

Liverpool Pre-Proceedings Pilot

Final Research Report
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Executive Summary

1. This report documents the findings from a pilot study that has examined the impact of introducing the Family Court Advisor (FCA) in pre-proceedings work. The pilot study was initially based in Coventry and Warwickshire local authority children's services (May 2011 - May 2013). Findings were reported in a final report published in May 2013 and are available <https://www.northumbria.ac.uk/about-us/our-staff/h/kim-holt/>. Following on from this, the Liverpool Project commenced in July 2012, although the first case allocated to the project was in August 2012.
2. The project in Coventry and Warwickshire stimulated interest from Liverpool to adopt the model and this allowed the opportunity to further test the findings from Coventry and Warwickshire in a third site. In Liverpool we have aimed to recruit 15 CAFCASS PLUS cases to the project that are predominantly long-term neglect cases, and report here on 11. A more limited analysis of 15 comparator ('control' group) cases is included. The CAFCASS PLUS model denotes attendance by the FCA at the pre-proceedings meeting (PPM), together with activities of visiting/observing parents and children, and case discussion with the social worker/s.
3. The study is located within a context whereby the Designated Family Judge (DFJ) HHJ De Haas QC, prior to the commencement of the project had raised concerns with local authorities in the Cheshire and Merseyside region regarding issues of delay for children, prompting HHJ De Haas to issue a local protocol to address mixed compliance with the Public Law Outline (PLO) within the Cheshire and Merseyside DFJ area (a detailed outline and context of the Protocol was discussed in 1.1 of the Interim report). A particular concern regarding delay in the court process has been that a lack of front-loading of assessments may have resulted in limited evidence being provided at the point of issuing care proceedings.
4. A mixed methods study was undertaken combining qualitative interviews with case file analysis. As part of the study the following professionals were interviewed; case

holding social workers, managers, local authority senior managers, a local authority solicitor, parents' legal representatives, the FCA as well as members of the judiciary.

5. Latterly the project faced some serious implementation issues, principally around resource issues and significant changes in national policy. These issues resulted in delay recruiting cases to the CAFCASS PLUS sample and the prospective tracking of cases took longer than expected. This final document reports at the close of data collection in July 2014. Much of the qualitative data in relation to the CAFCASS PLUS sample remains as reported at the interim stage.
6. The role of the FCA in the CAFCASS PLUS cases is as outlined in the interim report, that is he bolstered/supported local authority decision making and planning, had the opportunity to gain a headstart where cases went into proceedings and provided an independent view and kept a focus on the best interests of the children in cases.
7. In total 6/11 (54.5%) CAFCASS PLUS cases and 6/15 (40%) comparator cases are still diverted with support for children to remain with their families. This pattern of higher diversion rates in the CAFCASS PLUS sample repeats the Coventry and Warwickshire findings where diversion rates were 42.3% CAFCASS PLUS cases and 36.7% comparator cases. Overall the CAFCASS PLUS cases across the three sites achieved higher diversion rates. Given the small (but total) sample size across the three sites it is unlikely that this finding would occur by chance, and more likely that some or all aspects of the early involvement of the FCA have made a positive difference.
8. The role of the FCA in diverted cases in Liverpool is evident in supporting the case for families to remain together in two different scenarios. In some cases it is concerned with bolstering and supporting the plans of the local authority/social workers and supporting the needs and resources that parents already engaged with social services require if they are to sustain change to care for their children. And in some cases it is providing a very clear mediation message at the PPM that parental behaviour has to change if the needs of their children are to be met.

9. In all diverted cases the independence of the FCA was reported as being important by all interviewees.

10. The timeframe for the completion of all care cases in this sample following an application to court has significantly reduced. No major discernible difference was identified between the CAFCASS PLUS and the comparator cases however the CAFCASS PLUS cases were resolved slightly faster. Removing the outlier cases in each group the timescales between issue and final hearing was 23.5 weeks for the CAFCASS PLUS sample and 26.1 weeks for the comparator sample. Whilst it is difficult to accurately determine whether reduced timescales within court proceedings have been influenced more by the significance of legislative changes introduced during the study or by the pilot study, feedback is that the pilot study has contributed to wholesale reform of pre-proceedings in Liverpool. In some of the CAFCASS PLUS cases the shorter care proceedings were directly attributed to the early involvement of the FCA.

Introduction

This report documents the findings from the completed pilot study in Liverpool that has examined the impact of the Family Court Advisor¹ (FCA) on pre-proceedings work. Section 41 of the Children Act 1989 provides for the routine appointment of a Children's Guardian in public law proceedings to provide an *independent* analysis of the best interests of the child. Following the findings from the Coventry and Warwickshire pilot this study has further explored whether there is merit in introducing the Children's Guardian - referred to throughout as the FCA - at an earlier point. Addressing concerns that were central to the Family Justice Review², the study has further examined the impact of the CAFCASS PLUS³ model on:

- the possibilities for safe and effective diversion of 'edge of care' cases;
- the progression of cases should they progress to care proceedings;

At this final stage we report on detailed analysis of the implementation of the CAFCASS PLUS model in 11 'edge of care' cases. We present a more limited analysis of 15 comparator (control⁴ group) cases.

Despite considerable efforts to achieve a full sample of cases (target was 15 CAFCASS PLUS cases), the national and local context of legal and policy changes have created additional pressures on children's social care and the final sample of CAFCASS PLUS cases is 11. The comparator sample of 15 was achieved. This report builds upon and updates the interim report; as cases have completed we have been able to report on timescales for case resolution, and consider the trajectory of cases.

Since the interim report data collection has involved further interviews with social workers, team managers, local authority managers, the local authority legal representative and the FCA. Social workers involved in all the CAFCASS PLUS cases have been interviewed

¹ The term children's guardian is replaced by the Family Court Advisor, where we refer to pre-proceedings.

² Family Justice Review: <http://www.justice.gov.uk/publications/policy/moj/family-justice-review-final.htm>

³ The 'CAFCASS PLUS model' refers to the early appointment of the Family Court Advisor within the pre-proceedings process.

⁴ The original documentation describing the West Midlands Pre-proceedings Pilot referred to a control group. Given problems of case complexity that make the 'control' of variables highly problematic, we use the language of a 'comparator' group.

although changes in staffing has meant that often cases were dealt with by more than one social worker.

Local context and background

The report *Liverpool City Council Index of Multiple Deprivation 2010 A Liverpool Analysis* states that 'Liverpool remains the most deprived Local Authority area in England' with persistently high levels of deprivation in the city. Liverpool's position as the most deprived local authority area in England remains unchanged. This presents significant challenges for the city where significant numbers of children are living in poverty and more likely to suffer disadvantage.

Professionals undertaking child protection work in Liverpool, operate within a challenging context in which problems of continued high care demand coalesce with deep public sector cuts. The Merseyside and Liverpool DFJ area evidences one of the highest national figures for volume of care applications, compounded by problems of delay in their resolution. The interim report highlighted that the increase in care applications in Liverpool placed additional pressures on practitioners and court timescales with no resulting increase in resources to follow. It is important to note that whilst this project was ongoing there was significant change in personnel within the local authority at both team manager level and social workers.

The Family Justice Reforms culminating in the Children and Families Act 2014 and the Statutory Guidance Court orders and Pre-proceedings for Local Authorities published by the Department for Education in April 2014 have established a deadline of 26 weeks for the completion of the majority of public law applications. As outlined later in the report it is significant that in Liverpool the timeframes for the completion of care cases following an application to court have significantly reduced. Whilst there is no discernable difference between the reduction of timescales with either the CAFCASS PLUS or comparator cases there is evidence that the early involvement of the FCA did have a positive impact on the outcomes in the CAFCASS PLUS cases.

Prior to the implementation of the Children and Families Act 2014, the Designated Family Judge HHJ De Haas QC had made concerted efforts to examine factors contributing to delay that were reported in the interim report. At the interim stage we were able to report a positive engagement with both the protocol and the CAFCASS PLUS project that demonstrated a commitment by Liverpool to bolster pre-proceedings social work. Good practice initiatives were stimulated by both the protocol and the project and supported by social workers and their managers working closely with their local authority legal colleagues, as well as multi-agency partners.

This practice demonstrated a strong adherence to the recommendations of the Family Justice Review as detailed within the interim report, and there is no need to rehearse the good practice that was identified at that stage in this final report. Suffice to say that where cases are on the threshold of care proceedings, the completion of full parenting assessments and any additional assessments during the pre-proceedings stage has, in most cases, resulted in a deeper understanding of risk within families and a more confident approach to case planning. Social workers interviewed prior to the interim report when undertaking detailed assessments within the pre-proceedings stage report improved practice and demonstrate a confident approach in talking about the families they are working with. This is in line with the recommendations in the recent landmark case of *Re B-S (Children)* [2013] EWCA Civ 1146 that holistic assessment and planning should be undertaken at a much earlier stage.

Findings

Findings are presented in terms of outcome data for both the comparator and CAFCASS PLUS cases. Individual case profiles are provided in order to illustrate the detail and complexity of issues and to provide comment on circumstances that led to diversion and factors that influenced timescales when proceedings were initiated.

Qualitative data reporting continued reflections on the early involvement of the FCA and considerations on the contextual issues in the local authority are also reported throughout the findings section.

Findings are presented as at end of July 2014.

Table one illustrates the overall case status and impact of the FCA on the CAFCASS PLUS cases.

Table 1. CASE STATUSES AND IMPACT CAFCASS PLUS

Case	Impact of FCA - Diversion	Impact of FCA- Court	Interim Report Status	Current Status
1.	Supporting SW plans and assessment	Reported head start. HHJ read FCA pre-proceedings analysis, agreed options already narrowed.	Care proceedings completed in 18 weeks from point of issue. 1 child subject to Care Order, 2 children subject to Residence Orders with paternal aunt.	As interim
2.	Supporting SW assessment and plans to place child with father	Reported head start should case be issued. Reported ability to give clear direction to case planning	Still in pre-proceedings but likely to be issued due to significant change in circumstances.	Care proceedings completed in 26 weeks from point of issue. Care order in Long Term Foster Placement.
3.	Supporting SW assessment and plans. Supported parenting assessment by		Still in pre-proceedings. Child subject to S20 with maternal grandparents.	Stepped down from pre-proceedings in July 2013. Child on CP plan with

	SW. Helpful in engaging Mum.		Aim to rehabilitate with Mum if progress OK.	mother.
4.	Supporting SW assessment and plans. Evidence of significant contribution at PPM to clarify requirements of Mum.		Still in pre-proceedings but stepped down to CP at LPM review. Child was subject to s20 agreement with maternal grandparents, rehabilitation with Mum ongoing.	Stepped down to CIN in May 2013. Children with mother.
5.	Ensuring PP agreement realistic, achievable and proportionate at the PPM.	Reported clear support for LA plans in court. Later challenged plans for adoption as parental behaviour improved, clear steer for rehabilitation plans Finally reverted to support for adoption plans.	In proceedings. Application hearing adjourned for one week with mother and baby in placement for that week. At second hearing baby removed uncontested by parents. IRH/Final hearing likely to be 15 weeks after first hearing.	Care proceedings completed in 47 weeks from point of issue. Several court hearings where parental behaviour improved as proceedings ongoing, and where decisions were later influenced post Re-BS judgement. Conditions for rehabilitations were not met. Child placed with adoptive family of other kin.
6.	Bolstering and supporting SW assessment and plans. Clear additional contribution to requirements of Mum.		Still in pre-proceedings. Aim to keep child with Mum in Mum's foster home.	Case being managed on CP plan, child with mother with her own carer.
7.	Supporting SW assessment and plans. Evidence of additional input and advice.		Still in pre-proceedings. Children on S20 with maternal grandparents. Rehabilitation with Mum ongoing.	Stepped down from pre-proceedings in July 2013. Child on CIN with mother.
8.	Bolstering and supporting SW assessment and plans, particularly in respect of PAMS assessment of both parents.	Reported head start.	Still in pre-proceedings. Child in S20 foster care.	Care proceedings completed in 28 weeks from point of issue. Child on Placement Order.

9.	Supporting SW assessment and plans. Evidence of significant contribution at PPM re wishes of the child/ren, this seemed to have impact on Mum's realisation of situation.		Still in pre-proceedings. 2 children in S20 foster care, 1 child in S20 with maternal grandmother. Plans to rehabilitate with Mum ongoing.	Stepped down to CIN. Children with mother
10.	Supporting SW assessment and plans.	Reported headstart.	Still in pre-proceedings, child currently resident with father and assessments are ongoing.	Care proceedings completed in 22 weeks from point of issue. Care Order placed with Father.
11.	Supporting SW assessment and plans.			Still in pre-proceedings with Maternal Grandmother applying for SGO.

Table two illustrates the overall case status of the comparator cases

Table 2. CASE STATUSES COMPARATOR CASES

Comparator case	Status
1.	Unborn child at PPM. Case was issued and resolved. Care order child placed with father.
2.	3 children, 1 under 5 yrs, 2 between 5 and 10 yrs at PPM. Case was issued and resolved. SGO to grandparents.
3.	Unborn child at PPM. Diverted and stepped down to CP plan.
4.	1 child aged between 5 and 10 years. Stepped down to CP plan.
5.	Unborn at PPM. Case was issued and SGO to family member.
6.	1 child under 5 yrs at PPM. Case was issued and child placed on supervision order.
7.	2 children 1 under 5 yrs, 1 between 5 and 10 yrs. At PPM. Stepped down to CIN.
8.	1 child between 5 and 10 yrs in foster care at PPM. SGO to grandmother agreed.
9.	2 children under 5 yrs. At PPM Issued and resolved, care orders with family members.
10.	1 child aged 3 ½ months. At PPM was unborn. Case was issued and child placed on SGO with grandmother.

11.	1 child aged 4yrs. Case was issued and child was placed with family members.
12.	3 children aged 1, 2 and 4 yrs. Case was issued and IRH is scheduled for later in 2014.
13.	1 child aged 4 months. Case was stepped down to CP, child with parents.
14.	1 child aged 3 months. Case was stepped down to CIN, child with mother.
15.	3 children aged 3, 4 and 6yrs. Case was issued and children placed on care order with father.

In both the CAF/CASS PLUS cases and the comparator cases it is interesting to note the significant use of kin networks to either support families whilst plans for rehabilitating children were ongoing, or to support permanent placements for children.

Table three illustrates the diversion rates for the CAF/CASS PLUS and comparator cases.

Table 3. DIVERSION RATES ALL CASES

	CAF/CASS PLUS	Comparator	Total
Diverted	6/11 54.5%	6/15 40%	12/26 46.1%
Not diverted	5/11 45.4%	9/15 60%	14/26 53.8%

Given the very small sample size these figures need to be treated with caution, but there is some evidence that the CAF/CASS PLUS cases seem to have a slightly higher rate of diversion. This resonates with the findings from the Coventry and Warwickshire report where diversion rates were 42.3% and 36.7% respectively. Taking into account the small, but total sample size (as all CAF/CASS PLUS cases in the three sites were subject to analysis), this difference in diversion rate is unlikely to occur by chance, so there would seem to be evidence that some or all aspects of the early involvement of the FCA is contributing to children remaining with their families.

In all cases that went into proceedings an order had been made with the exception of one comparator case that is ongoing.

Table four illustrates the timescales for CAF/CASS PLUS cases that went into proceedings. Case 5 was a prolonged case, details to follow in a case profile, the scores below calculate descriptive statistics including and excluding that case.

Table 4. TIMESCALES FOR CAF/CASS PLUS CASES IN PROCEEDINGS

CAF/CASS PLUS case	PPM to issuing proceedings (weeks)	PPM to Final Hearing (weeks)	Issue to Final Hearing (weeks)
1.	11	28	18
2.	43	69	26
5.	17	64	47
8.	35	63	28
10.	30	52	22
Mean score	48.4	55.2	28.2
Mean score removing case 5	29.7	53	23.5

Median length of time between issue and final hearing in CAF/CASS PLUS cases is **26 weeks**.

Range length of time between issue and final hearing in CAF/CASS PLUS cases is 18-47 weeks, removing the outlier (case 5) is 18-28 weeks.

Table 5 illustrates the timescales for comparator cases that went into proceedings. Case 1 was resolved quickly between the PPM and the final hearing. This case concerned one unborn child and the family had already has previous children removed into care via court proceedings. This case was issued 25 weeks after the PPM and resolved in proceedings within 9 weeks. The case was dealt with by the same judge as the previous proceedings and

the judge saw no reason to prolong proceedings. A Care order was made and the child was placed with the father. In case 10 there was delay as an agency social worker was reported not to have dealt with viability assessments in a timely way. The scores below calculate descriptive statistics including and excluding case 1.

Table 5. TIMESCALES FOR COMPARATOR CASES IN PROCEEDINGS

Comparator case	PPM to issuing proceedings (weeks)	PPM to Final Hearing (weeks)	Issue to Final Hearing (weeks)
1.	14	25	9
2.	34	60	26
5.	12	36	24
6.	26	41	15
9.	23	55	32
10.	20	57	37
11.	Ongoing		
12.	34	57	23
15.	8	34	26
Mean score	21.1	45.6	24
Mean score removing case 1	22.4	48.5	26.1

Median length of time between issue and final hearing in comparator cases is **25 weeks**.

Range length of time between issue and final hearing in comparator cases is 9-37 weeks, removing the outlier (case 1) is 15-37 weeks.

In both the CAFCASS PLUS and comparator cases the median length of time between issue and final hearing is either 26 weeks or slightly less indicating that a number of cases are now being disposed of within the 26 week time period. This is a significant reduction compared with the national average disposal of 45.1 weeks in 2012 (MoJ).

The mean number of weeks between the PPM and issuing proceedings, and between the PPM and the final hearing are slightly lower in the comparator cases which may suggest that these cases are being dealt with more swiftly however this difference was alluded to in an interview with the local authority legal representative who suggested that:

“The apparent delay in the CAFCASS PLUS CASES have been due to resource issues, it depended on who the cases were allocated to in children’s services and in legal...the comparators look like they may be quicker but they aren’t really, it is down to resource issues in the CAFCASS PLUS cases.”

As indicated previously there has been significant change in staffing during the period of this evaluation and it was reported that in some instances a local authority solicitor was introducing delay between the decision to issue a case and entering that application; and there were delays in some cases where (often agency) social workers had not been able to carry out assessments in a timely manner.

CASE PROFILES

All of the 26 cases in this sample were long-term neglect cases. Whilst there were some variations in presenting issues family and parental profiles are consistent with such cases. Household compositions varied, and parental issues include alcohol and drug misuse, lack of ability to protect children, domestic violence, crime, mental health and learning difficulties. All cases had been involved with social services previously, most had been/or were still subject to a child protection plan and in some cases previous children had been removed from the families or had been subject to Section 20 arrangements.

The following commentary and examples of case profiles, reported by diversion or resolution through court proceedings, illustrate the trajectory of cases in the CAFCASS PLUS sample. A brief background of the cases is provided followed by a commentary on the decision-making and issues within the cases. Data and evidence is provided to highlight aspects of decision making and practice in relation to:

- A headstart for the FCA when cases progressed into proceedings
- Complex cases where resolution was prolonged between PPM and final hearing
- The FCA's role in bolstering/supporting local authority work/plans, facilitating engagement with families.
- Independence and representation of the voice of children by the FCA

Headstart for the FCA in proceedings

In 4/5 CAFCASS PLUS cases the FCA reported a headstart when cases progressed to court. The average disposal time when cases went into proceedings was 23.5 weeks (excluding case 5), and this data would seem to support the view that preparatory work by the local authority and the FCA in pre-proceedings can influence the decision making of the court and reduce unnecessary delays for children.

Profile: CAFCASS PLUS Case 1.

This case involved 3 children aged 12, 13 and 14 years. Two girls were resident with paternal aunt and the boy, aged 13 was in foster care under Section 20. Mother was parenting on her own and children had been on CP plan for 6-9months with little progression and compliance with local authority plans. The decision was to take the case into pre-proceedings to see if mother could be supported one more time to change and to rehabilitate the children. The PPM identified child protection concerns around poor home conditions, mother's lack of engagement with professionals, inability to establish boundaries for the child, failure to attend school and a history of domestic violence. The children were to remain on a CP plan and a parenting assessment was to be carried out on mother by the social worker. Extensive resources were offered to the mother. The FCA visited the mother and the children prior to the PPM. At the PPM the FCA ensured that it was clear to the mother that she needed to engage with the intensive package of support if the case was not to be issued. As time progressed the boy began to thrive in foster care and the mother displayed no change in her behavior. The decision to issue occurred 11 weeks after the PPM and the final order was made within 18 weeks. No further assessments were requested by the court. The girls remained with paternal aunt and the boy was placed under a care order with the foster carer.

As the social worker in the case reported:

“This case was better under the pre-proceedings pilot as it has ended up very top heavy...we have done all assessments, or not because the mother would not engage. The FCA made it very clear in the courtroom of the work the local authority had put in and his work and knowledge of the family, and the amount that already had been done with the family was clear. The judge was very much in agreement and was happy with the local authority evidence.”

She continued:

“He (FCA) had an initial understanding from the PPM and we worked together all the way through to get to the point of making the application. He had insight into the family and a good working relationship with us”

This was supported by the FCA who reported:

“At the first hearing I was confident about my belief that the local authority solicitors should be able to go to court and be confident in what they bring up in court, they could be confident and stand up and say we are happy with what we have done.”

Both the social worker and the FCA recognized this was a fairly clear cut case as the mother showed no signs of engagement with either the CP or PPM plans, but the preparatory work by the FCA was beneficial for the local authority, accepted by the court, and resulted in timely resolution for the children.

Complex cases where resolution was prolonged between the PPM and the final hearing.

In 3 CAFCASS PLUS cases the length of time between the initial pre-proceedings meeting and the final hearing were prolonged at over 60 weeks. In case 2 and case 8 the main delay was in pre-proceedings with the timespan between PPM and decision to issue recorded as 43 and 35 weeks respectively. In both of these cases circumstances changed as pre-proceedings were ongoing, but once in court decisions were taken relatively swiftly.

In CAFCASS PLUS case two the male child now aged 5 ½ years was accommodated due to the mother’s prolific offending, drug misuse and failure to engage with social services. During the pre-proceedings a parenting assessment on the child’s father was positive and rehabilitation of the child to him was initiated. The father relocated and for a period of 5 weeks he appeared to be highly committed to caring for his son. Subsequently the father’s

circumstances changed and he returned the boy back to the care of the local authority. There was then a delay of 5 months (approximately 20 weeks) before the case was issued. This delay is acknowledged by the local authority and is attributed to internal local authority issues, notably staffing and resources. As the local legal authority representative reports:

“This case got caught up in internal issues, there was a huge turnover of staff at the time, temporary and agency staff were being used and this case got caught up in transfer. Part of the delay in the decision to issue and actual issue was a lack of workers’ available to find adoptive placements.”

The implication here being that resources were clearly lacking, and the child remained within the child protection system whilst growing older and potentially losing possibilities for permanent placement. Ultimately care proceedings were completed in 26 weeks from point of issue and the boy was placed in long term foster placement.

CAFCASS PLUS case eight involved a young baby boy, previous children by this father and his previous partner had been adopted; mother had 3 children by a different father and they were on residence orders with him. Concerns at the PPM were alcohol issues of both parents and learning disabilities in the father. At the initial PPM the child was with a foster carer after an emergency where the mother had been arrested appearing under the influence of alcohol with the baby when walking home late at night. Father had arrived at the police station and also appeared under the influence of alcohol. Since the baby was in foster care the intention was to undertake a PAMS assessment of both parents and to rehabilitate the child with appropriate support. As a result of the PPM the local authority funded assessments of both parents in pre-proceedings and the case was progressing well according to plans for rehabilitation. However an incident of domestic violence prompted the local authority to reconsider rehabilitation plans and the decision to issue the case was made approximately 2 ½ months (10 weeks) later when the parents threatened to withdraw consent to Section 20 placement.

Whilst work was done with the family in pre-proceedings where the timescale between the initial PPM and point of issue was 35 weeks the final disposal time in court was 28 weeks. The local authority report that the PAMS assessments of both parents would have been likely to occur without the FCA in pre-proceedings and the delays were again resource issues. In respect of this (and other) case/s the local authority legal representative said:

“We were doing lots of PAMS assessments by now because of the risk of not doing them if they progressed to court.”

She also reported that these were not done in house as there was a lack of PAMS assessment trained social workers, and the quality of the independent assessments was variable. Particularly in cases of parents with learning disability there was a view that the local authority had to use independent assessors as they *would “come back to us in court”* if they did not.

Profile: CAFCASS PLUS Case 5

This case involved an unborn child. Mother had been in care herself and had 3 other children by two different fathers. Two previous children were resident with maternal grandmother and one had been adopted at birth. At the time of the initial PPM in respect of the unborn child both parents were present and issues concerned alcohol misuse, domestic violence, crime, mental health issues, consistent relationships with violent men and being homeless at times on the part of the mother. At the PPM it was agreed that the baby (who was born approximately 9 weeks later) would be allowed home in the parent’s care and resources included parenting skills, awareness around domestic violence, assistance with housing and financial assistance. There were 17 weeks between the PPM and decision to issue and after allegations of domestic violence and non-engagement with social services the FCA supported the local authority decision for removal of the baby. At a second court hearing however the FCA filed a report ahead of the IRH reporting that the parents had demonstrated real change within 20-26 weeks and he could no longer support the plans for adoption. There appeared to be a difference in the views of the FCA and the social worker at this point. The social worker

continued to want to work towards adoption of the child in that in her view the parents were ‘saying the right things’ but were nevertheless engaging minimally with children’s social care.

In her words the:

“thresholds were slightly different between myself and the FCA, he did not appear to be quite as risk averse”. In the words of the social worker at this IRH

“Rehabilitation plans were largely based on the FCA report”.

It is worth noting that alongside the views of the social worker, at this time Re B-S had been published and in this context the FCA was of the view that the local authority would have to reconsider plans for rehabilitation. Rehabilitation plans at this hearing were made under three conditions: that the mother’s mental health issues needed addressing; the father needed clear drug tests, and the father needed to address his aggressive behaviour. The father challenged all these issues, but by the next court hearing it was clear that neither the mother nor father had complied with conditions and, furthermore their problem behaviours had escalated. In a contested hearing lasting 3 days the FCA and local authority were both supporting initial plans for adoption and in the final hearing one month later the judge ruled that the child should be adopted with the adoptive parents of the other kin children. The parents did not attend the final hearing.

It was apparent in this case that the national context of cases changed in the light of Re B-S and the local authority were cognizant of the need to give the parents every opportunity to prove themselves within proceedings. Whilst the FCA might have appeared to introduce some delay in proceedings as he challenged what had been previously agreed plans with the local authority, it is pertinent to note the social worker reported that:

“they (the court) had more confidence in the final decision as all avenues had been explored.”

Care proceedings were completed in 47 weeks and the child was placed with adoptive parents of other kin.

Interestingly after the interim report one team leader commented:

“We have been mindful over the last couple of months of Re B-S and appeal decisions. It is always good to have another view, there’s no fault in that, whether there is conflict or not it is important to have a dialogue and the Cafcass officer provides opportunities. Particularly when courts are so stringent about the basis for decisions and making right and sound decisions.”

Bolstering/supporting local authority work/plans, facilitating engagement with families.

In all 6 CAFCASS PLUS cases that remain diverted the FCA was reported to have bolstered/supported local authority plans. In all cases the FCA made it very clear in the PPMs what was required of parents and in one case (case 4) the FCA played a mediating role with an argumentative mother who subsequently engaged with local authority plans.

Profile CAFCASS PLUS Case 3

This concerned a girl now aged almost 3 yrs. At the time of the PPM parents did not live together but presented as a couple. An elder brother lived with his (different) father and the

girl was resident with the maternal grandmother. The PPM identified concerns around chaotic lifestyle, mental health and significant alcohol issues by the mother. Resources were offered to the parents, in particular in relation to alcohol misuse and a parenting assessment was required of both parents.

The pre-proceedings meeting was held in November 2012 when the child would have been aged one, in March 2013 a case review planned to rehabilitate the child with mother. The case was stepped down from pre-proceedings 84 weeks (one year and 32 weeks) from the initial PPM. The child remains with the mother and the case is currently being managed on a CP plan.

In this case the social worker reported that the FCA had bolstered and supported local authority plans and had engaged with the mother:

“The FCA definitely influenced part of the parenting assessment and definitely as part of looking at how we can support Mum in ways that we are not already doing...this made us aware of discussions with Mum that made us focus on the alcohol issue rather than on the mental health issue.”

Further:

“The FCA was very positive in respect of Mum and she is committed and engaged and was very welcoming of having another professional on board.”

It was the view of the local authority legal representative and the FCA that this case would be likely to have been diverted due to the commitment and engagement of the mother, but that pre-proceedings and the involvement of the FCA reinforced the required changes that she needed to make.

Independence and representation of the voice of children by the FCA

In several interviews reference was made to the importance of the FCA in terms of providing an independent analysis of cases and of representing the voice and best interests of the children. The interim report provides evidence for this and the follow up interviews further confirm that view.

There were a number of issues in relation to the continued role of Cafcass in pre-proceedings roles at the end of this pilot study that referred to the potential importance of the FCA. For example the local authority legal representative suggested that:

“If the 26 weeks rule and pre-proceedings work is here to stay for cases that have been frontloaded, for Cafcass not to be involved until day 12 is too late. If we are going to keep Cafcass they should be here and involved much earlier to provide alternative views and ensure the focus on the children”

And one team leader expressed a view pertinent in relation to the independence of the FCA:

“From supervising social workers what they will often say is that if you are moving towards a final plan for permanence/adoption you (the SW) will have written the child permanence report, and external expert reports will be going off alongside the permanence report. Potentially all that work can be prepared by one social worker, so I think they (SWs) feel anxious about having been the professional...and I’m not taking anything away from them because they are experts, but I think it feels quite isolating to be the professional who is papering the parenting assessment, the child permanence report...being the instigator of the looked after children overviews. Yes there is the acknowledgment that there is the IRO for looked after children, and the FCA within planning and decision making in proceedings, but potentially the social worker could be the author of all the reports that go to court.”

There is a real suggestion here that there is value in having an FCA involved in pre-proceedings to provide evidence of independence.

This was supported by the local authority legal representative who reported:

“The IRO has more of a role with looked after children than 10 years ago, but for those children who are not looked after there is certainly a role for having an FCA there, for having another professional there.”

In an interview following the interim report a senior manager in children’s services suggested:

“From the parents point of view when there is conflict and confrontation it can help to have someone independent present”.

Overall commentary on the diverted cases.

The timescales for the diverted CAFCASS PLUS cases range from 53 to 88 weeks from the initial PPM to July 2014. As table 1 illustrates many of these were stepped down from pre-proceedings, where data is available this was usually between 28 and 35 weeks after the PPM.

In 4/6 cases the FCA and social work interviews suggest that the primary role of the FCA in pre-proceedings was reinforcing the plans and requirements for parental change. In these cases either the family circumstances changed and/or the parents, most usually the mothers, were engaging with social services and were demonstrating a real commitment to addressing their difficulties. In interviews the FCA and social workers were of the view that these cases would be likely to have followed the trajectory of diversion due to those factors. However,

the early involvement of the FCA is reported to have had an impact on the consistent and sustained engagement by parents with the plans.

In 2/6 cases both the FCA and the social workers were of the view that the FCA had made a demonstrable and significant impact on the trajectory of diversion. In one case the FCA was extremely clear at the PPM that the mother, who was contesting the local authorities decision making and planning, had to address her difficulties. It was reported that this input was highly likely to have had an impact on the mother's subsequent engagement with social services.

In a second case it was reported that the FCA's contribution at the PPM was likely to have resulted in engagement by the mother. In this case the FCA had visited the children who were not resident with the mother at the time of the PPM. At the PPM the FCA was able to express the views of the older child (resident with the maternal grandmother) who recognized the efforts his mother was making to change her behavior and said he could now see him going back to his mother, this had not been the view of the child 6 months previously. In interviews the FCA and social worker reported that the mother was visibly moved by this information in the PPM, and this was a primary motivator for her to continue to change her behavior.

The timescales for the comparator cases range from 65 to 89 weeks from the initial PPM to July 2014. Where data is available these were stepped down from pre-proceedings between 20 and 34 weeks after the PPM.

It is interesting to note that in these diverted cases the opportunity for families to demonstrate change sufficient for them to be stepped down from pre-proceedings is usually over 26 weeks.

Concluding Comments.

The Coventry and Warwickshire pre-proceedings pilot was established in response to perceived shortfalls in the pre-proceedings process and concerns about extensive delay in the resolution of care and supervision order cases. The final report for the Coventry and Warwickshire pilot was published in 2013, and is available at:

<https://www.northumbria.ac.uk/about-us/our-staff/h/kim-holt/>. The initial project piloted in Coventry and Warwickshire stimulated interest from a number of local authorities, and Liverpool was chosen to join the pilot in 2012. The interim report was published in 2013, and is available at: <https://www.northumbria.ac.uk/about-us/our-staff/h/kim-holt/>.

Overall, the findings from the Liverpool pre-proceedings pilot support the outcomes from the pilot project in Coventry and Warwickshire. Significantly, the involvement of the FCA at the pre-proceedings stage is reported to have had a positive impact on practice. Multiple stakeholders in Coventry, Warwickshire and Liverpool have reported a change in practice as a result of having the experience, expertise and independence of the FCA at the pre-proceedings stage.

In similar findings to the Coventry and Warwickshire pilot, where cases progressed to court there is unequivocal support that the FCA was able to report a head start. There is evidence of confidence in CAFCASS PLUS cases in Liverpool in the preparatory work that had been undertaken in pre-proceedings work and in some cases this was directly attributable to the early involvement of the PCA. The Liverpool pilot project is distinctive in so far as it overlaps with the implementation of the Children and Families Act 2014, and a deadline for the completion of the majority of cases within 26 weeks. The 26 week deadline does appear to have had an impact on the reduction of time that cases in this sample spent in court following the instigation of proceedings. Notably, in some cases there were fewer requests for additional reports and more emphasis was placed on the social work assessment. However, the findings of this project would suggest that despite legislative change, the CAFCASS PLUS cases are still resolved more quickly than the comparator sample, if only by a matter of 2-3 weeks.

Social workers in Liverpool confirmed that increased time spent with families within the pre-proceedings stage meant they felt more confident when they were presenting evidence in court. Furthermore, social workers reported that the FCA was pivotal in cases where there was a high level of risk, as the experience and independence of the FCA was seen as an effective challenge to the local authority, and any risk to the child whilst cases were being diverted was shared between the local authority and the FCA.

Similar to the findings in Coventry and Warwickshire where cases were diverted at the pre-proceedings stage the FCA was able to provide an independent perspective, keep the focus on the needs and best interests of the child, and bolster and support local authority decision-making and planning.

Whilst many of the diverted cases followed a trajectory where parents, most usually mothers, were already demonstrating a change in behaviour, there was evidence that the early involvement of the FCA reinforced the requirements that were needed and contributed to sustained commitment and engagement with local authority plans and decisions. In a smaller number of diverted cases the FCA appeared to have made a significant impact on changing the trajectory of cases so that parents who had previously resisted and/or challenged local authority plans recognised the need for engagement and began to change their behaviours.

The period when safeguarding concerns are identified is likely to be stressful for both the child/ren and families. Early parental engagement in the child protection process is key to avoiding the creation of barriers between the local authority and the family. Similarly, when the risk to the child increases and the local authority decide to issue a letter before proceedings to inform the parents of their concerns, the stress within the family is increased and the relationship with the local authority is likely to be further strained. The early intervention of the FCA in Coventry, Warwickshire and Liverpool has been pivotal in stimulating parental engagement within this context. As well as facilitating engagement by parents, the FCA has consistently focused the local authority to ensure that there is early, direct and clear written communication with the parents, setting out the local authority's specific concerns, outlining what needs to be done by whom to address the concerns raised by

the local authority, and introducing at that stage the possibility of proceedings if the situation does not improve within an identified timescale.

Similar to the findings in Coventry and Warwickshire, the FCA in Liverpool has maintained the focus of the meetings on the child. It was, in part, the invisibility of the child within the pre-proceedings protocol that stimulated the pre-proceedings work commissioned by Cafcass. It has been noticeable in both Coventry and Warwickshire and the Liverpool pre-proceedings pilot that the child is consistently visible within the pre-proceedings meeting through the involvement of the FCA. The FCA ensures the meeting is focused on the child rather than the competing agendas of the adults involved.

It is important that throughout this period, the child (subject to the child's age and level of understanding) is kept informed and communicated with to ensure that the child is aware of what is being proposed, and that their views are heard. The involvement of the FCA in Coventry, Warwickshire and Liverpool has ensured the child has an independent voice within child protection practice and pre-proceedings protocols. The independent voice to represent the child is essential at the pre-proceedings stage, given that both the local authority and the parents are independently represented. Without representation for the child at these important meetings, there is a very real danger that the focus of the meetings will be adult focused.

Aligned to the findings in Coventry and Warwickshire, delay both at the pre-proceedings stage and when a case progresses to court increases where there are concerns with regards to parental mental health and or capacity. The evidence from both pilot projects would indicate that delay is introduced when the court requests further assessments/expert reports. The involvement of the FCA in Coventry, Warwickshire and Liverpool has been important in identifying additional assessments that should be undertaken at the pre-proceedings stage or being able to advise the court specifically on any gaps in the overall assessment of parents so that the case can progress when an application to court is made.

Practitioners and evidence from timescales for cases highlight that in some cases delay has shifted away from court proceedings and into the pre-proceedings stage. Consideration needs to be given as to how a pre-proceedings protocol works within a child protection system.

This pilot has taken place in a period of rapid change within the Family Justice System. Notwithstanding what has been termed revolutionary change within a relatively short period of time, the role of the FCA in both pilot projects has been extremely positive. Given the positive findings from both projects the Ministry of Justice may wish to debate the potential value of further involvement in a pre-proceedings role for the FCA.