

APPENDIX 4

Journey of Improvement

- We have never had enough resources to do 'proactive' work
- Caseloads have been too high because we have not had enough resources
- We were not permitted to have the "red book" – a critical resource for any children's lawyer which meant an inability to research more complex areas of law
- Leadership in the legal team was not democratic and problems/necessary learning/key issues in the service were most often not shared with the team.
- There was a lack of management oversight historically in the team which meant some areas of work, including the PLO process have not been sufficiently robust
- Failure to invite us to strategy meetings which results in not being able to give legal advice at the earliest opportunity
- Failure to inform us of emergency situations at the earliest opportunity, this has meant in cases where the police have exercised their powers of protection, we have been asked to issue an out of hours application (this should not occur when the LA has had 72 hours to make an application to the court and would be viewed very dimly by the judiciary), this was avoided by the use of s20, but this situation should not occur.
- Following the 2018 High Court judgements several commitments were made by the local authority, specifically in the twins case, these commitments were not shared with the legal team, nor with the service and no evidence has been seen of planning or monitoring implementation of these commitments and therefore key promises were left unmet.
- There has never been any tracking of issues raised in judgements which has resulted in these being not adhered to or taken on-board
- Historic high court judgements have not been shared with the team for the purposes of learning nor have they been shared with the service; training has not been facilitated in order to address knowledge gaps and therefore "lessons learned" have not been facilitated.
- There was not a close relationship between the judiciary and the local authority, the local authority were viewed by the judiciary as operating very defensive practice.
- We are known as a reactive service; we are the last to find out and historically only key leadership personnel in the Team had engagement with the service
- Historically there is a legacy issue that legal has not been an "open door" this has meant a reluctance to seek legal advice. This emanated from a combination of having outsourced work to Warwickshire and therefore there was a loss of client relationship, and for a period thereafter a loss of faith in the in-house team, as well as at various junctures there having been arbitrary rules about who is permitted to seek legal advice (e.g. team manager and above only).
- There has been a lack of understanding about when to seek legal advice, for example, in the recent high court case (April 2021) case there was a Looked After Child who required significant medical treatment and no legal advice was sought about whether this consent could be provided by the local authority. In addition, in a recent case of concern where a Looked After Child was prescribed the contraceptive implant without any legal advice sought about who could provide that consent, a further recent example is where serious allegations of sexual abuse have been made by a child, the father was arrested and subject to bail conditions. the father returned to the family home and the child has at no point retracted allegations which means there has been a lack of appropriate safeguarding in this case as a result of not highlighting the matter to legal (
- Instances of the service undermining legal advice using own interpretation of the law and how it applies

- Appropriate documentation and assessments are not always available for legal planning meetings which means that advice cannot be proffered. An example being told an assessment was negative for an issued case - and getting into Court to find the assessment was positive.
- We had no involvement, nor was legal advice sought about the appropriate identification of children that would be suitable for SGO or discharge of care orders
- There has been a lack of understanding about the legality of allowing children to change their name and be “known as” another name at school or in other environments without seeking legal advice.
- Legal advice was not sought about the appropriateness or otherwise of a “LAC reduction” policy
- Our legal advice has been ignored - for example in a 2020 case, we asked whether an application should be filed at court in order to allow for the reassessment of kinship carers pursuant to decision of fostering ADM and this advice was ignored; and in a March 2021 case where legal advised an ICO was necessary, we were instructed to apply for an ISO and the court granted an ICO due to the seriousness of the case. We were not consulted on what is the legal duty to promote contact
- We were not consulted on ‘no contact’ orders for children in care – which means several cases have been in breach of statutory duty
- We are not asked about the need to include birth parents and other holders of PR in the Looked After Child review process and the ongoing requirement to include all holders of PR in this process following the granting of final orders
- We have been told by the service we don’t need further protocols from legal services –and whilst protocols are not a panacea, it is important to have standards and procedures that can be referred to as part of improvement work so that staff have a point of reference for good practice
- We advised the service that their budget proposals amounted to a LAC Reduction policy which was ignored
- We rarely receive evidence on time, and whilst a protocol has been drafted to ensure the timely filing of evidence, this is not being followed. This means we have insufficient time to review evidence before it is filed, or alternatively we are required to ask the court to re-timetable matters.
- Legal often having to step into the role of the IRO where there hasn’t been sufficient challenge to the care planning, or quality of assessments undertaken. Instances where parents were blocked from LAC reviews and weren’t consulted, even though there was a significant change to a care plan from LAC to SGO.
- Inexperienced child care locums or permanent members of staff
- Lack of timely and good quality assessments being done in Children’s Services – which means legal are often seen as the “bad guy” and “making more work” when oftentimes assessments should have been done already.

Where we are now and changes made to date:-

Since March 2020, a wide ranging number of changes have been made. These include the following:-

- A positive working relationship has been built up with the service, we have already begun to disseminate the message that we are an approachable team and operate an “open door” policy

- We have been able to foster a very good professional relationship with the DFJ, HHJ Plunkett. He has commented that he has seen significant positive change has been effect since the change in leadership of the team, and he has spoken highly of the quality of the legal work that is being conducted and presented to him at court (please see the attached correspondence which demonstrates a range of compliments received).
- We ensure that legal advice is now provided to ADM as this did not take place historically
- We have implemented a review process for long-term section matters which mean those children who are subject to s20 for longer than a 1 year period, we seek counsel's opinion in respect of the legality of their legal status/framework
- We have ensured the smooth transition from "in-person" hearings to remote hearings as a result of the global pandemic which meant urgent modification and adaption to new working practices
- We have held various training sessions, including for example, to elected members on Adoption and to the service in respect of emergency applications.
- We adapted to the significant changes brought about by the global pandemic which meant creating legal protocols to adapt to requirements brought about by COVID-19 and ensuring children continued to be safeguarded notwithstanding wholesale changes to practice
- We have embedded the new digital portal within the team which means all new court applications are submitted via a digital portal, rather than by email.
- A plethora of protocols have been drafted which include the following:-
 - Change of name flow chart
 - Emergency removal of child subject to a care order at home
 - Family time letter
 - Family time flow chart
 - Filing of evidence protocol
 - Looked after review process – engaging parents and other holders of PR
 - Medical treatment and intervention for children in care protocol
 - Obtaining consent for children in care protocol
 - Withholding or withdrawing life support for children protocol (this protocol is multi-agency as it has been agreed and approval sought through the Safeguarding Partnership)
 - Redaction form for assessments to be sent to legal
 - Pre-hearing protocol
 - Outcome of case summary (to be completed by legal at the end of proceedings so that the client department have a clear understanding of the outcome of proceedings)
 - End of file review
 - Redrafted designated authority tool which is the document which is used to explain to foster carers what they can and can't consent to for a child in their care in relation to a variety of different areas including school, medical consent.

More recently since, and particularly post Re YY judgement, the further following changes have been made:-

- We have recruited two experienced locums to the main legal team in order to reduce case loads
- Two lawyers have been allocated to specifically work on the resilience and improvement work

- An initial improvement plan has been drafted by the children's legal team to inform the resilience and improvement work which provides a high level view of the areas work, both in terms of analysis and remedial work that are required – need to attach a copy
- The two lawyers will be working with the children's services Improvement and Resilience Team on a joint improvement plan. This will mean that we are amalgamating the improvement plans of legal and children's services to ensure that there isn't duplication of work and that we are not working in silos and there are collaborative outcomes that stand up to professional and legal challenge
- We have conducted an analysis of the various findings of fact across the three 2018 judgements and the Re YY judgement and a review of the actions which we committed to and those commitments that have not been met. We will use this as a basis for informing improvement work to ensure that we are now implementing learning from the judgements
- We have fostered a very good close working relationship with the Interim DCS, Cath Knowles and are operating an escalation policy where matters of concern are escalated to Hilary Brooks, AD and Cath Knowles in order to ensure issues are dealt with promptly and that if legal advice isn't being followed, there is oversight of this decision making.
- Any matters of escalation that still present legal risk, including issues of medical intervention and end of life are highlighted to the Head of Legal and DMO, and MO to support the necessary legal advice.
- High risk and notable case meetings take place on a fortnightly basis with interim DCS and interim AD
- SGO panel system, designed by Legal has been established to ensure that those matters where assessments have been completed have also been considered by the legal department to ensure the appropriateness of an application to court
- We have provided legal input on the current SGO cases which have been subject to audit in Q&A team in the service
- Any new applications for care orders, SGOs/Discharge of Care Order, DOLs now require AD/DCS approval and any assessments will need approval of the Joint Panel before proceeding to court
- We are holding frequent meetings with HHJ Plunkett to ensure he is fully apprised on the local authority's improvement journey

Where we want to be:-

- We want to ensure that lessons from the YY case are fully learned and that going forward we have confidence that there has been significant cultural and systemic changes within children's services and that there is full confidence in the support provided by the children's legal team. This will include a full root and branch review; it is likely that legacy issues and decisions will be unearthed, but this is part of the improvement journey.
- In seeking to ensure lessons learned are embedded, a program of training and workshops will be facilitated. We not only need to provide these learning opportunities, we need to monitor how effectively learning is put into practice by feedback, the quality of work that is being received by the legal team and also by the nature of enquiries sought in the legal team. We are happy to provide further tracking evidence of this.
- We want to instil confidence in social workers so they know when to approach legal for advice. This will be achieved by training social workers and working alongside the social work academy to support their training packages to that social workers are able to identify the appropriate junctures for seeking legal advice
- We want the IRO service to have a renewed sense of confidence in challenging social work appropriately, acting as the check and balance that it should be. This will involve a review of the work that the IRO service conducts, and working with the service to establish key areas and "touch points" where IROs are not visible and should be.

- We want to be a proactive legal service that can carry out work to an excellent standard, and be resourced appropriately so this can be achieved
- We want to continue to maintain and build on the positive relationship we have with the judiciary so we are seen as a “court facing” authority.
- We want to implement an “escalation of advice hit list”, we don’t want any lawyer to make legal decision on a matter of complexity without a second opinion (in the same way a doctor would always seek a second opinion).
- We want to implement a disclosure protocol for the children’s legal team which can be used by across legal services
- We want as a local authority; both for the legal team and children’s services to be seen as a first choice to work at, due to the quality of the work undertaken and the supportive environment provided to employees

Glossary

What is Section **20 of the Children Act 1989**?

- it sets out how a Local Authority **can** provide accommodation for a **child** within their area if that **child** is in need of it, due to the **child** being lost/abandoned or there is no person with parental responsibility for that **child**