



Association of **Lawyers for Children**
Promoting justice for children and young people

Bullet point note of evidence to the: All Party Parliamentary Group for Children's inquiry on children's social care

1. Through its consideration of this matter thus far, the APPG will be aware of the widely-held concerns amongst those involved with children's social care and family justice that the system (in general) is struggling to cope. There is an increasing demand for support and services from local authority children's social care departments (hereafter 'LA'), which have already suffered from resource/budget reductions. The ALC also believes that there is an increasing presentation in families needing help where the issues/concerns are complex or multi-faceted.
2. The ALC submits that there are a number of factors at play which drive the apparent increase in thresholds for accessing LA support and services. While the points below are not an exhaustive list, they are in the ALC's submission, some of the key drivers.
 - In a climate of austerity, society will see an increase in the number of families who are facing financial difficulties. Those families who are already experiencing difficulties arising from poor education, housing problems, addiction issues and who experience violence, are further socially marginalised and their struggles increase.
 - The ALC submits that the number of cases where LAs are involved as a result of concerns about neglect of children has increased. Knowledge and learning about neglect has also developed and there is an emphasis on early identification in such cases to seek to help children's situations improve in order to limit the difficulties that may develop later down the line for these children.
 - The APPG will have already heard evidence on the financial pressures on LAs to reduce spend across various departments and services offered. For many LAs one method which assists to achieve a reduction in spend is to limit provision to fewer service users. Increasing thresholds for services (whether formally or 'silently') may be adopted by LAs to keep the spend within budgets.
3. Thresholds for accessing LA services across the country vary. The primary reason for this is that LAs are permitted to create and develop services in

accordance with local needs. [Working Together to Safeguard Children](#) (March 2015) states: *“The LSCB should agree with the local authority and its partners the levels for the different types of assessment and services to be commissioned and delivered.”* (p.15, para. 17). Each Local Safeguarding Children’s Board (LSCB) must therefore work with relevant agencies and partners to formulate and design its own framework for services in the form of a ‘threshold document’. While some local variation is naturally sensible, it does lead to a lack of commonality across the country. What one family may receive by way of services in one LA can thus differ from what may be offered by another LA where the issues or concerns could be said to be of a similar nature.

4. The concepts of ‘children in need’ and ‘child subject to a child protection plan’ have a statutory footing (respectively s.17 CA 1989 and s.47 CA 1989), yet the range of circumstances and need within those categories can hugely vary. While the ALC is keen to stress that every child’s case and circumstances are different, it is not uncommon to see two cases where the issues can be very similar and yet in the one case the LA involvement will be at the s.17 level (child in need) and yet in the other, the child is the subject of a child protection (CP) plan (s.47). These circumstances arise not only across different LAs but sometimes also within the same LA. Some variation is to be expected as assessment of need and the planning of support and services relies on professional judgment of social work teams however, there are concerns that the degree of variation is too great.
5. It is important to note that thresholds relate not only to the provision of support and services but also to the assessment of need. It is important not to lose sight of this because a LA is usually only required to consider what support and services to provide to a child or family once a need has been identified. If a LA does not recognise factors as establishing a ‘need’ (thus not meeting a threshold of need), the LA would not be caused to move on to the next consideration: what support and services may be provided to assist with that need. *Working Together* explains: *“Social workers, their managers and other professionals should be mindful of the requirement to understand the level of need and risk in a family from the child’s perspective and ensure action or commission services which will have maximum impact on the child’s life.”* (p. 24, para. 46). It is this ‘requirement to understand the level of need and risk’ which is so essential to the effective planning and provision of support.
6. The ALC is concerned that the issues raised above leave children and families not necessarily receiving the support and services they require to improve what have been identified by the LA as concerns. The ALC is particularly concerned that at the lower level of the spectrum of concerns, much of the ‘Early Help’ intervention a LA can provide is to assist a child or family to access support and services which are not commissioned directly from the LA but rather from other local agencies and universal services. This is a pressure point because across the country many of those services have been reduced or no longer exist. Where either the need for early help is not identified (possibly as a result of increasing thresholds or poor early assessments) or where needs are identified but insufficient support is provided, the concerns which may have only been at

the lower end of the spectrum of concern may inevitably fester, develop and increase. The result may be that the child's situation does not improve and rather the adverse childhood experiences for the child increase in severity or intensity. At that stage, a LA may review its involvement and decide to provide services however, it may be that an opportunity for securing meaningful 'change' has passed or the change that is now required is more challenging or complicated as a result of the concerns having increased. In the ALC's review, targeted and meaningful early help is essential. If thresholds for accessing support are low or are lowered, this simply leads to more children and families presenting with higher levels of need in the future - where the support that is then necessary is of an arguably higher/more intensive nature (and correspondingly more expensive).

7. The ALC is particularly concerned that often children and parents are prioritised for support where their case is in proceedings (usually Part 4 CA 1989 proceedings – for care or supervision orders). Where cases are 'in court', the oversight and scrutiny of an independent judge provide a unique way of focusing the minds of all involved. Importantly, it is only at this stage that the child will have a children's guardian (CG) to act for the child in the proceedings who provides advice to the court about what is in the child's best interests. The CG has a role in critically considering the work of the LA both within and prior to the proceedings commencing and the CG offers recommendations. Each party is usually legally represented and legal advice is offered to the respective parties. This can also lead to representations for support and services to be offered to the child or parents being made by lawyers who may identify aspects which were not previously considered.
8. In our view, it is all too often the case that children and families who are subject to LA intervention outside of court proceedings (s.17, s.47 involvement) are not prioritised for support and services. We also see great disparity in cases where the LA decides (following legal advice) to commence the 'pre-proceedings' process. This involves the LA sending the parents or persons with parental responsibility (PR) for the child a Letter before proceedings. This acts as a trigger for the parent to be able to avail themselves of free (non-means tested and non-merits tested) legal aid to cover legal services. The level of service (in legal aid terms) is called 'Family Help Lower). With that level of service, a solicitor can advise and assist the parent through the pre-proceedings process and attend a the Pre-proceedings meeting with the parent, the LA and the LA's legal representative. Under the pre-proceedings process, assessments may be undertaken of the child and family and specialise assessments may be commissioned (such as a psychiatric assessment of a parent).
9. Arguably, where a LA conducts matters under the pre-proceedings process the parent is afforded additional assistance as they may now have the benefit of legal advice which may not have been present prior to this point. However, again, there is great variation within LAs as to when a Letter before proceedings is sent (triggering the pre-proceedings process). Our members have experienced cases where the LA has conducted a pre-proceedings process for a significantly long period time (some up to or over a year). This is problematic when considered in light of the 26 time limit which applies to Part

4 court proceedings. There is no independent oversight of the pre-proceedings process (or indeed the s.17 or s.47 process which may come before or sit alongside the pre-proceedings process). This is a stark contrast to Part 4 proceedings where (as mentioned above) a judge makes case management directions with deadlines for compliance and where non-compliance is taken very seriously.

10. We remain concerned about the variation in how LAs deal with pre-proceedings processes, particularly because what takes place in a pre-proceedings process is meant to encourage the LA and the parents to work together to reduce the levels of concerns about the child's situation and to find a resolution. Where a resolution is not possible, the process exists to narrow the issues. However, the delay that is allowed to permeate these processes would not be accepted had the case been dealt with within the court setting and importantly for the child, she has no independent representation in the form of a CG and a solicitor during the pre-proceedings stages.

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1.5.18

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