

Case no. [insert]



In the Family Court at [West London / Barnet]

The Children Act 1989 / [The Adoption and Children Act 2002]

The child(ren)

[name of child] [Girl/ Boy] [d.o.b. insert]

ORDER MADE BY [insert]
AT THE CASE MANAGEMENT HEARING
ON [insert]
CMO NO. [insert] AT TIMETABLE WEEK NO. [insert]

**THE ORDER SENT FOR APPROVAL MUST HAVE REMOVED
ALL PARAGRAPHS WHICH ARE EITHER NOT REQUIRED OR APPLICABLE.**

A. The parties and representation at this hearing

	Name of Party	Advocate name	Advocates Email	Instructing solicitor email if different to advocate)
Applicant				
Respondent 1				
Respondent 2				
Respondent 3+				

Important notices

Confidentiality warning

The names of the family and the children are not to be disclosed in public without the court’s permission.

Compliance warnings

All parties must immediately inform the allocated judge as soon as they become aware that any direction given by the court cannot be complied with and to seek in advance an extension of time to comply.

In the event that a party fails to comply with directions and/or fails to attend any hearing without good reason the court may make final orders including care orders and placement orders at that hearing.

General provisions in this order, the first case management order, to apply in subsequent case management orders

The following provisions of this CMH order will continue unless otherwise ordered and do not need to be repeated in future orders:

- (1) Any order as to interim placement
- (2) Any declaration as to jurisdiction
- (3) The identity of the allocated Judge
- (4) The provision as to bundles
- (5) The provision as to variation of orders

B. FAS Recital

The Court noting the following provisions for the purposes of FAS:

Hearing Before	<i>insert</i>
Hearing Date	<i>Insert</i>
Court Type	<i>Insert</i>
Type of Hearing	<i>Insert</i>
Bundle	<i>Insert</i>
Pre hearing discussions began at	<i>Insert</i>
Start time of the hearing	<i>Insert</i>
End of time of hearing (to include time to agree order)	<i>Insert</i>
Number of hearing units claimed	<i>Insert</i>
Relevant Bolt Ons:	<i>insert</i>

C. Recitals

- i) Police disclosure being relevant in this case [the Local Authority confirms the Disclosure Protocol was invoked on [insert date] / the Local Authority must no later than 4pm on [insert a date within 7 days] invoke the Disclosure Protocol]. The parties should ensure any request is focused on those matters in dispute and the period for which disclosure is sought is appropriately time limited to the relevant period only.
- ii) [Insert as applicable further recitals: bearing in mind judicial guidance as to the inappropriateness of excessive use of recitals]

IT IS DECLARED THAT:

D. Jurisdiction

- 1. The court in England and Wales has jurisdiction in relation to the child(ren) on the basis that the child(ren) are habitually resident in the jurisdiction of England and Wales.
- OR**
- 2. [Appropriate directions if jurisdiction is in dispute providing for any evidence and a prompt hearing to determine the issue].

AND THE COURT ORDERS

E. Interim Placement

- 3. In the interim, the child(ren), [insert] shall be [placed into the care of/put under the supervision of] the London Borough of [insert] until [insert date/the duration of these proceedings or until further order].

F. Alternative carer assessment

- 4. Each parent must, no later than 4pm on [insert date no later than 7 days after CMO], provide the Local Authority with the details (including contact details) of any person they

wish to be considered as alternative carers for the children in the event that the children cannot be returned to or remain with the parents.

Note: The Court made it clear to the parents that this may be their only opportunity to put forward alternative carers. If any person is put forward late, there is a real risk that the delay to the children's timetable will mean that they will not be given an assessment.

The Court expects this point to be reinforced to the party by any solicitor acting on their behalf

5. The applicant shall by 4pm on [date 3 weeks after CMO] send to the person being assessed and to the other parties a viability assessment of each individual referred to above. If for whatever reason an identified individual does not engage with the assessment or indicates an unwillingness to be assessed then the Local Authority need not provide a viability assessment but must provide a short note from the assessor confirming why the viability assessment was not completed:
 - a. In the event that the viability assessments are positive, the Local Authority must, by 4pm on [date 15 weeks from CMO], send a full special guardianship or connected person foster care assessments to the court and to the other parties.
 - b. If positive, the Local Authority is requested to consider funding a one-off session of legal advice (at legal aid rates) for one potential carer (or joint carers) for consideration of the legal basis upon which they seek to care for the children (for example as foster carers or special guardians).
 - c. In the event that the viability or full assessments are negative, the Local Authority must forthwith on completion of the assessment write to the person assessed with a copy of the assessment, confirming the date, time and venue of the next court hearing and a list of local solicitors who are members of the Children Accreditation Scheme, explaining that in the event that the person challenges the assessment they must:
 - i. seek legal advice as soon as possible;
 - ii. inform the Local Authority in writing within 7 days that they dispute the factual assertions of the assessment and/or its conclusions;
 - iii. attend the next court hearing, and
 - iv. that a delay in doing any of the above may lead to the Court refusing a further assessment of that individual.
6. The following documents shall be disclosed by the local authority to the persons undergoing viability:
 - a. Their viability assessment
 - b. The threshold criteria document
 - c. The initial social worker statement
7. The following documents shall be disclosed by the local authority to the persons undergoing a special guardianship and/or connected persons assessment
 - a. Their assessment
 - b. Any special guardianship support plan relating to them
 - c. Any transition plan relating to them
 - d. The final evidence of the local authority and final care plan
 - e. The final evidence of the parents
 - f. The children's guardian's final analysis

8. ~~Delete if not applicable:~~The Court considering it appropriate to limit the number of individuals subject to full alternative carer assessment each parent is restricted to [insert] candidates. Following receipt of the viability assessments each parent must within 48 hours select the individuals they wish to proceed to full assessment from within their list of candidates. Only these individuals will proceed to full assessment].

G. Parents' Initial statement/response to threshold

9. The parents must, unless they already have done so, no later than 4pm on [insert date] send to the court and to the other parties their initial statements and response to interim threshold. If a parent fails to provide this response by the date provided then they shall be taken to not dispute the threshold criteria as set out by the Local Authority.

H. Litigation Capacity (if applicable – otherwise delete paragraphs 10-15)

10. There being an issue as to the litigation capacity of the following party, [insert name] the solicitor for the parent shall by 4.00pm on [date] send to the court a report (a cognitive assessment) by [insert name and discipline] dealing with the question whether [name]:
- has litigation capacity within the meaning of sections 2 and 3 of the Mental Capacity Act 2005;
 - is competent to give evidence;
 - has capacity to consent to placement for adoption and/or the making of an adoption order.

The cost of the report must be paid by [insert costs responsibility].

11. There will be a hearing at [time] on [date] to assess [name]'s capacity to litigate.
12. If the assessment concludes [name] has capacity then the assessment shall also consider whether [name] is a vulnerable person and, if so:
- how their evidence in chief should be given;
 - whether and how they should be questioned (cross-examined) including the length of questioning and the need for, and frequency of, any breaks;
 - what support should be made available;
 - whether separate waiting or other facilities are needed;
 - whether their evidence should be given remotely.

On receipt of the assessment the solicitor for the person assessed shall immediately inform the Court that the capacity hearing is not required.

13. If the assessment concludes [name] lacks capacity then [name]'s solicitor shall no later than 72 hours after receipt of the report confirm whether or not [name] accepts the conclusion of the report.
14. If [name]'s solicitor confirms [name] accepts the conclusion of the report and does not seek to challenge its contents and that there is no other person proposed to act as a litigation friend then the parties shall within 72 hours of the assessment file a consent order making appropriate provision for the instruction of the Official Solicitor of England and Wales, subject to her consent.
15. If subsequently the local authority issue any application for a placement order the [name]'s representatives must immediately consider whether the evidence of litigation

capacity obtained in the care proceedings remains sufficient for the placement proceedings and if so must immediately ask the court so to confirm with a view to inviting the Official Solicitor to act also in the placement proceedings.

I. Paternity (If applicable – otherwise delete the paragraphs 16-19)

16. There being an issue as to paternity of the child(ren). Pursuant to section 20 of the Family Law Reform Act 1969 the child(ren) [insert name] shall be subject to DNA testing by a testing agency accredited in accordance with the 1969 Act to determine whether [insert name] is the father of the children [insert name]. The person with care and control of the children is [insert name]. The adults to be tested are [insert name].
17. At the time the samples are taken the person being tested must produce to the sampler: (a) form BD1; (b) photo identity, and; (c) a copy of this order. The instruction to the accredited testing agency must be accompanied by a statement identifying what the range of relatedness or un-relatedness might be and express in clear terms what those being tested believe their relationship to be.
18. [Insert instructing solicitor] must make the instruction and must by 4.00pm on [insert date] submit completed Form BD1 to an accredited testing agency. The results of testing must be sent to the court, to the tested adults and the local authority by no later than 4.00pm on [insert date within 14 days if possible]. The cost of the testing must be paid [insert costs responsibility].
19. If as a result of the testing results there is a requirement for further case management directions to include any assessments then the parties are encouraged in the first instance to discuss and agree a proposed consent order providing for the same. The dates within such order must not be such as to cause the next hearing to be vacated. In the event the parties cannot reach agreement and file a consent order within 7 days of the test results being known or where they propose varying the date of the next hearing then they must apply to the Court within 48 hours of this become apparent.

J. Disclosure

20. [If applicable add any disclosure provisions]

K. Experts' Assessments (If applicable otherwise delete paragraphs 21-24).

21. The court being satisfied that it is necessary for the following expert to be instructed, permission to [name] to instruct an expert [type of expert], namely [name], as a single joint expert.
22. The following directions shall apply to the instruction:
 - a. The lead for the instruction of the expert shall be [name].
 - b. The letter of instruction to the expert [as approved by the court today]/[to be agreed by the parties by 4.00pm on [date] and sent to the court] must be sent the expert by 4.00pm on [date].
 - c. The questions to be dealt with by the expert are as follows: [insert]
 - d. Permission is [not] given for the expert to see and assess the child[ren].
 - e. The expert's report must be sent to the court and to the parties by no later than 4.00pm on [date].

- f. Permission is not given at this stage to call [name] to give oral evidence at the hearing.
- g. The costs of the report shall be paid [insert costs responsibility].
- h. In the event that [the parent] does not engage, only partially engages or withdraws from the assessment, the assessor must complete their assessment by the specified date on the basis of the work they have undertaken by that date. If [the parent] does not engage fully without a good reason, there is a real risk that they will not be given a further opportunity to be assessed. The lead solicitor for the assessment must inform the allocated Judge that the parent has failed to engage, with a proposed revised timetable for bringing forward filing dates.
- i. [If the appointment date is known at the CMH, it will be inserted into the order.]

23. Questions of the expert must be dealt with in accordance with FPR rule 25.10.

24. Any application for permission to call an expert to give oral evidence must be made no later than 1 working day before the pre-IRH advocates meeting. The court requires that any party that seeks permission must have raised written questions with that expert and received replies in advance of the application.

L. Parenting assessment by local authority

25. The local authority must undertake a parenting assessment of [name] [as joint and as sole carers] and must file the assessment report by no later than 4.00pm on [date 8-12 weeks from CMO unless otherwise directed].

26. In the event that the parent does not engage, only partially engages or withdraws from the assessment, the assessor must complete their assessment by the specified date on the basis of the work they have undertaken by that date. If a parent does not engage fully without a good reason, there is a real risk that they will not be given a further opportunity to be assessed. The lead solicitor for the assessment must inform the allocated Judge that the parent has failed to engage, with a proposed revised timetable for bringing forward filing dates.

27. [If the appointment date is known at the CMH, it will be inserted into the order.]

M. Final evidence

28. The Local Authority must by 4pm on [date 14-18 weeks after CMO] send their final evidence and care plans, and final threshold document, to the court and to the other parties.

29. The Local Authority must by 4pm on [3 working days prior to the IRH/EFH] send to the court and the other parties a threshold document setting out those facts which are agreed and identifying any additional findings of fact that the local authority still seeks for the court to determine. This document should not include facts in dispute which the local authority is not seeking the court to determine.

30. The parents must by 4pm on [date 2 weeks after date in preceding paragraph] send their final statements of evidence and responses to the final threshold document to the court and to the other parties.
31. Where a party fails to provide a response to threshold within the time stipulated the Court may take them to have accepted the threshold and the Court may proceed on the basis of the threshold as if agreed.
32. The children's guardian must by 4pm on [date 2 weeks after date in preceding paragraph] send a final case analysis to the court and to the other parties.

N. Placement application directions

33. The local authority must take all steps to enable a decision by the ADM regarding placement (including adoption medicals and child permanence report) and to ensure the ADM decision regarding any placement application is made by no later than [date].
34. The local authority must issue any application for a placement order (with Annex B report, statement of facts, child permanence report and ADM record of decision) by no later than 4.00pm on [date].
35. The local authority must serve the child permanence report and the ADM's record of decision on the parties but those documents shall not be included in the court bundle unless requested by any party by no later than the IRH.
36. The placement application may be served on the parents' solicitors if they remain on record as acting for the parents in these care proceedings.
37. The following directions shall apply immediately upon issue of an application for a placement order:
 - a. the child[ren] shall be made party to the application;
 - b. the existing children's guardian in the care proceedings shall be appointed as the children's guardian;
 - c. the evidence in the care proceedings shall be admitted in the placement proceedings and vice versa;
 - d. the parents must include their response to the placement application and the request to dispense with their consent within their final evidence in the care proceedings;
 - e. the children's guardian's final case analysis in the care proceedings must include a case analysis in respect of the placement application;
 - f. the placement order application must be listed and heard at the same time as the application for a care order.

O. Foreign Evidence

38. It is incumbent on all advocates to be familiar with FPR 2010 PD22A as to the calling of evidence from a party outside the jurisdiction, and to be ready to make submissions on the point when required. This needs to be considered at the earliest opportunity.

P. Pre-IRH Advocates' Meeting

39. The children’s solicitor must arrange an advocates’ meeting for no later than 3 clear working days before the next hearing. The meeting shall be attended by the advocates who will appear at the hearing to which the advocates’ meeting relates. The following items shall be included on the agenda:
- i. Agreement in respect of final threshold if possible.
 - ii. Agreed list of issues to be determined at the final hearing.
 - iii. Timetabling of composite threshold document.
 - iv. Proposals for any participation directions, special measures and ground rules.
 - v. Completed witness template showing who is giving evidence, when and for how long.
 - vi. Agreed time estimate for the final hearing.
 - vii. Confirmation of the witnesses’ availability as timetabled, or where a final hearing remains to be listed availability over the following 4 months.
 - viii. Agreed reading list to be sent to any expert giving evidence at least 5 working days before they are due to give evidence.
 - ix. Whether it is proposed that any witness(es) will attend remotely. If so, which witness(es), on what day(s), the reason for their proposed remote attendance, where they will attend from and what the arrangements are for them to participate remotely, including their access to an electronic/paper bundle and a device(s) to enable them to attend by video at the same time as being able to use the bundle. In the event that any witness intends to give evidence from abroad, the outcome of enquiries under PD22A annex 3 paragraph 5, including enquiries with the country in which the witness is located, the Foreign and Commonwealth Office, the Taking of Evidence Team and the Royal Courts of Justice (Foreign Process Section).
 - x. Any other relevant matters including arrangements for any interpreters (quiet simultaneous interpretation), intermediaries and/or production orders.
40. A minute of the advocates meeting should be taken by the Local Authority and should be uploaded onto the FPL system within the hearing documents tab. The minute need not be agreed.

Q. Issue Resolution/Early Final Hearing
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41. There will be an issues resolution/early final hearing on [date] at [time], allowing [insert] hours. This shall be an attended hearing and the parties and their legal representatives must attend by [insert] for pre-hearing discussions.
- a. The Local Authority must by 11am two working days before the IRH/EFH send to the Court and the other parties or upload to the hearing documents tab on FPL (as is applicable) a case summary, draft case management order and minute of advocates meeting. The case summary must
 - i. identify the issues agreed at the advocates’ meeting and those which remain to be decided;
 - ii. identify the witnesses whose evidence is needed to resolve the remaining issues;
 - iii. include a witness template for the final hearing.
 - b. The parties other than the Local Authority must by 1 working days before the IRH/EFH send to the Court and the other parties or upload to the hearing documents tab on FPL (as is applicable) their position statements setting out clearly what issues remain, including any issues about threshold, and identifying those witnesses whose evidence is required to address the remaining issues.

- c. The court may treat that hearing as an early final hearing, may take evidence and may make final orders.
- d. If the parents fail to attend the hearing without good reason the court may make final orders including care and placement orders in their absence.
- e. The children's guardian must attend this hearing unless she has a prior professional commitment and has been excused at the time the IRH is fixed.

R. Interpreters

30. The Court must arrange for [insert number] interpreters fluent in [insert language] to be available at all future hearings for the [insert party], to attend no later than one hour before the time the hearing is listed.

S. Documents/Bundles

31. No document other than a document specified in an order or filed in accordance with the Rules of any Practice Direction shall be filed without the court's permission. Court bundles must be prepared and lodged at court in accordance with Practice Direction 27A. Permission is not given for the court bundle to exceed 350 pages. The local authority must provide a witness bundle for any hearing at which evidence is to be called.

R. Variation of orders

32. Any application to vary this or any other order is to be made to the allocated judge on notice to all parties. An application to vary this or any other order may be made by email to the allocated judge provided the party seeking variation seeks the prior agreement of the other parties and when seeking the variation must submit a draft order and confirm whether: (a) the proposed variation is agreed; and, if so; (b) to what extent the proposed variation would affect the timetable for the proceedings.
33. Paragraph 32 should be read subject to the case being managed within the FPL system in which case the application should be made as appropriate on that system.