCE WITH PRE-PROCEEDINGS CHECKLIST

- 3.1** It is recognised that in a small minority of cases the circumstances are such that the safety and welfare of the child may be jeopardised if the start of proceedings is delayed until all of the documents appropriate to the case and referred to in the Pre-proceedings Checklist are available. The safety and welfare of the child should never be put in jeopardy because of lack of documentation. (Nothing in this Practice Direction affects an application for an emergency protection order under section 44 of the 1989 Act).
- 3.2** The court recognises that the preparation may need to be varied to suit the circumstances of the case. In cases where any of the Annex Documents required to be attached to the Application Form are not available at the time of issue of the application, the court will consider making directions on issue about when any missing documentation is to be filed. The expectation is that there must be a good reason why one or more of the documents are not available. Further directions relating to any missing documentation will also be made at the Case Management Hearing.

4. ALLOCATION

- 4.1** The court considers the allocation of proceedings in accordance with the Allocation Order and whether transfer is appropriate in accordance with this Order and the Guidance issued by the President on Allocation and Gatekeeping. When proceedings are issued in the

magistrates' court the justices' clerk or assistant justices' clerk (with responsibility for gatekeeping and allocation of proceedings) will discuss allocation and transfer with a district judge of the county court (with responsibility for allocation and gatekeeping of proceedings as provided for in the Guidance issued by the President on Allocation and Gatekeeping) and will, where appropriate, transfer the case.