

Coventry and Warwickshire Pre-Proceedings Pilot

Final Research Report

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EXECUTIVE SUMMARY

This report documents the findings from the second and final stage of the evaluation of the Coventry and Warwickshire Pre-Proceedings pilot. The evaluation commenced in May 2011 and is now concluded at May 2013. A third pilot site (Liverpool) is on going with an interim report from that site published in tandem with this final report.

The pilot project introduced the Family Court Advisor (FCA) into pre-proceedings practice, to examine whether earlier involvement of the FCA could impact positively upon both diversion of cases from care proceedings and the duration of care proceedings. These cases are referred to as the Cafcass PLUS sample.

The pilot is one of a number of initiatives within this court area designed to increase compliance with the Public Law Outline (PLO) and reduce the duration of care proceedings, which in 2010, averaged 70 weeks.

Both local authorities have invested significant energies in pre-court social work, to include the development of dedicated local authority pre-proceedings legal teams. In Coventry, a specialist parenting assessment service (CBASS) has been set up and managed 'offline' which deals specifically with pre-proceedings assessment work. Both local authorities consider that the provisions within the PLO encourage a **planned and transparent approach** to care proceedings.

The final evaluation is based on a review of 26 Cafcass PLUS cases (the FCA is involved during pre-proceedings) and 30 comparator cases ('business as usual'). Findings need to be treated with some caution, due to small sample sizes. The overall impact of this project will need to be evaluated when the outcome of cases in the third site (Liverpool) are available.

The second stage of the evaluation has comprised **prospective tracking of cases based on file analysis** and supplementary interviews with a range of stakeholders. Due to continued problems of delay in Warwickshire in particular, detailed interviewing was undertaken with local authority solicitors during this second stage of the project, to better understand barriers to effective case resolution.

A mixed picture is reported in respect of the impact of pre-proceedings involvement of the FCA in Coventry and Warwickshire. Overall, the project **highlights the**

importance of a 'whole system' approach to change and that further work is needed in this court area to reduce delay that is not purposeful.

The picture regarding **diversion is mostly very positive**, with a number of cases illustrating excellent work to identify and support kinship placements. **Proactive work to strengthen kin networks appears to be a positive outcome of the PLO** for Coventry and Warwickshire. The Cafcass PLUS cases in Coventry evidence higher diversion rates, but again differences and sample sizes are small.

Case profiles were constructed for all cases to visually present **the child's journey through both pre-proceedings and care proceedings**. In some cases, but not consistently, planned pre-proceedings work resulted in shorter, more focused care proceedings. In other cases, it appeared that courts were not giving sufficient weight to pre-court social work. Permanency planning could appear stalled for **larger sibling groups**.

Only a **small percentage** of cases in both the comparator and Cafcass PLUS cases completed **within the proposed target of 26 weeks**, although there was clear evidence that the average number of weeks for case disposal was reduced. **Exemplary work** on the part of the local authority and the FCA during pre-proceedings was in some cases **undermined** once care proceedings were issued, due to **lack of decisive case handling in the courts**.

Overall the duration of care proceedings was shorter in the Cafcass PLUS sample, with a **notable difference between the Warwickshire Cafcass PLUS and the Warwickshire comparator cases**. However, detailed case review highlights that further gains ought to have been made in fairly straightforward cases had the court process been more decisive. **Failure to deal decisively with questions of parental capacity was a recurrent finding**.

A number of cases appeared to be issued in Warwickshire on an 'unplanned' basis. Further attention needs to be paid to ensuring Warwickshire cases enter the pre-proceedings process at a timely point.

Detailed case review has revealed the range of **systemic and child and family case characteristics that combine** to create delay. Although child and family characteristics, such as difficulties of permanency planning for large sibling groups

may be harder to resolve, there is clear evidence that systemic barriers could be further addressed to reduce the duration of care proceedings.

Diversion

Cafcass PLUS cases that were identified as evidencing positive impact from the FCA in terms of **safe and effective diversion** plans at interim reporting (February 2012) were **closed to pre-proceedings during the evaluation period**. Children were reported as doing well in mostly kinship placements.

The overall **diversion rate for the 56 cases was approximately 40%**. This figure is higher than the only available national benchmark of 25% (Masson et al. 2013). A higher percentage of cases were diverted in the Coventry Cafcass PLUS cases (50%).

Diversion in Coventry and Warwickshire is largely **achieved through positive work with kin networks**, without recourse to care proceedings.

There is some potential for drift in pre-proceedings in respect of finalising permanency within kin networks. This is a particular issue for family members who wish to issue private law proceedings, but cannot readily able to **access financial help** to cover court costs.

Care Proceedings

Although the length of care proceedings is shorter for the Cafcass PLUS cases when compared to the comparator cases, on going systemic barriers that continue to create delay have undermined the FCA's potential impact upon the duration of care proceedings.

The **value of the 'head-start'** as reported by the FCAs continues to be the **most consistent positive message** from this study and is seen to dovetail with the direction of change resulting from the Family Justice Review. However, this value can only be realised where cases progress to court on a planned basis and essential assessment work is complete.

The overall average (mean) duration of the care proceedings for the Cafcass PLUS cases (excluding the complex cases) is 36.3 weeks (based on 11 cases). The duration

of the comparator cases is 42.6 weeks (18 cases). **There is a distinct difference between the Warwickshire Cafcass PLUS and comparator cases in respect of care proceedings duration.** There are fewer longer running cases (more than 40 weeks) in the Cafcass PLUS sample as a whole.

The pre-proceedings pilot is one of a number of initiatives introduced in Coventry and Warwickshire during the past two years by the Local Performance Improvement Group. It is likely that the general improvement in local authority and court performance has resulted from the **combined impact of initiatives**. In 2010, the average time for disposal of care cases was 70 weeks.

The Community Based Assessment Service in Coventry (CBASS) carries out pre-proceedings parenting assessment. This service is staffed by very experienced social workers and former Children's Guardians. The work of this service is held in high regard by the courts and is clearly a contributing factor in the marked improvement in duration of care proceedings in Coventry.

There is some variability in social work assessment pre-proceedings, which appears to relate to: a) **inexperience**; and b) **the high volume of care proceedings** issued in particular teams. Variability can create drift in pre-proceedings – cases are not issued at a timely point. In addition, **where local authority actions agreed at the pre-proceedings meeting are not carried out**, this then creates delay in care proceedings as the court sanctions further assessment work.

The overall duration of care proceedings was calculated with and without cases where **a second infant was born during proceedings and proceedings were consolidated around two infants**. There were three such cases, all of which fell in the Warwickshire samples, and clearly skewed outcome data because extensive delay was evidenced on account of infant health/placement complexities (**cases ran to some 70 weeks**). A further case in Coventry also involved the birth of another child during proceedings for the older sibling, but could not be included in final analysis as no projected final hearing date was available.

During this second period of the evaluation, all agencies presented as hugely stretched by the combination of public sector cuts and continued rise in care demand. Stakeholders concluded that inclusion of the FCA in all pre-proceedings cases is unrealistic. Under the planned changes to the PLO, the FCA will now have a

window between application of care proceedings and the first hearing, which may provide this critical 'early view'.

Discretionary involvement of the FCA in pre-birth cases was considered to be important, particularly in respect of providing an independent opinion in 'repeat removal' cases and in respect of contact plans. However, **gaining parental consent for this involvement was very problematic** where parents had had infants and children removed before, such that stakeholders abandoned this plan.

Impact on national debate

The pilot project has influenced broader debates about the critical role that the FCA must play **from the outset of care proceedings**. Review of the cases that progressed to court, indicates that where the FCA's earlier involvement complemented effective and planned local authority work, then the FCA could provide a very effective and timely steer to the court. However, **the pilot also provides clear evidence that where cases progressed to court on an unplanned basis and local authority work is incomplete, then the FCA was not able overturn deficiencies in pre-proceedings practice**.

Conclusion

The pilot has provided an excellent opportunity for joint learning and knowledge exchange between all participating agencies. The active engagement of the multi-professional and multi-agency steering group throughout the lifecycle of the project meant that members, selected on the basis that they could promote change, have been able to act on emerging issues during the now two year period. In addition, the pilot has **raised the profile of questions about the pre-court social work** more broadly across the participating sites, contributing to a momentum for change.

The pilot indicates the value of detailed **local area analysis** to illuminate the particular systemic barriers to expedient case resolution. Although this court area continues to evidence problems of delay, in terms of distance travelled, significant progress has been made.

The local Family Justice Board will need to consider findings from this pilot, in respect of any future role for the FCA in pre-proceedings. A number of local

authorities are operating differentiated use of the FCA in pre-proceedings and further analysis is needed of the outcomes of various models.

INTRODUCTION

The Coventry and Warwickshire Pre-Proceedings Pilot is now complete. A third pilot site (Liverpool) is on going and an interim report will be available in June 2013. The pilot project, which commenced in January 2011, introduced the Family Court Advisor (FCA)¹ into pre-proceedings social work to examine whether the earlier involvement and the expertise of the FCA could impact positively on pre-proceeding social work. The pilot project's designers considered that earlier involvement might support:

- safe and effective diversion of 'edge of 'care cases' wherever possible;
- improved pre-proceedings social work assessment and decision-making such that duration of care proceedings is reduced.

The pilot aimed to narrow the issues brought before the courts should care proceedings be issued and equally provide the FCA with a 'head-start' given the importance of an early, effective steer from the FCA to case management in care proceedings. Given the absence of an independent voice for the child within pre-proceedings, the FCA would also provide a critical role in ensuring that the welfare of the child remained central to decision-making (Broadhurst and Holt, 2012²).

The pilot aimed to recruit a sample of Cafcass PLUS (FCA involved in pre-proceedings) and comparator cases ('business as usual') and to track the progress of cases in respect of how many cases were diverted; whether diverted cases remained diverted; how many cases went into court; and the length of care proceedings. The evaluation has been conducted in two stages and a full interim report is available from stage 1 from Cafcass³. In the interim evaluation report we noted the difficulty that the agencies experienced in recruiting families to the Cafcass PLUS sample, because **parental consent**⁴ was required. This has continued to present something of an impediment in the third pilot site (Liverpool). In Coventry and Warwickshire, difficulties in achieving parental consent meant that although the pilot commenced in January 2011, the majority of cases entered the pilot towards the end of 2011 and

¹ The project used the term: FCA, rather than children's guardian. This is used throughout this report.

² Involving the Family court adviser in Pre-proceedings Practice – Initial lessons from the Coventry and Warwickshire pilot: <http://www.familylawweek.co.uk/site.aspx?i=ed97110>

³ The report is published on line at: <http://www.cafcass.gov.uk/media/6634/Interim%20pre-proceedings%20report%20April%202012.pdf>

⁴ This was discussed in full at interim reporting stage

where they progressed to care proceedings, these concluded in 2012. A few long running cases have concluded in 2013 or are currently listed for a final hearing⁵. This second stage of analysis is based on 56⁶ cases, 26 Cafcass PLUS cases and 30 comparator cases. The sample size in respect of the number of cases that have progressed to court is small, because diversion rates are approximately 40% in this study. Thus, this renders any findings, indicative only. Findings from the Liverpool pilot in respect of care duration will yield a further sample, upon which the overall impact of the Cafcass PLUS model can be appraised.

This pilot project was stimulated by concerns about delay in both Coventry and Warwickshire, with the local authorities struggling to reduce care proceedings duration. Very significant improvements have been recorded during the evaluation period in this respect. In 2010, the average number of weeks⁷ from application to final hearing amounted to some 70 weeks. The overall average now stands at 46.9 weeks (April 2012 to March 2013) with some further improved performance in the pilot cases as detailed in full in this report. However, the results from this pilot and the latest performance statistics indicate that this court area has some way to go to achieve the 26 weeks deadline as proposed in the Children and Families Bill⁸. There are more cases in the Cafcass PLUS sample hitting this target, but again caution is needed given the small sample size. There is also some concern that in the most recent quarter⁹, performance has started to slip back. As will be discussed throughout this report, there are continued systemic barriers to expedient case resolution.

Detailed prospective tracking of a relatively small number of cases has enabled a window to be gained into the variety of factors that *combine* to create on going problems of delay and have inevitably served to reduce the impact of the Cafcass PLUS model. We have divided these into **i) systemic (institutional) factors; and ii)**

⁵ Final analysis includes 2 cases in Warwickshire, where the case is listed for final hearing, rather than concluded. However, there are no indications that these cases will run longer and hence a decision has been taken to include these 2 cases in the overall sample. Given that final reporting on this project is delayed for reasons that have been unavoidable, a practical decision had to be taken to draw a line under the project at this stage.

⁶ 27 Cafcass PLUS cases were recruited to the pilot at stage 1. In this second stage, the family moved out of the area before case review could be completed.

⁷ This is an average based on combined court performance (family proceedings and county court)

⁸ <http://services.parliament.uk/bills/2012-13/childrenandfamilies.html>

child and family factors for analytic purposes, although these factors will frequently combine to create delay.

Systemic factors include:

1. the enduring problem of variability in the quality of social work assessment but equally failure of courts to recognise good social work practice which creates something of a 'chicken and an egg' situation;
2. that a number of cases appear to enter the pre-proceedings process too late, such that the window for further assessment and attempt to effect change is missed and cases then progress to court on an unplanned/emergency basis;
3. the difficulty of making effective decisions about, and providing effective support to parents with fluctuating mental capacity who are *not* deemed to warrant the services of the Official Solicitor;
4. difficulties in timetabling contested final hearings due to insufficient court sitting time and problems of co-ordinating the diaries of very busy professionals.

Child and family factors include:

1. the late joining of kin and/or late claims to paternity on the part of fathers;
2. child health, disability or behavioural issues;
3. difficulties posed by cases involving larger sibling groups where there are different plans for infants/children;
4. the negative impact of short interval consecutive births on case duration where care proceedings are consolidated around two infants.

In addition, there are concerns among local authority professionals that family court hearings in the Coventry and Warwickshire area continue to be overly adversarial, with lawyers representing parents described as 'combative' - seeking to de-rail the timetable for the child on account of minor procedural irregularities.

The pilot has provided an excellent opportunity for joint learning and knowledge exchange between all participating agencies. The active engagement of the multi-professional and multi-agency steering group throughout the lifecycle of the project has meant that members (selected on the basis that they could promote change), have been able to act on emerging issues during the now two year period. In

addition, the pilot has raised the profile of questions about the pre-court social work more broadly across the participating sites, contributing to a momentum for change. The work of the Local Performance Improvement Group (LPIG) concluded in 2012, but the local family justice board will now take performance improvement forward. This latter group continues to respond to concerns about delay and will no doubt address questions about the future of the Cafcass PLUS model, in light of revisions to the PLO.

Summary of interim findings

The report from the interim stage (February, 2012) of the evaluation concluded that there was as a generally positive response from a range of stakeholders about the potential contribution of the FCA. Frontline social workers felt that the FCA's contact with parents had stimulated parental engagement ('someone visiting the family from the court') and that the FCA had contributed to safe and effective diversion plans. They also felt that the FCA had been able to offer valuable advice about how pre-proceedings assessment might be improved, sharing their expert knowledge of court expectations. The interim report also revealed unexpected insights. For example, parents' lawyers commented positively on the contribution of the FCA to the formal pre-proceedings meeting, because the FCA was able to make clear to parents concerns about children, from an independent standpoint. At this point, parents might be locked into adversarial relationships with the local authority, whereas the FCA was seen as independent. The FCAs themselves reported very positively on what they described as a 'head-start' and envisaged that gaining a window into cases in pre-proceedings would enable a far more confident and timely steer to the court should cases progress to care proceedings. Thus, the project also contributed to broader debates about the critical role that the FCA can play in respect of robust case management within care proceedings and the importance of early analysis from the FCA, such that unwarranted expert opinion/additional assessment is not sanctioned. The proposed revisions to the Public Law Outline place much greater emphasis than previously was the case, on the first hearing and as Munby L.J. (2013, p6.)¹⁰ writes:

¹⁰ View From the President's Chambers: the process of reform. Sir James Munby, President of the Family Division. <http://www.judiciary.gov.uk/Resources/JCO/Documents/Reports/pfd-update-process-of-reform.pdf>

‘Assuming that the local authority has delivered, CAFCASS must be in a position by the first hearing to provide an analysis of what the case is about and to advise the court what evidence and assessments are, and equally important what evidence and assessments are not, necessary’

Thus, the vision of the head-start dovetails with the direction of change in respect of family justice reforms that require the FCA to deliver an earlier analysis of the case at the first hearing. It will be important to consider any development of the Cafcass PLUS model in respect of feedback from the FCAs working to the revised PLO.

Interim findings were, however, not without dissenting voices. There were general concerns in both local authority sites about how Cafcass would service all pre-proceedings meetings, given the continued increase in care proceedings and unprecedented demand on all agencies. Research participants concluded that discretionary involvement of the FCA in particular cases might work better than a blanket expectation that the FCA would be involved in all cases entering a formal pre-proceedings process. At the conclusion of the first stage of the project, participating agencies strongly endorsed pre-proceedings involvement of the FCA in pre-birth cases¹¹. In some cases the FCA’s involvement was considered ‘too thin’ and agencies wanted more input from the FCA such that they could be assured of an independent voice for the child, given the potential for pre-court delay under the PLO. There were also reservations from managers, particularly in Warwickshire, that the involvement of the FCA, in what was essentially a local authority decision-making space, could create role confusion, or in other ways duplicate the work of the frontline team manager. The FCAs themselves commented on the variability in pre-court social work and claimed that if the local authority’s case was not well prepared at the outset of proceedings, then it was difficult to see how their earlier involvement would make a difference – all parts of the system need to work well together to ensure timely decisions for children.

¹¹ At the end of stage 1, project partners aimed to recruit a further sample of pre-birth/infant cases to the project but parental consent presented as a major obstacle and this initiative was abandoned. The issue of parental consent has presented as an enduring barrier to the Cafcass PLUS model, despite project partners strongly feeling that in pre-birth cases in particular, early involvement of the FCA would be very much welcomed.

The second stage of the evaluation

The second stage of the evaluation has comprised a further period of prospective tracking of the **Cafcass PLUS** cases (cases in which the FCA was introduced into pre-proceedings) and **comparator cases**. Central to this second stage of the evaluation were the following research questions:

1. What percentage of cases were diverted and stayed diverted during the review period?
2. Was there any difference in respect of diversion rates between the Cafcass PLUS and comparator cases?
3. What is the overall duration of care and supervision proceedings for the Cafcass PLUS and comparator cases? Is there a discernible difference between the two sample groups?
4. How do final care and supervision proceedings durations compare with national benchmarks and the recent history of court performance in the Coventry and Warwickshire area?
5. Was there evidence of drift in the 'pre-proceedings process' and did the Cafcass PLUS model provide any safeguards for the child in this regard?
6. What was the final quality of pre-proceedings social work where cases progress to court proceedings?
7. Did the perceived 'head-start' for the FCA described in the interim report, enable a stronger and earlier steer where cases progress to care proceedings?
8. Where delay is evident, what factors appear to be causing delay? Is delay purposeful or does it result from systemic weaknesses?
9. How does the timetable for the child feature in the Cafcass PLUS and comparator cases?
10. What is the picture of the overall child's journey when case trajectories are examined both pre and post care proceedings?

We also probed supplementary questions that had been raised by the steering group and various stakeholders during the course of the evaluation at seminars, conferences, or through personal communication. In particular the following questions were pertinent:

1. Was the FCA's independence called into question, if he/she held the case both pre and during care proceedings?
2. Did the FCA's earlier involvement make the proposed 26 weeks target achievable for care and supervision proceedings?
3. If demand on Cafcass means that the organisation is unable to serve as the independent voice for the child in pre-proceedings, can the role of the IRO be strengthened or might independent social workers fulfil this role?

Addressing implementation issues: progress of the Liverpool pilot site

As with all pilot studies, the project has encountered a number of 'teething' troubles along the way. In our interim report, we drew attention to issues of 'feasibility' and 'acceptability' that are critical to the effective design of any pilot intervention study. The intervention must be practical and must appeal to key stakeholders. Following publication of the first interim report, Liverpool City Council joined the project as a third site, with the aim of establishing what progress could be made if issues of implementation, stakeholder ownership and feasibility were addressed. This third side, is, to-date, delivering **more consistent evidence in respect of the potential value of the Cafcass PLUS model**. In Liverpool the Cafcass PLUS model dovetails with other positive initiatives, which include the protocol devised by HHJ De Haas, dedicated local authority legal and social work pre-proceedings teams, and attention to judicial continuity. An interim report is now available from the project team¹² which describes 'whole system' change¹³, based on an understanding that, despite best intentions, any attempt to invoke change in complex systems will likely falter where intervention fails to approach system change in this way.

¹² The report is available from Kim Holt: k.e.holt@bradford.ac.uk

¹³ A paper was given by the project team on effecting change in complex systems to an audience attending the Coventry and Warwickshire Family Justice Board. For a copy of the paper contact: karen.e.broadhurst@manchester.ac.uk

BACKGROUND & CONTEXT

Local context: performance, care demand and austerity

There has been a generally very positive improvement in both pre-proceedings social work and court performance during the evaluation period (2011-2013) in Coventry and Warwickshire. The evidence is that care and supervision cases are being resolved more quickly from initial application to final hearing, and that local stakeholders report improvements in pre-court social work. The Coventry and Warwickshire pilot has contributed to this general trend of improvement – as one element in an evolving local family justice system. The Coventry and Warwickshire Local Performance Improvement Group (LPIG)¹⁴ has initiated a number of changes that appear to have resulted in shorter more expedient care proceedings. The LPIG reports average case durations for care and supervision cases. Statistics for April 2011 and September 2012 are shown in Table 1. As a consequence of combined changes, the LPIG reported that at September 2012, care case duration was reduced by some 10 weeks compared to that recorded in April 2011.

Table 1: Average case durations for care and supervision cases (in weeks) at April 2011 and at September 2012, as reported by LPIG.

Court	Average Duration	
	April 2011	September 2012
Coventry County Court	69	60
Coventry Family Proceedings Court	50	40
Warwickshire Family Proceedings Court	62	52

The LPIG has continued to monitor progress. The most recent figures for the full financial year (April 2012 to March 2013) show a further improvement again:

¹⁴ Reducing delay- what can we do? A case study for local family justice boards HMCTS, December 2012. Coventry and Warwickshire, LPIG

Table 2: Average durations of care and supervision cases (in weeks) for April 2012 to March 2013, as reported by LPIG.

Court	Average Duration
Coventry County Court	42.1
Coventry Family Proceedings Court	39.2
Warwickshire Family Proceedings Court	41.9
Average Combined	46.9

The full details of the combined changes that have sought to address weaknesses in both pre-court social work and case management within the courts to give greater priority to the timetable for the child, are reported in full by the LPIG.¹⁵ In respect of pre-court social work these included a requirement that Cafcass appointed guardians would clarify to the courts and parties, preferably in writing, their initial analysis of the case and a requirement that local authorities would ensure that additional pre-proceedings assessment work undertaken was made available to the court at the first hearing.

In respect of court case management, changes included *inter alia*, court determination of the threshold at the earliest opportunity, the discouraging of listing of directions appointments, consideration of case management or timetabling of issues at renewal of each interim care order. Whilst the Coventry and Warwickshire Pre-Proceedings Pilot was not within the remit of the LPIG, it is clear that the 'early' involvement of the FCA dovetails with these changes, creating a longer window for the FCA to formulate an early analysis of the case. In our interim report and as above, we described this as a 'head-start'.

The current Ministry of Justice Statistics (MoJ) statistics also provide a useful benchmark against which the performance of the local area can be compared. The most recent statistics available from the MoJ in the final quarter (Q4) of 2012 are as follows:

¹⁵ As above

Table 3: Average durations of care and supervision cases (in weeks) for Q4 of 2012, as reported by the MoJ.

Court	Average Disposal	Median Disposal
County Courts	45.1	39.9
County Courts and High Court	48.5	42.7
Family Proceedings Court	40.7	37.0

As the evaluation draws to a close, the latest statistics for this quarter indicate something of a step backwards, with case duration starting to rise again (see table 5, quarter 4, 12/13). The research team's own anecdotal observations are that the continued rise in applications as detailed below (Table 4), together with a further rise in applications in 2013 in the context of diminished resources, is creating acutely difficult conditions for all agencies operating in this local family justice system. Inevitably delays will then be created simply on the basis of resource insufficiencies. In the face of continued straitened times, and that it is unlikely that further resources will be made available, it may be that the local authority area needs to 'think outside the box' and consider how demand might be reduced¹⁶, particularly given the high number of cases in this study that are *repeat* removals. Within the sample of 57 cases in this sample, a number of parents have had children/infants removed before.

Table 4: Number of applications made in each Local Authority over the past three years.

Year	Total Number of Applications	
	Warwickshire	Coventry
2010	87	54
2011	103	58
2012	116	90

¹⁶ Suffolk Children's Services and Reading Children's Services are operating projects that work with women to delay pregnancy following care proceedings, and aim to facilitate mothers' recovery such that they can make more informed choices regarding a subsequent pregnancy or regain their capacity for safe parenting. Further details are available from Sophie Kershaw: SKershaw.FDACteam@coram.org.uk or karen.e.broadhurst@manchester.ac.uk

The latest statistics available from the local area, which provide quarterly detail based on an overall court average in weeks, indicate a continued trend towards improvement, but with a dip in performance in the most recent quarter. At present, it is difficult to understand the reasons for this dip, or to establish whether returning to ‘business as usual’¹⁷ in respect of pre-proceedings has had any impact on this change to an otherwise positive trend. Again, this will be a matter for the local family justice board to debate.

Table 5: Average duration of section 31 care and supervision court cases (in weeks) in the local area.

Financial Year	Quarter	Average Duration
2011 – 2012	Q2	61
	Q3	58
	Q4	57
2012 – 2013	Q1	50
	Q2	47
	Q3	35
	Q4	53

Context: How are the local authorities using the pre-proceedings process?

During the evaluation period, both local authorities have made incremental changes that ensure compliance with the Public Law Outline (PLO). In contrast to the disparity in adherence to the PLO noted by Masson et al., 2013 (reporting on cases that entered a pre-proceedings process in 2009), in Coventry and Warwickshire there is a whole hearted commitment to the PLO and to ensuring, wherever, possible a planned approach to care proceedings. In respect of pre-court social work, both local authorities are engaged in an on going process of making revisions to and reflecting on pre-proceedings practice. Each local authority has a dedicated local authority legal team focused on ensuring that care applications are better prepared for court. In Coventry, a specialist parenting assessment service (CBASS) has been set up and managed ‘offline’ which deals specifically with pre-proceedings assessment work. CBASS is staffed by social workers with extensive experience, including those

¹⁷ The majority of Cafcass PLUS cases concluded prior to Q4: 12/13.

previously employed as FCAs for Cafcass, who are very well placed to undertake pre-court social work. Warwickshire is a large geographically spread authority, which creates particular challenges in setting up a service comparable to CBASS. In both Warwickshire and Coventry, the local authority legal teams provide excellent advice to local authority frontline social workers and managers, and the experience within the local authority legal teams is very impressive. That said, both Coventry and Warwickshire struggle to meet demand, and there is inevitably delay during pre-proceedings, particularly where teams are dealing with a flood of cases that need to go into court at the same time.

Both local authorities prefer to use a pre-proceedings process with parents, whether or not they feel that cases can be diverted. Even in the context of immediate issue where parents are sent a letter indicating that the local authority plan to go straight to court (Immediate Issue Letter), wherever possible, the local authorities still prefer to meet with parents and to support parents in obtaining legal representation¹⁸. Both local authorities demonstrate a strong ethical commitment to open and transparent dialogue with parents and parents' legal representatives, wherever possible and see the PLO as providing the vehicle for this. It is only in a minority of cases where the local authority feels that sharing concerns would present immediate risks to children that they make an immediate application to the court without a face-to-face meeting with parents in advance.

Cases requiring immediate issue or emergency action are readily identified by local authorities and are described as distinctly different from the 'slow burn' neglect cases where parents will most likely to receive a Letter Before Proceedings (LBP) and enter a further period of intensive support and assessment. Immediate issue is most likely to result from the discovery of a serious injury to a child or where the history of the case is so adverse that immediate action is required. The local authorities gave examples of cases where they were notified of a family moving into their area with a 'horrendous history of offences' or multiple previous removals such that the local authority took immediate action. Local authorities aim to be in court within two

¹⁸ The critical difference between a 'Letter Before Proceedings' (LBP) and an 'Immediate Issue Letter', is that the LBP states that parents can avoid going to court, whereas the latter signals that the local authority is going to issue proceedings without offering a further period of work. Guidelines are spelled out in: Preparing for Care and Supervision Proceedings – A Best Practice Guide, (MOJ & DCSF, 2009).

weeks and sooner if necessary following the Legal Planning Meeting (LPM) in immediate issue cases. These cases are described as 'the easy cases' in respect of making a decision to issue care proceedings. In contrast, where parents were issued with a LBP, cases are considered 'borderline' and further work is needed over a longer timeframe to determine whether or not care proceedings should be issued.

In the vast majority of cases in both local authorities that might be described as 'edge of care', parents are sent a Letter Before Proceedings (LBP), which triggers their entry to a formal pre-proceedings process. *It is these cases with which this pilot has been concerned rather than immediate issue cases.* When the local authority sends an LBP to parents and calls a Pre-Proceedings Meeting (PPM), this is with a genuine aspiration to support positive change through a tighter, more authoritative approach to child protection work. Often the problems that stimulate a LBP are to do with limited parental engagement with child protection plans, or uneven positive progress. The pre-proceedings process is also seen as a vehicle for stimulating kin networks; ensuring that extended family members are aware of the severity of the local authority's concerns. Through a family meeting/family group conferencing, the local authority aims to explore with kin alternative permanency solutions for children within family networks, such that recourse to care proceedings is not necessary. That said, frontline social workers and lawyers also described cases where they felt that the likelihood of change or achieving permanency within kin networks was poor, and the pre-proceedings process was very much about a time-limited period of intensive assessment to rule out options other than care proceedings. The latter percentage of cases are subject to regular, timetabled review meetings, and in a number of cases, agreement is sought from parents for children to enter foster care under s.20 at the pre-proceedings meeting (PPM) or indeed, before. The legal teams are meticulous in respect of documenting meetings and sending detailed records of meetings with agreed actions to parents and parents' representatives. Thus, it has been possible for the research team to document in almost 100% of the cases sampled, timing between LPM, PPM, issue of proceedings and final hearing.

Local authority solicitors in particular, were very positive about the pre-proceedings process, because it is seen to afford a more structured and planned approach to care proceedings. In the following extract a very experienced local authority solicitor gives her view on the benefits of the PLO:

‘Before we would just go into court with nothing ...so you might have had a case open on a child protection plan for ages, but then have to go into court with nothing – but now, we might still be working with a case for ages under the PLO, but at least if you then do need to go to court then you have done a good proportion of the work and you would hope that the case gets resolved more quickly, so the public law outline, we welcome it, it gives a much better framework for proving legal oversight and case management before you get into court.’

However, local authority lawyers in Warwickshire in particular were not confident that the local Family Proceedings Court recognised their efforts in pre-proceedings. In some cases pre-proceedings work appeared to deliver shorter, more focused proceedings, but in other cases, there was a feeling that pre-court work was not taken seriously or was excessively ‘picked over’ to expose minor errors in court, which then detracted from the timetable for the child. Social workers, social work managers and local authority lawyers felt that the court process was still not consistently focused on the welfare of the child, that hearings were unnecessarily adversarial and that judges continued to allow duplicate assessments. A local authority lawyer very usefully captures reasons behind this continued trend in the following excerpt:

‘I think for judges, they don’t look at how long a case has been in pre-proceedings, they think, well it’s only just come before me now. They also don’t want to be seen to be just ‘rubber stamping’ so, they think, OK, well we’ll just agree to one more assessment. But then that assessment is late and it provides a window for more issues to be raised, this makes it harder to timetable a final hearing, and before you know it, you have added months to case duration’.

Local authority lawyers felt that there was some way to go to achieving a ‘whole system’ approach to care and supervision proceedings, based on an understanding that the child’s journey started in pre-proceedings or indeed, before. Many welcomed the Cafcass PLUS model, given the emphasis within the PLO on a *planned* approach to care proceedings. However, the project again identified dissenting voices, because it was felt that whatever the quality of pre-proceedings work, assessment would simply start again once cases entered the court arena. The variability in social work assessment was reported in both sites as a continued area

of concern. Variability was most frequently attributed to inexperience on the frontline and the difficulties of retaining experienced social workers. Although significant improvements have been made in pre-court social work, concerns continue and which are seen to fuel a culture of courts conceding to requests for independent assessments. In other cases, local authority practitioners reported that further assessments were needed in court, because an independent opinion would genuinely add to the evidence before the court. In both local authority areas there are very real material obstacles to resolving care cases swiftly despite the best efforts of all parties, which are to do with continued pressures on all professional parties and lack of court sitting time. Timetabling a contested final hearing is a particular difficulty, adding weeks to case duration. As we will show from a detailed review of individual cases, even when final evidence is available at a timely point, significant delay can ensue (up to 12 weeks) because busy professionals cannot readily identified mutually convenient dates and the courts simply do not have sufficient sitting time to enable the volume of contested final hearings to be scheduled at a timely point.

METHODOLOGY: STAGE 2

Introduction

The evaluation of the pilot project has taken place in two stages. The first stage (May 2011- February 2012) reported largely qualitative findings from a range of stakeholders on the involvement of the FCA in pre-proceedings social work. The second stage of the evaluation has run between March 2012 and April 2013. This second stage has comprised a detailed *file analysis* of the 26 Cafcass PLUS cases to identify the impact of the FCA at the level of the individual case and to understand the combination of factors that have either complemented or undermined any positive impact recorded in the first evaluation report. Supplementary interviews were also undertaken where possible, with case-holding social workers (9 cases) and local authority lawyers (12 lawyers) to further explore continued problems of delay in 'long-running' cases. During these interviews the local authority lawyers and social workers were able to offer their analyses of delay more generally. In Warwickshire, because the Cafcass PLUS cases that progressed to court proceedings appeared to be evidencing significant delay, short interviews with local authority lawyers were undertaken in *every* case to gain a full picture of on going problems. We also interviewed the small pool of FCAs participating in the study at repeat intervals with a view to gaining their perspective on the value of a 'head-start' reported in the interim evaluation report. The research team were able to observe a small number of formal meetings, again that sought to further understand findings from the file study. The research team has also compared outcome data in respect of diversion rates, care duration and permanency outcomes for the full sample of 26 Cafcass PLUS and 30 comparator cases. The report thus, presents a weave of process and outcome data.

It is important not to privilege large-scale quantitative studies over smaller scale, detailed qualitative work, as each has its purpose. There has been scant analysis of the impact of the Public Law Outline since its introduction in 2009 (Jessiman et al. 2009; Broadhurst et al. 2011; Masson et al. 2013), despite the critical importance of 'edge of 'care work. The strength of the Coventry and Warwickshire pilot and its evaluation is that detailed analysis has thrown light on how child and family characteristics interact with systemic (institutional) weaknesses to create delay in this particular case study site. Practices in case study sites, whilst inevitably

evidencing factors associated with delay as reported in national studies, also display the vagaries of local context.

Prospective tracking

Cases have been tracked prospectively during the full evaluation period (2011-2013). Prospective tracking has enabled the research team to gain a very up-to-date picture of how courts are responding to the pre-proceedings process as a number of cases have come to a conclusion within the past 12 months, where the impact of messages from the national Family Justice Review and intentions of the Children's and Families Bill have filtered through to frontline practice. Prospective tracking has taken time, but given that the evaluation has now spanned some two years, this has enabled a longer view of the progress of diverted cases. This final evaluation report is based on tracking of the following sample:

Table 6: *Total sample of cases split by Local Authority and Model.*

	Comparator	Plus	Total
Coventry	15	14	29
Warwickshire	15	12	27
Total	30	26	56*

**A single case has been excluded as the family moved out of the area before conclusions could be drawn about case trajectory.*

All cases issued commenced in the Coventry and Warwickshire Family Proceedings Courts (FPCs). Given the small number of cases overall that progressed to proceedings and that only a small percentage transferred to the County Court, we have not drawn a distinction between cases concluding in the County Court or FPCs. In addition, we did not note a general difference in complexity between cases that were transferred and those that were not.

However, we have identified three cases that presented with particular challenges over and above the 'average' case, all of which were cases in which mothers gave birth to a second infant *during* proceedings. In all three cases, proceedings were delayed because of the birth of the second infant, resulting from a short interval consecutive pregnancy, which interrupted final care plans for the older sibling. In

addition, health issues in the second-born infant further complicated all three cases. These cases illustrate particular complexities arising predominantly *from child and family characteristics*, rather than systemic (institutional) weaknesses, which sets them apart. All these cases were dealt with in Warwickshire and, given the small sample size; they have clearly skewed Warwickshire's statistics. Hence final care durations have been calculated with and *without* these three cases.

Benchmarks: measuring performance

The benchmarks we have used to appraise case outcomes in respect of care duration are: a) mean averages in weeks reported by the Ministry of Justice (MoJ); and b) the local area case disposal averages, reported by the Coventry and Warwickshire LPIG. This second set of benchmarks is important as it enables 'distance travelled' in this particular local area, to be examined. These benchmarks are available in tables 1-4 above (pp13-15). Clearly the small numbers of cases that have progressed to care proceedings in both sites renders findings from descriptive statistical work, indicative only. Findings from the Liverpool will be aggregated in due course when sufficient cases have reached conclusion in this third pilot site.

In respect of diversion, there is no local area data on the percentage of cases that enter pre-proceedings, which do not progress to care proceedings. The only nationally available benchmark is that of Masson et al., 2013¹⁹. However, comparison is problematic because this study was based predominantly on cases that entered the pre-proceedings process in 2009, whereas the majority of cases in both the comparator and the Cafcass PLUS sample in the Coventry and Warwickshire pilot entered the process in 2011. The rapidly evolving policy and practice context in respect of pre-proceedings social work, thus, renders direct comparison problematic.

¹⁹ *ibid*

FINDINGS

Findings are presented in two parts. Part One uses descriptive statistics and graphic presentation of individual case profiles alongside benchmarking data, to explore the journeys and outcomes of the cases to-date. In Part Two, detailed qualitative findings are presented which provide rich insights into the potential of the Cafcass PLUS model but also on going systemic barriers to expedient case disposal in the pilot sites.

PART ONE: Descriptive statistical data

Outcome data against benchmarks is initially reported, drawing comparisons between the Cafcass PLUS and comparator samples for the respective local authorities, to provide:

1. An overall profile of the cases: diverted/care application made;
2. Profiles of case durations (care and supervision proceedings) against benchmarks;
3. Figures for care duration by local authority and model against benchmarks;
4. A summary of case trajectories (LPM – PPM - care application and final hearing);
5. Case outcomes (home placement, reunification, SGO, SO, RO, CO, CO & PO).

Overall profile of cases: diverted/care application made

A total number of 22 out of 56 cases were diverted. The overall aggregated percentage of cases diverted is slightly higher for the Cafcass PLUS group than the comparator group. At the level of the individual local authority, overall diversion rates are higher in Coventry than Warwickshire and the highest figure is recorded for the Coventry Cafcass PLUS sample (50%). It may be that Coventry is initiating the pre-proceedings process at an earlier point, as the pre-proceedings window appears longer in Coventry (mean = 29.02 weeks, median = 26.64 weeks) when

compared to Warwickshire (mean = 27.10 weeks, median = 15.43 weeks; also see individual case profiles in Figure 6). In addition, in Coventry, fewer cases have resulted in pre-proceedings agreements being abruptly terminated due to crises requiring emergency action, which again suggests that timely use of pre-proceedings may mean that problems are addressed before they become irretrievable. The data are indicative of greater diversion in the Coventry Plus group; however, owing to the small sample size there is difficulty in drawing stronger conclusions. The strongest conclusion that can perhaps be drawn from this is that when the aggregated percentage of 39.3% (across all 56 cases) is compared to the only available benchmark (as discussed) (Masson et al., 2013, p.171) of ‘around a quarter’, the two local authorities are evidencing higher diversion rates, which maybe to do with the fact that pre-proceedings processes are further developed in the two pilot sites.

Table 7: Number and percentage of cases in each local authority according to their status: “diverted”, “in proceedings” and “order made”.

	Coventry	Warwickshire	Overall
Diverted	13 44.8 %	9 33.3 %	22 39.3 %
In Proceedings	1 3.4 %	3 11.1 %	4 7.1 %
Order Made	15 51.7 %	15 55.6 %	30 53.6 %
Total	29	27	56

Table 8: Number and percentage of cases within each model by whether they diverted or not.

	Comparator	Plus	Total
Diverted	11 36.7 %	11 42.3 %	22 39.3 %
Not Diverted	19 63.3 %	15 57.7 %	34 60.7 %

Table 9: The numbers of cases that have and have not diverted under each model and within each local authority.

Local Authority	Model	Diverted	Not Diverted	Total	Percentage Diverted
Coventry	Comparator	6	9	15	40.0 %
Warwickshire	Comparator	5	10	15	33.3 %
Coventry	Plus	7	7*	14	50.0 %
Warwickshire	Plus	4	8 [†]	12	33.3 %
Total		30	26	56	

* order made = 6, in proceedings = 1

[†] order made = 4, in proceedings = 3

Overall case durations (care proceedings) against benchmarks

The pie chart in Figure 1 below shows the percentage of care proceedings cases that lasted less than 26 weeks, between 26 and 40 weeks and over 40 weeks.

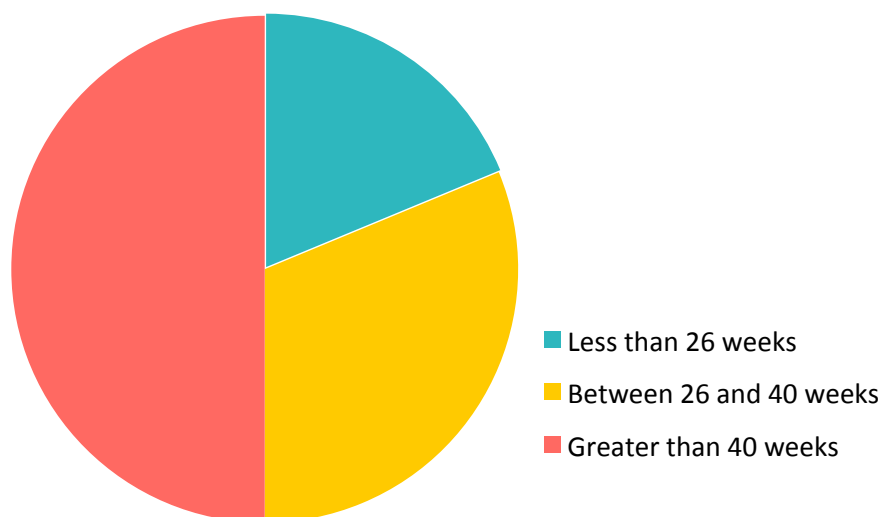


Figure 1: A graphic displaying the percentage of court cases lasting less than 26 weeks, between 26 and 40 weeks and more than 40 weeks.

This overall profile of the cases included in the pilot, combined for Coventry and Warwickshire, indicates that only a small percentage of cases are meeting the proposed target of 26 weeks for the conclusion of care proceedings. Performance against this proposed benchmark therefore appears weak. **Although, more cases in the Cafcass PLUS than comparator cases concluded in 26 weeks, numbers are very small. Detailed review of cases indicates that a number of cases in the Cafcass PLUS sample ought to have resolved far quicker given the timeliness of both the local authority and Cafcass filing of evidence, but were delayed on account of other systemic shortfalls.** The same systemic shortfalls were reported as impacting on the comparator cases by research participants and are discussed in Part Two of this report. If we examine the performance of the different local authorities, the performance of cases that commence in the Coventry Family Proceedings Court fare better in terms of case duration, which resonates with comments from social workers and local authority lawyers in Warwickshire that pre-court social work is either variable or not given sufficient weight by the courts:

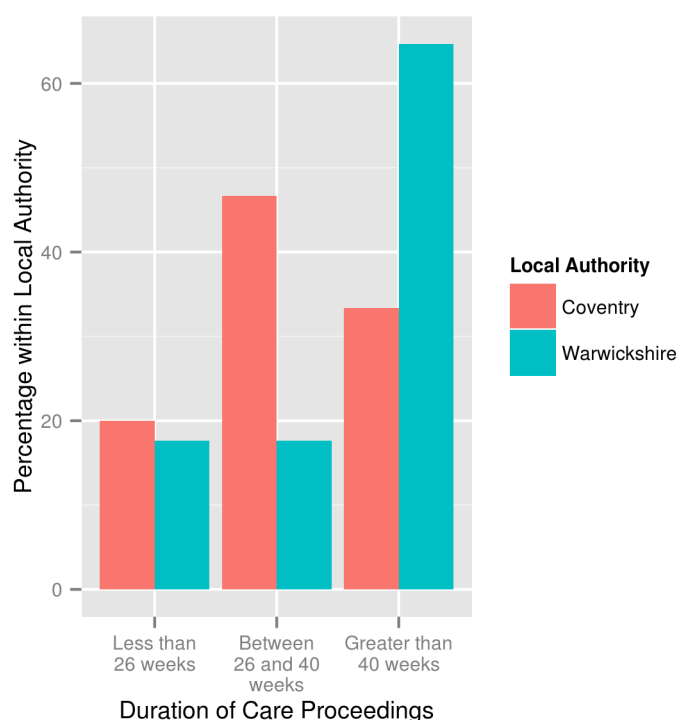


Figure 2: A graphic displaying the percentage of cases lasting less than 26 weeks, between 26 and 40 weeks and more than 40 weeks within each Local Authority.

The above graph indicates that the majority of cases that commence in the Coventry Family Proceedings Court are resolved in less than 40 weeks, whereas for Warwickshire, the majority are continuing to take longer than 40 weeks. Given that cases were profiled for their typicality at the outset of this project (see interim report²⁰) this illustrates the impact of local practices upon case duration.

In the figure below, the duration of care proceedings is separated out according to whether cases are 'Cafcass PLUS' or 'Comparators'. On the basis of percentage of cases completing within the benchmarks of 26, 40 and greater than 40 weeks, the cases where the FCA was involved earlier show some improvement in case duration when compared with the comparator cases. There is double the number of cases in the Cafcass PLUS sample completing within 26 weeks. However, numbers are again very small such that firm conclusions cannot be drawn. Finding from the Liverpool pilot²¹ are emerging and may yield a better, aggregated profile in due course. A review of individual cases is more instructive in respect of the reasons why cases were and were not resolved quickly, as discussed in Part Two of this findings section.

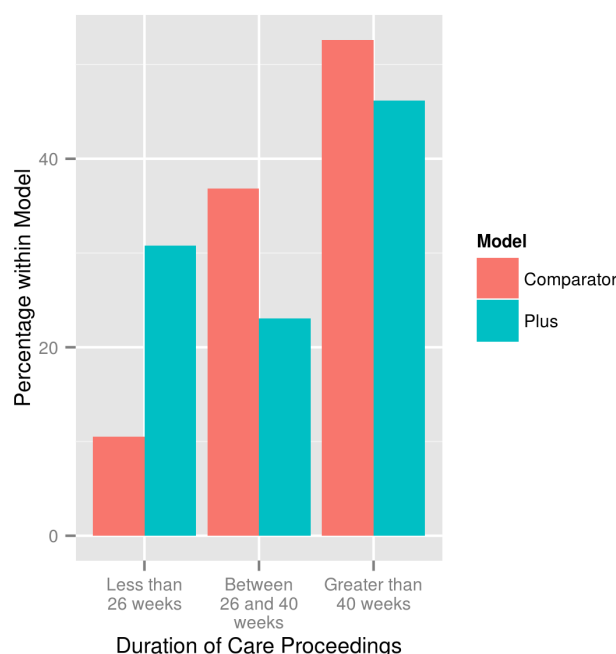


Figure 3 Percentage of cases lasting less than 26 weeks, between 26 and 40

²⁰ Full interim report is available from Cafcass – see footnote 2.

²¹ All cases that have progressed to care proceedings in the Cafcass PLUS sample in Liverpool are timetabled to complete well within 26 weeks.

weeks and more than 40 weeks under each Model.

Figure 4 below shows the duration of care proceedings for each case by local authority and model, colour coded by case. Dashed lines have been superimposed to mark the 26 weeks and 40 weeks points. There are a number of lengthy Warwickshire cases, which include the consecutive birth cases as described, which were consolidated around two infants. In it is interesting to note that in the Coventry Cafcass PLUS sample, there is only a single case running above 40 weeks compared to the other sample groups. Equally, Coventry evidences fewer long running cases overall.

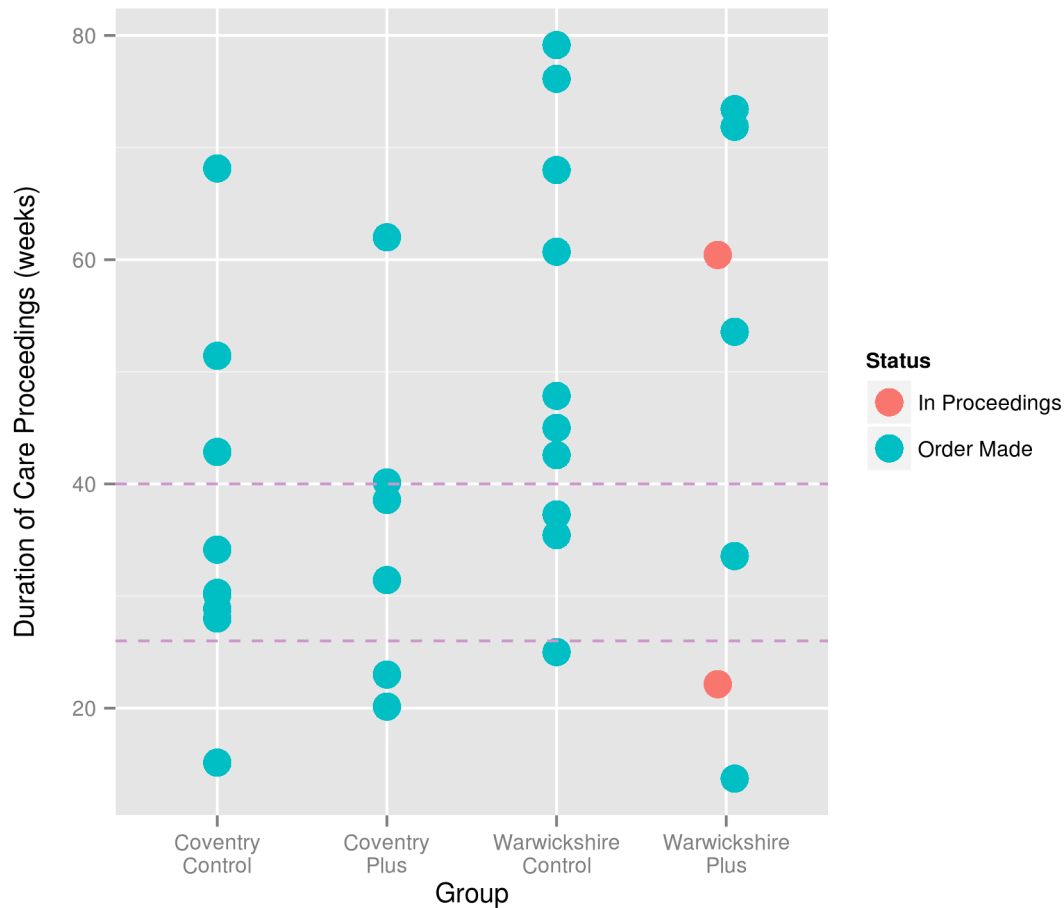


Figure 4: A dot-plot of the duration of the duration of care proceedings for each case, by Local Authority and Model, colour coded by status of the case. Dashed lines have been superimposed to mark the 26 week and 40 week points. Note that for the two cases that are in proceedings the preliminary date set for the final hearing was used to calculate the expected duration of care proceedings indicated with a red dot. Indications are that this is unlikely to change.

Figures for care duration by local authority and model against benchmarks

Table 10 below provides the average disposal of care proceedings, in weeks, for each of the study groups, alongside that from benchmarking data (highlighted in bold).

Table 10: *A table showing the average (mean) disposal of cases (in weeks) for each of the study groups, alongside the figures from benchmarking data (bold type).*

	Average Disposal
National MOJ 2012	45.1
Cov/War 2012-2013	46.9
2012-2013 Coventry FPC	39.2
2012-2013 Warwickshire FPC	41.9
Coventry Comparator	36.56
Coventry Plus	35.88
Warwickshire Comparator	51.71
Warwickshire Plus	46.96

As documented in table 10 above, cases in both Coventry samples evidence shorter durations in both the comparator and Plus cases when compared with the combined average for the area and the average for Coventry FPC cases. The performance of the PLUS cases is slightly shorter, but the difference is clearly not substantial. Given that both the comparator and the PLUS cases concluded within the timeframe captured by the LPIG performance statistics, it is clear that the positive performance of these cases has contributed to a marked improvement in the overall performance for cases that commenced in the Coventry FPC when compared with historical data. In table 10, the performance of the Warwickshire comparator cases is poorer than the national average and the Warwickshire FPC average and may reflect that some of these cases were issued earlier in 2011. However, when the research team ran an analysis to establish a relationship between the start date of care proceedings and case duration, start date did not emerge as significant (see below). The performance of the Warwickshire Plus cases is comparable to the national average. If we recalculate the Warwickshire case durations, *excluding the three highly complex* cases, which as described have skewed the picture for Warwickshire, given the small sample size, the performance as documented in table 11 below is better. **The**

performance of the Warwickshire Cafcass PLUS cases is noteworthy as it is substantially better than the Warwickshire comparator cases (approx. 12 weeks shorter) and is better than the national average (see table 11 below).

Table 11: A table showing the average disposal of cases (in weeks) for the Warwickshire study groups excluding the high complexity cases, alongside the figures from benchmarking data (bold type).

	Average Disposal
National MOJ 2012	45.1
2012-2013 Combined average	50.6
2012-2013 Coventry FPC	39.2
2012-2013 Warwickshire FPC	41.9
Warwickshire Comparator	48.67
Warwickshire Plus	36.69

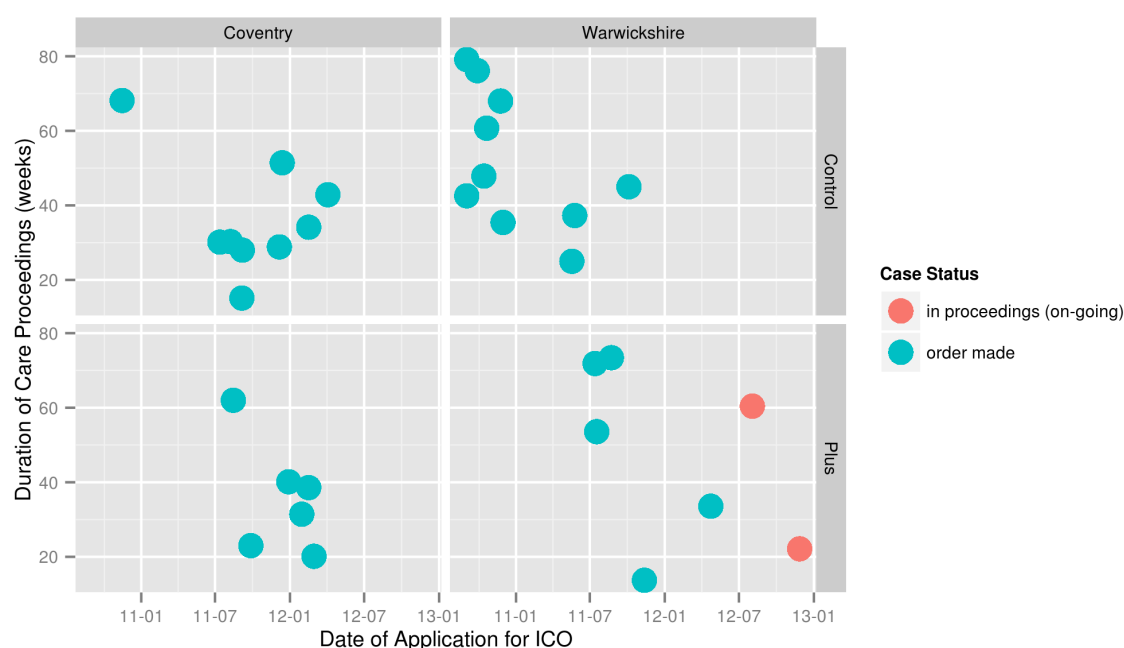


Figure 5: A series of scatter graphs plotting the date of application for ICO against the court case duration for each case by Local Authority and Model. The cases are colour coded according to their status in order to highlight the two cases that were still in proceedings at data collection. For these cases the anticipated case duration was calculated using the date set for the final hearing. Solicitors indicated that final hearings were likely to progress to plan with no indication of significant contestation.

Cases in all of the groups have drawn to their conclusion in the context of a national downward trend in care proceedings duration. Thus, it was important to assess for any relationship between the date of initial ICO application and length of care proceedings. Were care proceedings that were issued towards the end of the project more likely to be shorter in duration because of the prevailing influence of the Family Justice Review? Figure 5 shows a series of scatter plots, which investigate this relationship. As has been mentioned earlier on in the report, there were difficulties in achieving parental consent, which made obtaining a set of Cafcass PLUS study cases evenly over the course of the study impossible. Within Warwickshire this resulted in a sample of comparator cases being selected, in which cases were issued in some months prior to those in the Cafcass PLUS group. This bias meant it was important to assess for associations between application date and court case duration *separately* for each Local Authority and Model, as done so in Figure 5. The graphs indicate no clear evidence of an association within the sample.

Overall case trajectories for cases that progressed to court: legal planning to final hearing

Each case has been profiled to depict the child's journey through from Legal Planning Meeting (LPM) to Pre-Proceedings Meeting (PPM) to final hearing (FH) for the subset of cases where care proceedings were issued. The profiles are presented on page 26. Timelines of the cases are colour-coded according to the duration of the Legal Consultation Phase (green), Pre-Proceedings Phase (orange), and Court Phase (purple).

The distance between LPM and PPM for both local authorities based on the median time-point was typically 5-6 weeks. The most obvious difference between the 4 sample groups is that the Warwickshire comparator cases evidence the shortest period in pre-proceedings. As already stated, the Warwickshire cases are also the longest running in terms of care proceedings. Thus, it does appear for the other groupings, that there is a 'pay off' in terms of a longer period in pre-proceedings and shorter care proceedings. The pattern is however, not entirely consistent and in the other sample groups, some cases appear to stay for some length of time in pre-proceedings and a similar time in care proceedings; this is discussed further in Part Two of the findings.

However, if the overall duration from PPM to FH, then the following statistics emerge:

Table 12: Summary statistics concerning the duration between the Pre-Proceedings Meeting and the Final Hearing for (a) all cases and (b) all cases excluding consecutive birth cases. Note that IQR stands for Inter-Quartile Range and that *n* is the number of cases on which the summary statistics are based.

Local Authority	Model	All Cases				Excluding Consecutive Birth Cases			
		n	Median	IQR	Max	n	Median	IQR	
Coventry	Control	9	60.43	28.29	89	9	60.43	28.29	89
	Plus	6	73.00	32.75	85	6	73.00	32.75	85
Warwickshire	Control	10	72.86	32.32	101.7	9	71.71	31.14	101.7
	Plus	7	78.86	44.78	123	5	54.57	45.85	123.9

Table 13: Mean duration between the Pre-Proceedings Meeting and the Final Hearing within each Local Authority and under each model for (a) all cases and (b) all cases excluding consecutive birth cases. Note that *n* is the number of cases on which the mean is based.

Local Authority	Model	All cases		Excluding Consecutive Birth Cases	
		n	Mean	n	Mean
Coventry	Control	9	59.68	9	59.68
	Plus	6	66.38	6	66.38
Warwickshire	Control	10	71.17	9	69.08
	Plus	7	74.61	5	69.03

The child's journey from pre-proceedings through to final hearing ranges from an average (median) of 60.43 weeks in the Coventry Comparator group through to 78.86 weeks in the Warwickshire Plus sample (there is similar variation among the mean averages). It is interesting to consider these figures in light of the historical mean duration for care proceedings of 70 weeks for 2010. If the three complex cases (consecutive birth cases) are excluded, then it is interesting to note that in respect of the median, for the Warwickshire Plus cases, the length of the child's journey is

significantly reduced indicating the extent to which complex cases such as these can skew overall performance profiles. Of course what is not known, is the overall trajectories of cases in 2010 (pre-proceedings and duration of care and supervision proceedings), but nevertheless, it is important to consider timelines for children from pre-proceedings through to final hearing. If on going delay and issues of duplication in the court arena can be better tackled, then the pre-proceedings phase may ultimately pay off. However, local areas should be mindful of potential delay in the pre-proceedings process. Where delay is purposeful, then this may ultimately result in an excellent permanency solution within extended family networks, but given the volume of cases there is also the possibility that delay previously manifest following care proceedings, now simply shifts into pre-proceedings as suggested by McKeigue and Beckett (2010) ²² and further discussed by Masson et al., 2013²³. In Part Two of our findings, we discuss individual cases and give a fuller flavour of the detail behind the significantly divergent profiles depicted on p.35.

It is also important to note that in a number of cases of lengthy pre-proceedings, the infant/child was not living with birth parents, in many instances living with kin or foster care under s.20. We have this recorded as 40% of all cases. However, we suspect that our dataset is incomplete and the figure is higher; data protection agreements that governed this study meant that the research team did not have access to the full set of comparator case files.

²² McKeigue, B and Beckett, C (2010) Squeezing the Toothpaste Tube: will tackling court delay result in pre-court delay in its place? *The British Journal of Social Work*, 40 (1). pp. 154-169.

²³ Ibid



Figure 6: Timelines of the cases colour coded according the phase: Legal Consultation (green), Pre-Proceedings (orange), Care proceedings (purple). Note that some cases are still in proceedings. In this instance, where available, the preliminary final hearing date was used to calculate the anticipated court duration. This was possible for two cases (WCC2 and WCC3) but not possible for a further two cases and for these the court phase is missing. There were 3 cases where the LPM date was unavailable. In these instances the recommended minimum 14 day period was plotted to illustrate the existence of the phase. These cases are highlighted with a ~. The complex cases are marked with an *.

Case Outcomes: permanency placements

The following table illustrates the range of permanency outcomes for the full cohort of 56 cases. In general, cases involving larger sibling groups took longer to get to court and overall evidenced the lengthiest journeys between the PPM and final hearing (See Figure 7). In some cases this was because of split placement plans: for example, a sibling group might comprise adoption for an infant and kinship placement for older children, or indeed plans for placement with different kin. Thus, achieving permanency appears more protracted across the 56 cases, where cases concerned larger sibling groups. Again sample size is too small to establish any statistical significance, but **it may be fruitful for future research to consider the impact of large sibling groups on care proceedings duration** and how this can be best managed. It is interesting to note that in a number of cases that progressed to court, both local authority areas continue to seek to place children with kin.

Table 14: A table showing the frequency of different outcomes.

Outcome and Details	Frequency	%
Diverted	22	39.3 %
In Proceedings	4	7.1 %
In Proceedings (no further details)	1	
Planned SGO to grandparents	1	
Planned split SGO to relatives, no contact order regarding mum	1	
Planned adoption, residence to grandparents of older siblings	1	
Order Made	30	53.6 %
12 Months SO home	1	
Home placement on CO	2	
Rehab with mother, at home on a CO	1	
CO – long-term foster care	1	
CO for eldest boy, SGO or RO for others	1	
CO and PO	15	
first two infants CO and PO for both children, third on going	1	
CO and PO – adopted by two different foster carers	1	
CO & PO (2 infants to be adopted, the other child in foster care)	1	
Query RO to father	1	
SGO	4	
SGO, SO made on second child	1	
	56	100 %

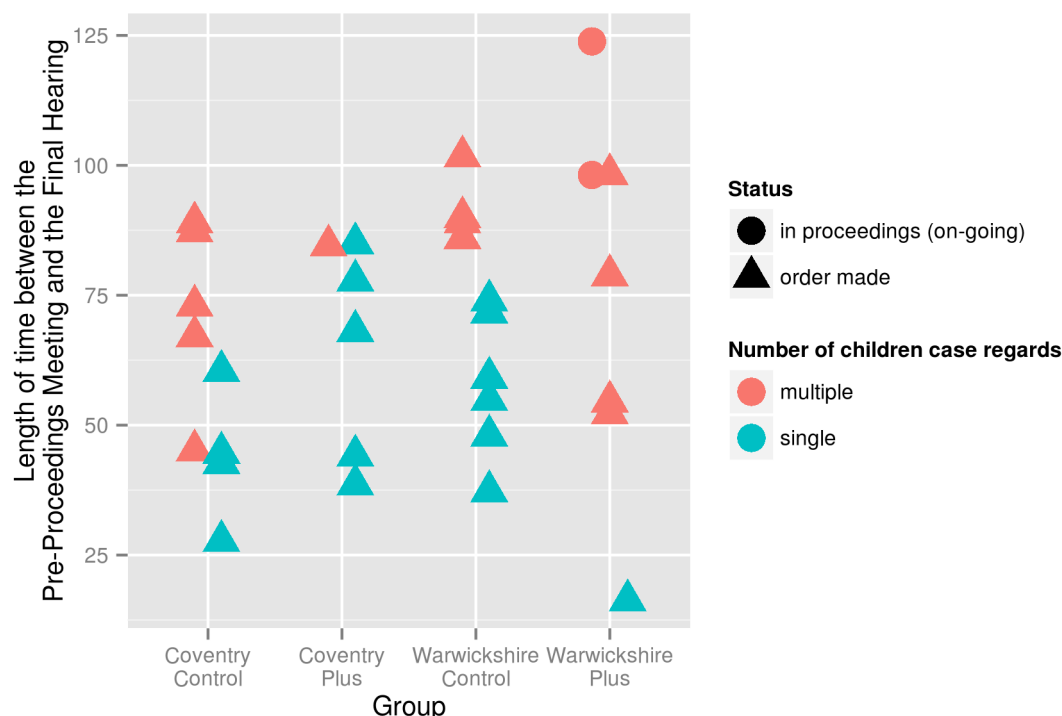


Figure 7: A scatter plot displaying the duration of time between the Pre-Proceedings Meeting and the Final Hearing for each case within each of the sample groups. The points are colour coded according to whether the case involved a single child or multiple children. The circular points indicate those cases still in proceedings. For these, the planned final hearing date was used to compute the duration from Pre-Proceedings Meeting to Final Hearing

PART TWO: Findings from case level (qualitative) data

Process and outcome data are combined in Part Two of this report to consider in some detail case outcomes and on going barriers to expedient case resolution in care and supervision proceedings. There is discussion of individual cases and the case numbers are consistent with those used in the first interim report.

The following topics are considered:

1. diversion: follow up outcomes and good practice features;
2. voice of the child in pre-proceedings/potential for drift;
3. FCA perspective on the 'head-start;'

4. FCA independence;
5. on going systemic barriers in delay;
6. child and family characteristics and delay.

Readers may wish to refer back to individual cases in the interim report that are now tracked in this second report and drawn on for illustrative purposes. Case numbers have been kept consistent.

Understanding diversion

A clear aspiration of the PLO is to promote diversion, wherever safe and desirable. The pre-proceedings process is seen as a way of reducing the use of care and supervision proceedings, through the finding of consensual solutions outside the court arena. In particular the guidance accompanying the new protocol, encouraged greater exploration of resources within kin networks as an alternative to public care/adoption^(24, 25, 26). Coventry and Warwickshire appear to exhibit diversion rates that are higher than the only comparable data provided by Masson et al., 2013 (25%), so how is a diversion rate of some 40% of cases being achieved in this local area and some 50% in the CoventryPlus sample? The majority of cases also stayed diverted during the review period. A number of cases that were identified in the first interim report as evidencing ‘multi-stakeholder impact’²⁷ in regard to the contribution of the FCA to safe diversion plans, are now closed to pre-proceedings (cases, 6, 8, 23, 27)²⁸ and others are likely to close in the near future (e.g. case 21, case 7, case 9). Further cases have since the interim reporting stage of this evaluation been designated formally ‘diverted’ in both the comparator and Cafcass PLUS samples totalling 22 cases.

Diversion is achieved in the participating sites in two ways:

²⁴ Judicial Review Team (2005) *Thematic Review of the Protocol for Judicial Case Management in Public Law Children Act Cases*. Available at:

http://www.familylaw.co.uk/system/uploads/attachments/0000/2140/Care_protocol.pdf

²⁵ Department for Education and Schools, Department for Constitutional Affairs and Welsh Assembly Government (2006) *Review of the Care Proceedings System in England and Wales*, London: DCA

²⁶ TACT (2007) *Statutory Guidance and Public Law Outline training*, London, Ministry of Justice, Department for Children Schools and Families, Cafcass, Welsh Assembly Government and Legal Service Commission

²⁷ In the first report we indicated where interview work had identified strong positive impact – because a number of stakeholders interviewed agreed the nature of the impact.

²⁸ Readers will need to refer back to the interim report to identify these cases

1. Galvanising kin networks (grandparents and absent fathers);
2. Reparative work with parents.

At an individual case level, as an incidental finding from case tracking, we found some excellent examples of both forms of intervention.

Galvanising Kin Networks: Warwickshire, Case 23

This case concerned parents with serious problems of drug misuse, where concerns were identified in pre-birth assessment. The pre-proceedings meeting triggered the return of the expected infant's grandmother from overseas and she took over care of the baby from birth, on a full-time basis. The grandmother will be supported to apply for a Special Guardianship Order. The grandmother will support parents' contact. Parents are fully engaged in drug rehabilitation.

Grandparents were a huge source of support in a number of the diverted cases, and the authority of the pre-proceedings process appeared to enable consensual solutions to be achieved, without the need to issue care proceedings. So, a lengthy period in pre-proceedings was not necessarily negative because children were safeguarded through kin networks. In some cases, relatives provided planned temporary care with high levels of contact so that parents could enter drug and alcohol treatment. In some instances grandparents moved into the family home for similar purposes and for a planned period. Thus, there is clear evidence that working in this way with family networks can make best use of and indeed strengthen social capital in extended family networks. In a number of cases, the independent opinion of the FCA was valued in respect of kinship placements that were organised in this way and without the oversight of the court. There was only a single instance of breakdown in kinship placements and in this case, care proceedings were then issued (case 25).

In a number of cases, the pre-proceedings process also served as a 'wake up' call for parents who began to fully engage in rehabilitative work. The following case, again from Warwickshire, indicates the best of therapeutic work with a father, whose life was very significantly transformed through his relationship with a new partner and the treatment provided by local authority children's services and allied partners.

Fathers and rehabilitation: Warwickshire, Case 21

This father's two older children were removed on a compulsory basis on account of domestic violence. The father in question, now significantly matured, and with a new partner, entered a rehabilitation programme specified by the local authority. The father was to live away from his partner, until he had achieved certain milestones and been subject to repeat parenting and psychological assessment. The father fully complied with the programme and was able to be return to live with his new partner. His new partner was clearly key to his rehabilitation as her life was free of problems of drugs and alcohol and her extended family were both 'solid' and supportive. In our first report we noted that multiple stakeholders commented positively on the involvement of the FCA in this case, given perceived risks. The FCA was able to influence parents' understanding of concerns in respect of the father's history and his potential risk to the infant in question.

A further incidental finding noted in this study, is that there is some potential for drift in pre-proceedings in respect of finalising permanency within kin networks. This is a particular issue for family members who wish to issue private law proceedings, but are not readily able to access financial help to cover court costs. Participants commented that if FCAs were invited to pre-proceedings review meetings, this might serve to avert drift.

Promoting safe and effective diversion: contribution of the FCA

In the interim report we described Case 6 below. Professionals were unable to agree in this case as to whether it was necessary to issue care proceedings. The older children were subject to care proceedings on account of cruelty perpetrated by their step-father. Once the step-father was imprisoned, a question then hung over the younger children – ought they also be removed given that their mother had failed to protect the older children from abuse? The father had not abused the younger children directly, which appeared linked to the fact that they were his biological children.

Resolving differences in professional opinion: Coventry, Case 6

The input from the FCA at the PPM served to resolve decision-making in favour of supporting mother and her younger children for a further period at home with increased monitoring of progress. The mother had experienced serious domestic violence and her partner was now in prison. The mother engaged well in domestic violence counselling and with parenting advice. The FCA argued for greater attention to be paid to the mother's physical ill health and the need for respite care for the children to support the mother's recovery from her own victimisation. This case is now closed to pre-proceedings, with mother and children doing very well at home.

Voice of the child in pre-proceedings

Clearly a small number of cases that were held for a significant period in pre-proceedings ultimately progressed to court. In two cases in particular, (case 12 and case 18), local authority lawyers stated that with hindsight these cases ought to have been brought to court more swiftly. In one case, there was a clear split in opinion between the local authority legal advisor and the social work team manager, with the team manager pushing for a longer period of review. This does raise questions about safeguards for children and infants in pre-proceedings and the value of an independent opinion in cases that are contentious.

Local authority legal teams keep cases under review, but the need to ration services, mean that only the cases identified early in pre-proceedings as 'higher risk' are kept under very tight monthly review. A date for a first review was routinely set at the first pre-proceedings meeting in higher risk cases or where parental co-operation was more in doubt. Local authority lawyers expressed that some cases appeared to fall outside their gaze and in a small number of cases in both sites, the local authority lawyers lamented the delay in bringing cases to proceedings. In two cases in Warwickshire, where stakeholders expressed concern about the quality of social work assessments on account of worker inexperience, the cases resulted in emergency action.

Delayed application to court is easier to identify with hindsight. Both the 'rule of optimism'²⁹ and the much documented difficulties in assessing neglect were played out in a minority of cases in this pilot. Pressures on resources can mean that attempts are made to avoid proceedings, when in actual fact, the threshold is met. In one case parents appeared to be highly skilled in preventing the local authority from understanding the true nature of their relationship and the extent to which they continued to misuse drugs and alcohol.

Whilst the FCA provided input around the time of the PPM, all stakeholders felt that it would have been preferable to be able *to call the FCA back into cases that were under review*, and where there was either a split opinion between legal advisors and social workers/managers, or next steps were unclear. The new 26-week deadline will almost certainly delay the issuing of cases and without a stronger role for the IRO or more input from an FCA, an independent voice for the child is wanting.

Perspective of the FCA on the 'head-start'

Findings from this second stage of the evaluation have continued to confirm that the Family Court Advisors very much valued the opportunity to be involved in pre-proceedings and that this impacted on their sense of confidence and preparedness for court. This was described in the first report as a sense of a 'head-start'³⁰. Pre-proceedings involvement provided a longer window for the FCA to engage with children and families. This is confirmed in the third pilot site – Liverpool. Qualitative review at the level of the individual case has clearly revealed that input from the FCA, can in a number of ways, help to improve pre-proceedings practice. However, this pilot study has very much highlighted that this impact is dependent on a number of other systemic factors as described above, such as the quality of pre-proceedings work and the quality of case management within the court arena. Thus, emerging conclusions from this pilot are cognizant with those of the Family Justice Review – that a whole system approach is required to effect organisational change. Despite progress in the fieldwork area evidenced in improved pre-proceedings assessment, which delivers shorter court proceedings, a number of on going

²⁹ Dingwall, R., Eekelaar, J. and Murray, T. (1983) *The Protection of Children: State Intervention and Family Life*, Oxford: Basil Blackwell

³⁰ As at footnote 1

systemic barriers continue to undermine the best efforts of professionals to achieve timely permanence solutions for children. In case 11, the benefits of early FCA involvement translated into swift case resolution, whereas in a contrasting case (case 16), shortfalls in pre-proceedings practice meant that there was no effective pre-proceedings work in this case. It seems that the FCA cannot overcome poor pre-proceedings social work or pre-proceedings plans that break down and result in emergency action.

Case 11. Coventry

Case duration (Legal Proceedings) 23 weeks

Orders made: Care and Placement Orders

Age of infant at final hearing: 8 months

This case was exemplary in all respects and indicates how different elements of the system can combine to create a focused and coherent response to infants requiring long-term permanent care outside family networks. The local authority Leaving Care Team referred this case early in the mother's pregnancy. The young mother and her partner were teenagers and presented with multiple, serious problems. A multi-agency pre-birth assessment was completed which included analysis of extended family support networks. Concerted efforts were made to stabilize the lives of the young parents through carefully coordinated work on the part of the Leaving Care and child protection team. The young parents were housed in a residential parenting assessment facility in advance of the birth of the baby with a view to preparing them for an extended period of support and supervision. However, despite very intensive efforts to support the parents, the placement broke down within 2 months with the parents feeling that they were unable to conform to the rules of the residential facility or cope with the demands of parenting. Care proceedings were issued and the baby became subject to an Interim Care Order. **At the first contested hearing, the parents were effectively ruled out on evidence presented at the hearing, with the court concluding that any further evidence would not add anything to that already before the court.**³¹ Because no kin were able to come forward to care for the infant, Care and Placement Orders were made.

The FCA was interviewed at three intervals in respect of this case. While she felt

³¹ The vulnerability of the parents in this case does highlight the need for post-removal work to address the parents' difficulties and help them resolve their loss.

that her involvement in pre-proceedings had simply confirmed for the local authority that their assessment plans and programme of support to the young parents was robust, she argued that this early window into the case and meetings with parents had enabled her to gain a 'head-start.' She reported being able to gain a clear understanding of the extent of the parents' difficulties during pre-proceedings and moreover, to gain a clear understanding of the extensive support offered by the local authority to address the difficulties the young parents faced. She was aware that the parents were very young and ambivalent in their stance towards parenthood and unable to extract themselves from violent behaviour, drugs and alcohol misuse. She was not surprised that the young parents were unable to meet the expectations of residential assessment. When the young parents shifted their position within proceedings and sought to contest, the FCA reported that she was able to argue robustly on the basis of her early involvement with the case that the parents would be unable to make the required changes within the timescales for the child and she supported a plan for adoption.

As Munby L.J. has described (p6, 2013)

'First, the local authority must deliver its material – the right kind of material – on day one. If that does not happen, the entire timetable will be thrown out'

As stated in the first evaluation report (February 2012), where pre-proceedings social work was weak or pre-proceedings plans broke down due to the need for emergency action, then any early input from the FCA would not likely reduce court duration. The following case substantiates this point:

Case 16.³²

Orders made: Care and Placement Orders

Legal Proceedings (53 Weeks)

Age of children: 2, 3, 5 and 7 years

³² We have chosen not to identify the particular local authority where cases are critically reviewed. The project does not seek to lay blame at the door of individual workers, rather worker inexperience or the burden on teams is considered *systemic* issues that need to be addressed more broadly.

At the PPM it was clear that the mother and children were in crisis, initiation of the pre-proceedings process appeared to be too late and it was of no surprise that an incident shortly after the PPM led to the local authority seeking an EPO. The mother's transient lifestyle meant that it had been difficult to engage her in any work. The father had a history of serious violence and was resistant to help. Care proceedings were arguably issued very late in the day, as the four children were all displaying very challenging and troubled behaviour upon their admission to care. The local authority stated that the family had been open to an exceptionally busy practice team that struggled to find the resources to deal decisively with this case, in the face of the parents' fairly successful tactics to evade the agency. However, in the absence of any risk assessment or parenting assessment work, this case 'started again' once care proceedings were issued. The case continued to be dogged by unpredictable behaviour from the parents. The father initially denied paternity but then sought DNA testing within proceedings and put himself forward as a potential carer for the children, after the mother had been ruled out. The children's behaviour and developmental needs necessitated further specialist assessment in respect of permanence plans. Placements had broken down for the two older children and their future was uncertain in respect of whether they were suitable for adoption given their combined difficulties. Here child and family factors which emerged within proceedings, compounded weak child protection work and a delay in drawing the case into the pre-proceedings process. Thus, this case was considerably protracted.

The FCA attended the PPM but indicated in interview with the research team that her appraisal of the case at the PPM was that plans to divert this case from court would likely fail because risks were such that the case was not likely to be safely managed in the community. In this case, the potential for the FCA to gain a 'head-start' was also confounded, because the FCA who participated in pre-proceedings had left. The FCA allocated to the case upon application, was thus, starting from scratch. In interview, the local authority legal adviser assigned to this case, stated that she felt that this case 'ran like any other' in regard to the contribution of the FCA. The risks to the children were glaringly evident in their presenting behaviour and developmental harm, but in the absence of any pre-proceedings work, the judge ordered independent assessments of both parents. In this case shortfalls in

pre-court social work combined with child and family characteristics have created substantial delay.
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A further clear systemic barrier undermining the FCA's 'head-start' was that in a small number of cases in this pilot, the FCA who had been involved in pre-proceedings was not able to attend the first hearing due to pressures of work, or had left the service. Although case records provided some material for the 'incoming' FCA, which provided a level of continuity, the full impact of the Cafcass PLUS model could not be realised. The issue of feasibility of the model, or whether discretionary involvement is more realistic in particular cases is discussed in the conclusion.

The FCA's Independence: was it in question?

The question of whether pre-proceedings involvement of the FCA compromised the FCA's independence was raised by a range of stakeholders encountered during the course of this project. A review of parents' statements did not reveal any concerns about this from their representatives in the Cafcass PLUS sample. The FCAs themselves stated that they did not feel their independence was compromised by earlier involvement, they felt able to assert an independent perspective regardless of when they became involved in a case. Of course, in a small number of cases, because the FCA who was involved in pre-proceedings had left the service, in actual fact the case was then allocated to another FCA as described above.

Delay: on going Systemic Weaknesses

It is useful to consider delay in respect of systemic or organisational shortfalls that create delay and child and family characteristics. In practice these combine as in case 16 above. However, it is useful to separate these out for analytic purposes as systemic weaknesses are arguably, more easily remedied than child and family factors.

A number of systemic weaknesses are causing delay in both FPCs and in the County Court. In a number of cases that evidenced excellent input from the FCA at pre-

proceedings, the impact of the FCA's earlier involvement was undermined by on going **systemic barriers**. We have selected three particular issues to focus on that appeared to create very significant delays.

1. Difficulties in dealing with cases where a parent was deemed *not* to need the services of the Official Solicitor, but presented with 'fluctuating' mental capacity. In a number of cases his/her ability to instruct a solicitor was repeatedly called into question and prompted further assessments;
2. Variability in social work assessment and inconsistent delivery of the actions that the local authority agreed to undertake subsequent to the PPM;
3. Resource insufficiencies in the courts: court sitting time and time for legal advisors and magistrates in the FPCs.

1. Fluctuating Mental Capacity

In care proceedings, it is vital that a robust judgement can be made as to whether respondents have capacity to both instruct a solicitor and testify in court. Arguably, the issue of mental capacity ought to be considered at the outset of work with parents and extended family networks to inform child protection plans. However, resource issues as described above, mediate against this and local authorities routinely delay the commissioning of specialist assessment of mental capacity until a case enters the formal pre-proceedings process.³³ In this pilot study, difficulty in making a clear judgement about parents' capacity was a very clear factor in delay in a number of cases. Decision-making was stalled where parents were deemed *not* to require the services of the office of the Official Solicitor, but their capacity 'fluctuated'. The following brief reconstructed case chronology³⁴ illustrates the untold delay created by this systemic weakness:

³³ Continued difficulties in procuring support for parents from adult services in the context of care proceedings is part and parcel of this problem as many parents deemed to have problems of mental capacity will not reach the threshold for adult services support. Public sectors cuts have driven thresholds even higher for adult services. Local Authorities may in fact wait until a case gets into court to make an assessment of capacity. Failure to provide adequate support to vulnerable parents does raise questions about whether parents have been given sufficient opportunity to effect change.

³⁴ Dates have been fictionalised to preserve anonymity, whilst maintaining the exact spacing between events

Case 4

Infant is 16 months at final hearing. Case duration is 38 weeks.

- This case was notified very early in pregnancy (October 2010) by the mother's partner and a timely pre-birth assessment undertaken [core assessment];
- The FCA was involved at PPM (April 2011) and advised update of psychological assessments on parents (history is of a number of previous removals including infant placed very recently for adoption);
- Infant goes into s.20 foster care at birth May 2011;
- The LA updated psych assessments on parents and parenting assessments were also updated. Expert reports that **mother has capacity to instruct a solicitor October 2011.**
- Infant is 7 months at application for ICO. Care application is December 2011. Robust evidence available at first hearing and plan for adoption supported by the FCA.
- **February, parents' solicitor queries expert opinion**, stating that she does not feel parent has capacity;
- Court instructs further psychological assessment of mother, which states that mother, **does not have the capacity to instruct a solicitor.** This is delivered at May 2012.
- **Question of mothers' capacity is finally resolved in July 2012** following further directions hearings, advocates meetings and meeting of the experts where the original assessment of October 2011 is agreed. It is confirmed that she does have capacity to instruct her solicitor and testify in court.

In case 4 above, there was a very clear pre-proceedings plan comprising updating of parenting and psychological assessments, together with drug and alcohol testing. Parents were provided with practical family support and support for contact whilst the infant was subject to s.20 accommodation to establish whether parents had made any changes since the removal of their previous child. The case was arguably 'cut and dry' at point of issue and care proceedings ought to have concluded well within 26 weeks. The local authority's final evidence and care plan and FCA's statement were available very early in the case. Instead the case took 38 weeks due to the single

issue as described. The combined efforts of the local authority and the FCA during pre-proceedings were completely undermined by this systemic weakness.

Case 3 (pre-birth], case duration 40 weeks, infant is aged 10 months at final hearing

This pregnancy was notified at 4 months, the core assessment and Initial Child Protection Conference were all timely, but specialist assessment work was not undertaken pre-proceedings. Nevertheless, last minute planning proved very effective in establishing a plan for safeguarding the baby whilst achieving collaboration of parents at birth. In this case the FCA's contribution during pre-proceedings was deemed critical as it facilitated parents' access to legal representation due to presenting capacity issues at the pre-proceedings meeting. The FCA advised against use of s.20, in order that parents might access residential assessment. This case went swiftly into court following the baby's birth (ICO) and the mother was able to access residential placement. Parents took the decision that at this point they were unable to care for the baby and a plan for adoption was agreed, no kin were forthcoming. The contribution of an early independent opinion from the FCA in this case appears to have complemented the LA work on this case.

Given delay in this case, the research team examined in detail the timeliness of any further assessments or actions during care proceedings. The following picture emerged at approximately 20 weeks into the case:

- a) the residential placement proved decisive in aiding the young parents to come to a conclusion that they were unable to care for the baby and in reducing the possibilities for contestation;
- b) a specialist risk assessment was appropriately directed given father's history and added value to pre-proceedings assessment (reported on time);
- c) a specialist psychological assessment was directed re mother's mental health and this assessment added value to proceedings (reported on time);
- d) drug and alcohol testing reports evidenced continued substance misuse (reported on time);
- e) No kin joined late as parties in this case;
- f) The case was transferred early to the County Court (capacity issues).

Thus, the single outstanding issue rested again on unresolved question of mother's capacity, which was flagged some months into the case by mother's solicitor. As stated above, the case then reached final hearing in 40 weeks. In the second illustrative case (Case 3), again delay turned on the single issue of mother's mental capacity; all other evidence was filed in a timely manner.

Of course, practitioners anxieties about whether parents' article 6 rights are breached in the context of wrong decisions about mental capacity have a material reality. Take for example the recent case of *Re M (A Child)* [2012] EWCA Civ 1905³⁵. However, ways of supporting parents with 'borderline' or 'fluctuating' mental capacity need to be addressed in order to improve efficiency within the Coventry/Warwickshire area and ensure parents' rights are upheld. The relative costs of repeat advocates meetings/directions hearings, surely outweigh the costs of providing all parents who are deemed 'borderline' or 'fluctuating' with an advocate at the start of proceedings (£1500³⁶)?

2. Variability in the quality of pre-proceedings social work assessment

Social work assessment displayed considerable variability upon application. A number of cases exemplified the best of social work assessment and in general these cases tended to progress to a final hearing more quickly. In other cases, the picture was more mixed. In some instances, shortfalls in the presentation of cases at the outset of care proceedings resulted from breakdown in actions agreed at the PPM because of a crisis within the family or a significant downturn in functioning, which then prompted the local authority to progress to court proceedings. Inevitably, these cases were incomplete in respect of assessment and longer to resolve, because the court tended to instruct independent assessments. In other cases practitioner inexperience or simply resource constraints, appeared to be causal of poorly prepared cases. In a number of cases, there was significant worker turnover and/or use of locum social workers that created discontinuities in assessment. Pressures on

³⁵ See Family Law Week: <http://www.familylawweek.co.uk/site.aspx?i=ed111952> (accessed, 28.4.2013)

³⁶ We were quoted a figure of £1500 pounds for the appointment of an advocate for parents within care proceedings.

social work teams were acute given the rise in care proceedings as described in the following comment from a local authority lawyer:

‘one really good worker with three years experience, she was really good. But because she had experience, she held all the complex cases and so was in court 3-4 days every week. She had no time to her stat visits, or recording...so she’s now left and gone over to adoption’

Newly qualified social workers depicted the pressures on the teams and although passionate about their work, hinted that they would not be staying long in their current posts:

‘I can’t imagine doing this job if I had a family, I simply wouldn’t have enough hours in the day. I often have to work evenings, just to catch up and most Sunday afternoons I work – and I am still not on top of things.’

In Coventry, the CBASS service staffed by very experienced social workers, some of whom were formerly employed by Cafcass as FCAs, is delivering parenting assessments that the courts appear to hold in high regard. Clearly the practitioners in this service are very well placed to understand the demands of the court but also to undertake robust analyses of risk and protective factors in respect of cases of chronic neglect and likelihood of change. As we stated in the interim report, where the FCA could complement well prepared care applications, then the FCA could certainly robustly fend off, parents’ demands for additional independent assessments where these were unwarranted, however, the FCA could not overturn poor pre-proceedings work.

There appears to be a relationship between poor pre-proceedings practice in some but not all cases which evidence bitter parental contestation. In particular, where the local authority does not deliver against actions agreed at the pre-proceedings meeting, then this opened up a window for parental contestation as might be expected. This resonates from a recent study of parental contestation in adoption cases³⁷. Two of the most protracted cases (Case 10 and case 18) were characterised by lengthy care proceedings, shortfalls in pre-proceedings assessment and parental contestation:

³⁷ Luckock, B. and Broadhurst, K. (2013) *Adoption cases reviewed: an indicative study of process and practice*, Department for Education

Case 10: *Field note from observation of a meeting of advocates:* The social worker had picked up a case held previously by a locum social worker where agreed actions had not been fulfilled by the local authority. She was in a difficult position, having to justify the local authorities case for the final hearing in the face of bitter contestation by a birth mother who clearly felt let down by the process. In the meeting, the worker's low morale was plain to see; she volunteered to the meeting that she was not on top of her work and had been "up half the night drafting her final evidence". The contact plan was poorly thought through, which was obviously last on the list for this worker presenting as demoralised and exhausted. A number of experts were involved in this case, which made timetabling a final hearing a "nightmare" adding weeks to an already protracted case. Throughout this case the FCA who had a thorough knowledge of the case on account of her pre-proceedings involvement, presented as relatively powerless - there was little she could do in court to rebut the mother's undeniably justified request for further assessments.

This case concluded in 62 weeks. The young child aged three at the final hearing was to be placed with kin under an SGO.

3. *Resource insufficiencies in the courts: court sitting time and time for legal advisors and magistrates in the FPCs;*

This evaluation has brought to light the plain fact of insufficiency in resources. In the courts, there is clearly insufficiency in court sitting time, which impacts in particular on the timetabling of contested final hearings. We noted in a number of cases, that difficulties in timetabling final hearings that required busy advocates to agree on a mutually convenient date and that the court make space for a 3-5 day hearing, added not just weeks, but sometimes months to a case.

There was also widespread concern that the volume of cases coming before the Family Proceedings Courts was creating simply far too much reading for magistrates and their legal advisors. In the absence of robust reading of cases in preparation for hearings, and where an early steer from an FCA is not available, then the magistrate is more likely to concede to requests for further assessments.

Delay and Child and Family Characteristics

i) Late joining of kin

Late joining identification and joining of kin has been frequently identified as a barrier to expedient case resolution. The PLO encourages local authorities to make use of family group conferencing to ensure kin are identified during pre-proceedings. As described in this report so far, both local authorities sought to proactively identify kin and ensure that all options for achieving permanence within family networks were considered. This was a particular strength in both local authority areas. However, in a small number of cases, it appeared that members of kin networks changed their minds about whether they could/could not provide care rather late in proceedings. This was a particular feature of case 18 described above which further compounded delay. In addition, the behaviour of fathers was not always predictable. Fathers who had originally denied paternity, appeared to present themselves when proceedings were well underway as the father of the children in question, seeking DNA testing as described above in case 16 above.

ii) Child health, disability and behaviour

In care cases, it is not uncommon for infants and children to present with additional needs, or indeed complex health and attachment problems. In a small number of cases, children's/infants additional needs warranted additional expert opinion and this created delay. Where child protection and/or pre-proceeding intervention was delayed (e.g. case 18) developmental harm which resulted in significant attachment and behavioural problems posed very significant challenges in respect of permanency options. This underscores the importance of drawing cases into the pre-proceedings process at a timely point and ensuring assessment is sufficiently focused on children's development.

iii) Cases involving larger sibling groups

Cases involving larger sibling groups evidenced greater difficulties in respect of achieving permanence solutions, because siblings were most commonly split between different kin carers. This creates greater complexity in both assessment and contact planning. In addition, as stated above, where most commonly, an older sibling displayed challenging emotional and behavioural difficulties that required expert opinion within proceedings; this could create delay for the full sibling group. In one particularly complex case, an older sibling committed a very serious act of violent crime and criminal proceedings ran alongside care proceedings.

iv) Short interval, consecutive birth cases

During the evaluation we identified three cases in the Warwickshire sample³⁸, that we deemed exceptionally complex in respect of child and family factors. We calculated overall case duration averages with and *without* these exceptional cases as described above, as complex cases such as these can significantly skew averages (from PPM to FH: Warwickshire sample: mean = 72.59, mean excluding complex cases = 69.06).

The cases were made complex because they concerned young mothers who became pregnant during the course of proceedings and whose second born infant presented with significant health complications shortly after birth. There is a wealth of findings concerning health risks to mother and infant of short interval pregnancies³⁹. However, where short interval pregnancies, coupled with poor perinatal outcomes, occur in the context of care proceedings, this raises acute challenges. First, additional expert opinion is necessary in respect of whether adoption is in the best interests of the child given health queries. Second, expert opinion will most likely be needed in respect of whether infants born in close succession and with one child presenting with additional needs, can realistically be placed together. In the three cases in question, it was also necessary to track infants' health progress over a period of time, to establish causation and prognosis. In one of the three cases, the aetiology of the

³⁸ 2 in the comparator cases and 1 in the Plus cases. There was a further case of short interval consecutive births in the CoventryPlus sample, but at this final point of analysis is too early to comment on in terms of progression through proceedings so has not been included in calculation of care duration.

³⁹ Conde-agudelo, A. (2006) Birth Spacing and Risk of Adverse Perinatal Outcomes: A Meta-analysis. *The Journal of the American Medical Association*, VI.295 (15), pp.1809-1823

infant's presenting health issues necessitated a fact finding in the High Court, because questions of non-accidental injury were raised. Thus, had these cases not been set apart, a poorer picture of Warwickshire's performance might have been inferred from overall averages.

CONCLUSION

The Coventry and Warwickshire pilot was set up in response to perceived shortfalls in the pre-proceedings process and concerns about extensive delay in the resolution of care and supervision order cases. As we conclude the pilot, the general trend in the local authority areas is towards improvement in the duration of care proceedings. Some very positive work is also evidenced in respect of diversion and strengthening kin networks, such that permanency for children and infants can be achieved without recourse to care and adoption proceedings.

The Coventry and Warwickshire pilot has undoubtedly contributed to shared learning within this court area and raised the profile of pre-court social work. There is evidence that the overall case durations within the Cafcass PLUS samples are shorter than those of the comparator cases. A greater number of the Cafcass PLUS cases have resolved in 26 weeks than in the comparator cases and fewer cases have run beyond 40 weeks. However, numbers upon which findings are based are small. What is clear is that the 26 weeks target remains out of reach on the basis of current performance and that further whole system change is needed if this target is to be achieved. It is likely that far greater impact in respect of earlier involvement of the FCA would be realized if other *systemic barriers* were addressed. The importance of a whole system approach to change is very well documented in studies of complex systems⁴⁰. At an individual case level, where cases were resolved in less than 26 weeks, this required a very tightly managed process between all agencies, with a high level of worker continuity. Flexible deployment of the FCA may ensure that in cases where robust pre-proceedings assessment indicates that adoption is in the best interests of infants/children, earlier involvement of the FCA may ensure that delay, which is not purposeful, is avoided.

There is clear evidence that the FCA can contribute to safe and effective diversion plans, particularly where there is a difference of opinion between local authority workers. The FCA can help to resolve cases both in favour of, or diversion from care proceedings. Supporting kin networks presented as a particular strength in both local authority areas. In a number of these cases, the FCA provided independent oversight in respect of the best interests of the child. Evidence of drift in some cases does suggest that an independent voice for the child may be wanting within the

⁴⁰ Kreger, M.K., Brindis, C.S., Manuel, D.M., Sassoubre, L. (2007) Lessons learned in systems change initiatives: benchmarks and indicators, *American Journal of Community Psychology*, 39:301-320

administrative space of pre-proceedings, unless further steps are taken to strengthen the role of the IRO⁴¹ or consistently introduce the FCA. There is no doubt that the direction of travel set in train by the Family Justice Review and now the Children and Families Bill, is not readily reversible (Munby, 2013). This shifts the burden of parenting and child assessment to the administrative space of pre-court social work. The period of time between the PPM and any issuing of pre-proceedings can be highly variable as we have shown in this study, and in a small percentage of cases (particularly where teams face high demand) children may remain in situations of risk for a considerable period.

The FCAs continue to report unequivocally, the value of a head-start. As was the case at interim reporting, the qualitative responses from the FCAs present the strongest endorsement for the Cafcass PLUS model. Across England and Wales, a number of local authorities are experimenting with different versions of the Cafcass PLUS model given the direction of change firmly set in train by the Children and Families Bill and proposed revisions to the PLO. It appears that for Cafcass to service all pre-proceedings meetings and provide further input would stretch the service beyond capacity, however, discretionary involvement in selected cases would undoubtedly ensure gains in terms of safer diversion and shorter care and supervision proceedings as part of a 'whole system' approach to change. Proposed changes to the PLO require an earlier steer from the FCA in respect of case management, and the value of the pre-proceedings head start needs to be considered in that context.

This pilot has taken place in a period of rapid change within the Family Justice System. Findings from the Tri-borough suggest that a 26-week target is achievable in just over 50% of cases, with a key component being early analysis from the FCA, but *not* requiring pre-proceedings involvement. Findings from the Family Drug and Alcohol Court Model (FDAC) are also proving very positive in respect of both reunification rates and more timely conclusions to care proceedings. The Coventry and Warwickshire Local Family Justice Board will no doubt wish to debate the potential value of further investment in a pre-proceedings role for the FCA. Discussions need to establish commitment from all parties for any further development of this model. Whereas frontline social workers appear to welcome the

⁴¹ Munro, E. & Hubbard, A. (2011) A Systems Approach to Evaluating Organisational Change in Children's Social Care, *British Journal of Social Work*, 41, 726-743.

expertise of the FCA, social work managers have a sense that there is duplication of role and too much blurring of boundaries. This report presents clear evidence that further work is needed to address on going barriers to expedient case resolution, such as dealing decisively with questions of parental mental capacity, but ways forward need to be clearly agreed.

The research team is formally evaluating the Liverpool third pilot site and to-date this site appears to strongly endorse the Cafcass PLUS model for all the reasons stakeholders have identified so far. As part of a planned 'whole system' approach to change, this third site appears to be delivering consistently positive findings. As cases in Liverpool conclude, it will be possible to aggregate the overall impact of the Cafcass PLUS model.

The project indicates the value of detailed qualitative case review in revealing the combination of factors that combine at the level of the individual case that undermine best efforts of all stakeholders. Closer liaison between the stakeholders within the Coventry and Warwickshire area, capitalising on expertise available would be fruitful. In particular, we would recommend that the local authority lawyers/legal advisors are more closely involvement in post-qualifying training of frontline social workers undertaking court work.

Systemic barriers to delay are far easier to resolve than delay that results from child and family characteristics. Had it been possible to overcome some of the barriers to recruitment of families into the study (parental consent) and achieve a larger sample, it would have been interesting to utilise statistical modelling techniques to profile the type of cases most likely, for instance, to divert, or to result in lengthy care proceedings. As stated, on the basis of conclusions from the small sample of cases in this study, certain 'child and family' case characteristics are associated with delay in care proceedings, notably larger sibling groups and cases where proceedings are consolidated around a second-born infant.

As we conclude this project, there is interest nationally in how *demand might be reduced*, given that a number of parents appear time and time again before the family courts. The cases of consecutive short interval pregnancies were particularly problematic, suggesting that a more proactive approach is needed to assist young and very vulnerable birth mothers to break this negative cycle. Part of the difficulty

for all stakeholders in Coventry and Warwickshire is the continued increase in care applications, which is very evidently stretching resources beyond capacity.