

**Using Family Group Conferences for children who are, or may
become, subject to public law proceedings:
A guide for Courts, Lawyers, CAFCASS and CAFCASS
CYMRU officers and Child Care Practitioners**

**Developed by Family Rights Group in consultation with the
Family Group Conference Network**

**Endorsed by:
CAFCASS
Family Justice Council**

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Introduction:

Family Group Conferences (FGCs) are already used to make plans for vulnerable children in many areas and therefore are well known to many courts and practitioners. However their use in cases where there are, or may be, court proceedings is on the increase as a result of several recent initiatives from central government:

- The White Paper, *Care Matters: Time for Change* (DFES 2007) promotes family and friends care as an alternative to children being looked after and announced a training programme to develop capacity for convening FGCs;
- Following a recommendation in the *Review of Child Care Proceedings* (DCA/DFES 2006) FGCs are cited in the revised version of Children Act 1989 Guidance Volume 1 as being a means of exploring the possibility of safe placements for vulnerable children within their family network rather than them becoming looked after and/or being the subject of care proceedings (paras 3.24 & 3.32)¹; and
- The *Public Law Outline* (2008) requires that
 - a record of discussions with the family (which could include a family plan arising out of an FGC) is filed by the local authority when proceedings are issued as part of the pre-proceedings checklist and that
 - active case management includes encouraging the parties to use an alternative dispute resolution procedure where appropriate during the proceedings, which is likely to include the use of FGCs (para 3.15).

Given these developments, it is important that Courts, local authorities, CAFCASS and the legal profession are all fully appraised of the nature and scope of FGCs, and how they can and cannot be used in practice, thus ensuring appropriate referrals are made and realistic timescales are set. It should be noted that throughout this document the term CAFCASS will apply to both CAFCASS in England and CAFCASS CYMRU, the organisation in Wales.

This document has been developed by Family Rights Group in consultation with the FGC Network, the Family Justice Council and CAFCASS. It has been informed by a paper prepared by the London FGC Project Managers' Group, to whom grateful thanks is due. We would also like to thank the Department for Children, Schools and Families for its contribution to this document.

¹ In terms of recommendations for Wales see paragraph 3.8 in Welsh version at: <http://new.wales.gov.uk/topics/childrenyoungpeople/publications/guidance/childrenact/?lang=en>

The purpose of this document is to provide information and guidance to all those involved in public law cases so that the FGCs are used as effectively as possible for vulnerable children, particularly those who are on the brink of the care system. It does not describe the use of FGCs in private law proceedings by CAFCASS, as this is described in separate guidance issued by CAFCASS, available from the Cafcass Communications Team:

Naomi.Lawson@cafcass.gov.uk or 0207 510 7000

The FGC Network is facilitated by the Charity Family Rights Group and is made up of 103 local FGC projects in England and Wales. Family Rights group has also written an FGC Toolkit on setting up and sustaining FGC service, in association with, and funded by, the DFES and Welsh Assembly (Ashley (ed) 2006) and practice standards on FGCs (Barnardo's et al, 2002). Family Rights Group has also developed a postgraduate certificate for FGC coordinators accredited by the University of Chester.

What is a Family Group Conference?

A family group conference (FGC)² is a decision making meeting in which a child's wider family network makes a plan about the future arrangements for the child, which will ensure that s/he is safe and his/her well-being promoted.

FGCs are intended as a respectful and empowering process in which parents, children and members of the wider family are given clear information about the agency's concerns and are asked to produce a plan addressing those concerns and answering specific questions. The referring agency may stipulate a 'bottom line' e.g. that they will not endorse a plan that the child lives with a certain person whom they consider presents a risk to the child³.

The expectation is that the family's plan will be agreed by the referring agency provided it adequately addresses the concerns which the agency has identified and is safe.

The model places the child and family at the centre of the planning process and provides them with an opportunity to have their voices heard in relation to plans made for their child. Indeed it is a major strength of the FGC that the child or young person normally participates in the meeting, hence it is a forum which recognises the validity and authenticity of what the child/young person has to say as a major influence on plans made for him/her.

Although there is no legal requirement to use FGCs in England and Wales, they are now being offered to families in the majority of local authorities on a range of child welfare issues including:

- safeguarding children at risk of harm;
- permanence planning when a child cannot live at home or leaves care;
- contact arrangements; and
- youth offending, anti-social behaviour and truanting.

² In some areas they are called a family group meetings (FGM)

³ This reflects the practice required by the 'Letter before Proceedings'.

How do FGCs work?

FGCs services will always be coordinated independently from the service or team which has concerns about the child's safety and well-being. A fundamental principle, as set out in the principles and practice guidance (Barnardo's et al, 2002), is that the coordinator is neutral i.e. that they have no case holding, statutory or decision making responsibilities in relation to the child. The coordinator should not have any previous involvement with the family or represent the views of any agency working with the family.

The FGC comprises five distinct stages:

1. The Referral:

When the agency (usually the local authority) has concerns about a child's safety and well-being and considers that his/her family should be involved in making plans for their child which, subject to being approved by the agency, will keep their child safe in the future, they may make a referral to an FGC service. Some projects will accept self referrals from family members.

The optimal time for referral is as soon after concerns are identified as possible – this is discussed further below on page 7.

The FGC will only proceed if someone with parental responsibility (PR) agrees to the referral and to the sharing of information. The views of a Gillick competent child or of others holding PR will need to be considered in relation to the FGC. If the local authority has PR (under a court order) and the wider family wishes to go ahead with an FGC and it is in the child's interests to do so, but the parents do not agree, the local authority can consent to the FGC in spite of the parents' opposition. However this should be a last resort as it is always preferable to work in partnership with those with PR.

Once the referral is received by the FGC service, a co-ordinator will be allocated who should be independent of the referring agency decision-making and, where possible and desired, should reflect the child/family's ethnicity, language, religion or gender according to the child's and family's wishes.

2. Preparation

Upon receipt of the referral, the co-ordinator, in conjunction with the child/young person and those with parental responsibility, identifies who is in the family network for the child and should be invited to the meeting. This can include anyone who is the child/family's close friendship network.

The co-ordinator then meets with the child/young person to find out

- his/her wishes and feelings about the situation and possible solutions;
- how s/he may be enabled to participate in the conference and
- whether s/he would like a supporter or advocate in the meeting.

If s/he would like an advocate, that person will normally meet with the child to prepare him/her for the meeting and to assist in presenting his/her views.

The co-ordinator also meets with members of the family network to:

- explain the FGC process, the reasons for the meeting and the role of other participants at the FGC, and
- discuss any worries or concerns they have about the meeting and listen to their views, particularly as to who is invited.

If the case is in proceedings, the co-ordinator will also need to inform the family that their plan will normally be shared by the local authority social worker with the guardian and other officers of the court.

Whilst working closely with the family, the co-ordinator also liaises with the referrer and other relevant agencies, and invites them to the FGC as appropriate, to ensure that family members have appropriate information about:

- the child welfare and/or protection issues which need to be considered at the FGC. This includes identifying any '**bottom line**', based on evidence, about what is and what is not acceptable in terms of a plan for the child from the agency's perspective, for example they may stipulate that they will not endorse a plan which involves the child living with a certain person whom they consider presents a risk to the child; and
- services that could assist the child or family.

If proceedings have been issued, the referring agency should inform the child's guardian that they are making a referral to the FGC service. The FGC coordinator will also contact the child's guardian so that they are aware that the FGC is taking place and has accurate information about what an FGC is. Guardians are not automatically invited to the FGC since the invitation list is decided by the family. However families do often wish for the guardian to be present at the information sharing stage of the meeting. Families should be made aware of the importance of guardians having access to a copy of the family plan. The co-ordinator should make it clear to the referrer that it is their responsibility to share all key documentation including relevant sections of the plan with the guardians and the court.

The co-ordinator negotiates the date, time and a neutral venue for the conference, sends out invitations and makes the necessary practical arrangements including refreshments.

Where the family's first language is not English, the coordinator will need to ascertain whether they wish to have an interpreter available to assist them with the part of the meeting in which professionals are involved (i.e. information giving and consideration of the plan). They can obviously conduct private family time in their own language.

This preparation normally takes a period of 4 – 6 weeks and should not be curtailed as it is crucial to the effectiveness of the FGC. Co-ordinators generally do not attend other meetings connected with the child as this may compromise their independence.

Coordinators keep minimal case notes. All information the co-coordinator gathers in the preparation of the FGC remains confidential unless it is new child protection information that poses a risk of harm to the child, whereupon the co-ordinator would follow their agency's safeguarding procedures.

3. The conference:

There are three distinct stages to the conference:

i) Information giving:

The beginning of the conference is chaired by the co-ordinator. S/he will make sure that everyone present understands the purpose and process of the FGC and agrees how the meeting will be conducted, including any explicit ground rules desired and agreed by the family. This may include discussing whether family members want to treat discussions between themselves in private family time as being legally privileged, subject to any new disclosure of potential harm to the child.

The referring agency will then give information to the family about:

- the reason for the conference;
- any child welfare concerns that will affect what can be agreed in the plan (e.g. that the child must not have contact with a particular person);
- information about resources and support they are able to provide; and
- what action will be taken if the family cannot make a plan or the plan is not agreed. This should be presented to the family in clear, jargon free language.

Other agencies could also be involved at this point to share any relevant issues and most especially to inform the conference about the type of support or services they could provide.

The child/young person and family members may also provide information, ask for clarification or ask questions. The child's advocate will usually assist the child in presenting their views during this part of the meeting.

Sometimes, information provided by the referrer is challenged by the family, for example where there is disputed medical evidence about the cause of alleged injuries to a child. In these circumstances it may be necessary for the proceedings to be issued and a finding of fact made to resolve the dispute, but this need not prevent or delay an FGC being convened as the family can be asked to make plans for the child's care in the interim and contingency plan for the longer term depending on the court's findings.

ii) Private family time:

Once the referring agency has provided this information, they, together with any other information givers and the co-coordinator, leave the family to have time to talk among themselves and come up with a plan that addresses the concerns raised in the information-giving part of the conference, identifying resources and support which are required from agencies, as well as within the family, to make it work.

Occasionally an advocate for a child will remain present for some of private family time, depending on the wishes of the child and the family. Otherwise the advocate will be available to the child outside of the private time to assist them in communicating their views to the meeting.

A fundamental principle of the FGC is that ***the family is the key decision making group and that they are enabled to do this through informed private discussion.***

iii) Considering the plan:

When the family has made their plan, the referrer and the co-ordinator meet with the family to discuss and agree the plan and negotiate resources. This may involve contacting someone else in the referring agency who has sufficient authority to make the necessary decision. If an advocate is present they will normally be available to the child to ensure that their views continue to be central to the decision making.

There is a presumption that the family's plan will be agreed by the referring agency unless there is evidence that it would put the child at risk of significant harm (e.g. it does not take account of the referring agency's '**bottom line**'.⁴) Once the family plan is agreed by the social worker in respect of a child who is in need (including a looked after child) the social worker will ensure that the plan is subsequently considered within the relevant local authority processes so that it is reflected in the individual child's plan, and recorded within the ICS. Where the child is looked after, this plan will be agreed at the review of the child's case, chaired by an independent reviewing officer.

The support asked for in the plan will be provided by the relevant agency unless it is unreasonable or unnecessary for the plan to be implemented. The social worker should record the agreed plan for the child within the ICS, if the plan is for a child in need, including a looked after child. Implementation of the plan should be reviewed at the child's care review, chaired by an Independent Reviewing Officer.

However where court proceedings are pending, the referring agency (i.e.: the local authority) will need to make it clear to the family that their agreement to the plans will ultimately be subject to the decision of the court.

⁴ It is out of the scope of this guidance to seek to identify the safeguarding responsibilities of the Local Authority, but it is anticipated that the Local Authority may need to undertake appropriate assessments of any individual who is identified as providing or taking on full time care for the child

Contingency plans, monitoring arrangements and how to review the plan also need to be discussed and agreed. The co-ordinator will ensure that everyone gets a copy of the plan.

Where the plan is not agreed by the referring agency, the reasons for not accepting the plan must be made clear immediately by the referring agency and the family should be given the opportunity to respond to the concerns and change or add to the plan.

4. Implementation

All parties must then implement their parts of the plan within agreed timescales and communicate and address any concerns that arise⁵.

5. Review of the plan

There should be a clear process for reviewing the implementation of the plan. A review FGC or other meeting can be arranged, subject to the same consents as the initial FGC, to consider how the plan is working, and to make adjustments or change the plan if necessary. If the child is a child in need (including a child who is looked after) the review FGC would be part of the process of reviewing the child's plan or the care plan as set out above and any changes recorded within the Integrated Children's System(ICS).

When can FGCs be used?

Children and families are usually referred to an FGC service because an agency who is involved with the child (usually the local authority) has concerns about the child's safety and well-being and there is a need for a plan which will address those concerns. This might include:

- seeing which family members can help the parents, or carers to care for the child if they are struggling,
- where the child should live if s/he cannot remain at home with his/her parents/carers,
- how s/he can be protected from harm and made safe,
- whom s/he should have contact with and how those arrangements can be best supported, and
- what support the family needs from outside agencies to care for him/her.

They can be used for any child whose family agrees to participate, and can be particularly advantageous for black and minority ethnic families because the model is sensitive to the linguistic and cultural needs of the family in relation to their involvement in decision-making processes.

⁵ In cases which are already before the court, this will be subject to any judicial approval required.

In situations where the child's future is, or may become, the subject of court proceedings, FGCs provide families with an opportunity to produce a plan which they and the referring agency can jointly present to the court. If this plan is not agreed by the agency the family can still ask their legal representatives to present the plan to the child's guardian and to the court as being their proposals for meeting their child's needs.

What is the optimal time for referral?

As soon as there are concerns about a child's welfare, and Children's Services are involved, consideration should be given to referring the family for an FGC, and this should be kept under review throughout the involvement of Children's Services with the child.

One of the key aims of the Public Law Outline and associated guidance is to ensure that children are cared for safely within their families wherever this is possible and that unnecessary removal of children into care is avoided. This means that all sources of support available to parents, both from within the family and from external agencies, should be explored prior to care proceedings being issued unless there is an emergency.

FGCs provide a mechanism for families to be empowered to make informed plans to keep their child safe, hence the referral should be made as soon as there is evidence that the local authority's concerns, often identified in the context of child protection planning processes under s.47, are not being adequately addressed and further support for the parents is needed. The referral should certainly be made ***no later than the issue of the 'Letter before Proceedings'*** and sufficient time then needs to be allowed for the FGC to be properly convened (see below) so that the family plan can be considered by the local authority before a definite decision is made to proceed with issuing care proceedings.

However where a pre-proceedings referral has not been made (for whatever reason) and court proceedings are now under way, the approval of the court should be sought before a referral is made for an FGC, especially where those arrangements may involve some delay to the court process. As stated above it will then be for the court to approve or reject any plan which is devised by the family whatever the position of the local authority.

It is also important to bear in mind that as circumstances change during the course of a case there may need to be a further review FGC to consider new issues/circumstances which were not addressed at the earlier FGC (for example the birth of another baby during the course of the case). In other words it may be appropriate for several FGCs/reviews to be convened at different points in the case. Subsequent FGCs for the same family can usually be convened more speedily than the initial FGC.

How long do FGCs take?

The optimal time for conducting an FGC is 4-6 weeks on average from the time that the coordinator is allocated, although if the family network is sizeable, there are relatives abroad or some work is required to encourage family members to engage with the co-coordinator, they can take a little longer.

It may be possible for a meeting to be co-ordinated more quickly where the family, information-givers and agency staff are readily available and the FGC service is able to accept and allocate the referral immediately. Sufficient time also needs to be allowed for the co-ordinator to contact all the family members and assist them in preparing for the meeting. However, an FGC convened too quickly to allow for adequate preparation is very likely to result in the principles and quality of the outcome being compromised.

How can I find an FGC project to refer a case to?

There are many FGC projects already in existence across the country and many local authorities will be aware of those that exist or are being developed in their area. In addition, Family Rights group co-ordinates the FGC network and holds a list of FGC projects to which cases can be referred. See:

http://www.frg.org.uk/fgc_project_map.html.

Who funds FGCs?

Local FGC services are funded through different sources including the individual Local Authority budgets and Surestart. Some local authorities which don't have an FGC service will fund spot purchasing arrangement with independent agencies.

What information from an FGC is available to the court?

The only document to come out of an FGC will be the plan, which should set out the question(s) that the family were asked to address and their response. It should state who attended the meeting and what commitments people and agencies have made. It should also indicate the response of the referring agency, including what they agree and disagree with, what they consider to be practicable, what may need to be subject to assessments etc.

There are no minutes of the FGC and co-ordinators generally do not keep any detailed notes of their involvement other than basic contact details, a copy of the referrer's report and a note of any child protection concerns which have arisen during the course of the FGC process.

Can solicitors and/or the child's guardian attend an FGC?

If a solicitor or the child's guardian *has relevant information to contribute* to the meeting, they may attend the 'information-giving' and final stages of the

meeting, subject to the family's consent and in consultation with the coordinator, but they would never be present during private family time.

Child's guardian: Provided they have information to contribute, it may be helpful for a child's guardian to attend the information-giving and final stage of the meeting so as to be clear about the support available to the family if their plan is agreed. Furthermore, if the local authority does not support the plan but the guardian does, they may want to present the plan to the court subsequently⁶.

Solicitors: It would be very unusual for solicitors to attend an FGC, not least because the emphasis is on problem-solving, away from the court arena, hence if one person wants to bring their solicitor, this might encourage others to do the same, resulting in an escalation of the atmosphere of the meeting. However if a solicitor has information to contribute and a family member particularly wants him/her at the meeting, it would be possible for them to attend provided the other family members agree. However if they do, the only parts they would attend would be the information-giving and final parts of the meeting, not private family time. The only exception to this would be if a key family member, such as the mother, had mental health problems and wanted her solicitor present to support her in private family time, but this would only occur through consultation with the coordinator and if other family members present agreed.

Are FGCs effective?

Research shows that the outcomes of FGCs are generally very positive both in terms of engagement of family members in the process and positive plans being made for vulnerable children. Here are some of the specific findings:

- Families produce safe plans that agencies agree to support in over 90% of cases, with a number of studies reporting reductions in re-abuse rates for children who have attended an FGC, compared to those who have not (Merkel-Holguin et al, 2005; Judge et al, 2000; Lupton and Stevens, 1997; Marsh and Crow, 1998 & 1997; Simmonds et al, 1998).
- FGCs produced plans which were assessed by social workers as having prevented children going into public care in 32% of cases and prevented court proceedings in 47%; and made no difference in 21% of cases (Smith and Hennessey, 1998).
- FGCs increase the likelihood of placement with the extended family when a child cannot remain with birth parents and reduce the time children spend awaiting permanency decisions (Merkel-Holguin et al, 2005).

⁶ CAFCASS also convene FGCs in appropriate cases in private law proceedings. They have issued their own guidance on this which can be obtained from the Cafcass Communications Team: Naomi.Lawson@cafcass.gov.uk or 0207 510 7000

- Children feel that they have increased contact with family members (Holland et al, 2003).
- A greater proportion of children attend their FGCs than attend child protection conferences and most value the experience and their ability to take part in it (Judge, Mutter and Marks, 2000; Lupton and Stevens, 1997; Marsh and Crow, 1998; Wilson and Bell, 2001; Barker and Barker, 1995; Lupton et al, 1995; Rosen, 1995).
- There is a higher rate of attendance by fathers and father figures at FGCs than at statutory meetings, such as child protection conferences (Ryan, 2000; March and Crow, 1997; Holland et al, 2003).
- FGCs successfully engage the wider family in making plans for children (Merkel-Holguin et al, 2005) and most adult family members are very positive about the process (Smith and Hennessy, 1999; Wilson and Bell, 2001).
- In terms of overall outcomes in one London Borough, FGCs were perceived by the majority of respondents to have been helpful and to have influenced positively the longer term outcomes for the children. The majority of both families and social workers predicted that the possible outcomes for children without the FGC would have been less positive and helpful. (Morris, 2007)

However research has also identified areas for improvement in practice particularly in the delivery of services by those who commission FGCs. In the main these could be effectively addressed through rigorous judicial case management:

- Relatives are still finding out about professional concerns late in the decision-making process and are therefore denied an opportunity to become involved (Gill, Higginson and Napier, 2003; Hunt and Macleod, 1999; Marsh and Crow, 1998).
- FGCs have been under-utilised for families from black and minority ethnic communities (Lupton and Stevens, 1997; Chand, et al, 2005; FRG Survey of FGC project, 2005).
- There is evidence that families do not always receive the resources and support they need to implement their plan (Jackson and Morris, 1999; Lupton and Stevens, 1997).
- Children and young people like FGCs as a way of making plans, but they say that they did not always feel listened to by their family or the agencies involved (Clarkson and Frank, 2000; Dalrymple, 2000; Beecher et al, 2000; Holland and O'Neill, 2006).

What is not an FGC?

FGCs (as practised in all of the services researched and reported on above) are characterised by

- having an independent co-ordinator;
- clear information about concerns and resources being given to the family;
- the wider family network being involved wherever possible;
- the family having the right to private family time during which they can make their own plan for the child/ren's future and
- their plan being accepted and reasonably resourced provided it is clear and is safe for the child/ren.

The recent increase in referrals to FGC services has been welcomed by the FGC network as a positive development, resulting in safe family plans being made for children with the result that many cases have not proceeded to care proceedings.

However, there is some anecdotal evidence of Children's Services Departments convening meetings with family members to discuss plans for a child (for example following the letter before proceedings being sent to the parents) without making a referral to an FGC service, yet calling these meetings FGCs. Whilst it is clearly within their power to do this, it is important not to confuse such meetings with FGCs because it can lead to erroneous expectations and impressions of FGCs from all those involved, most importantly the child and family. They may have found out about FGCs from independent sources of advice only to find that the meeting they have been called to does not resemble an FGC in key respects. This can undermine trust between the family and the local authority with very damaging results for future partnership working with the local authority.

We would therefore strongly recommend that any local authority commissioning a Family Group Conference is clear about national and internationally accepted practice standards for FGCs which enable the wider family to participate effectively in decision making.

FGCs are also sometimes confused with Family Mediation and indeed there are similarities in that they are:

- voluntary – this means that families cannot be required to engage with this form of intervention, but instead they chose to which means they have greater ownership of, and investment in, the resulting plans; and
- run by an impartial and independent coordinator who has no other involvement or responsibility in the case.

However they differ from family mediation in certain key respects for example:

- Children's Services (or other agency) normally make the referral because there are concerns about the child's care which is not necessarily the case in Family Mediation when the parties usually contact the mediation service themselves and may have no involvement with outside agencies;
- the agreement of Children's Services (or other referring agency) to the plan is required in FGCs whereas in Family Mediation the parties make their own agreements without reference to other agencies; and
- family members have private family time to discuss the issues between themselves without any professionals being present or involved, whereas in mediation the mediator remains present throughout the mediation session.

- END -

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