

Introducing the main findings from: Changing Lifestyles, Keeping Children Safe: an evaluation of the first Family Drug and Alcohol Court (FDAC) in care proceedings

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About the FDAC Research Team

This briefing paper introduces the main findings from a longer report, *Changing Lifestyles, Keeping Children Safe: an evaluation of the first Family Drug and Alcohol Court (FDAC) in care proceedings*, published by Brunel University London. The report was written by Professor Judith Harwin, Dr Bachar Alrouh, Mary Ryan and Jo Tunnard.

The FDAC Evaluation Team is a partnership between Brunel University and RyanTunnardBrown. It combines expertise in research, policy, law, social work and evaluation. Members of the team have carried out research and consultancy for government departments, local authorities and other agencies and have published widely on child care policy and practice, including the impact of parental substance misuse on children and their families.

The authors would like to thank a number of other people who have contributed to the evaluation. They are Dr Christy Barry, Sheila Harvey, Mark Kalinauckas, Dr Gemma Lewis, Dr Carla Matias, Dr Momenian-Schneider and Dr Subhash Pokhrel.

About the Nuffield Foundation

The Nuffield Foundation is an endowed charitable trust that aims to improve social well-being in the widest sense. It funds research and innovation in education and social policy and also works to build capacity in education, science and social science research. The Nuffield Foundation has funded this project, but the views expressed are those of the authors and not necessarily those of the Foundation.

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Highlights from the FDAC evaluation

This briefing paper presents a summary of findings from the evaluation of the pilot Family Drug and Alcohol Court (FDAC).

FDAC provides a problem-solving, therapeutic approach to care proceedings in cases where parental substance misuse is a key element in the local authority decision to bring proceedings. Parental substance misuse is a major risk factor for child maltreatment. It features in up to two-thirds of care applications and parents with substance misuse problems are often involved in repeat care proceedings on subsequent children.

FDAC aims to improve outcomes for children by helping parents change the lifestyle that has put their children at risk of harm. It seeks to improve parental substance abuse cessation rates, achieve safer and more sustainable family reunification, and ensure swifter placement with permanent alternative carers when reunification is not possible.

FDAC was piloted in central London between January 2008 and March 2012. Originally funded by government departments and three local authorities (Camden, Islington and Westminster), it now runs as a consortium of five local authorities and the model is beginning to be adopted by courts and local authorities outside London.

Catalysts for the FDAC pilot were the unsatisfactory response to parental substance misuse through ordinary proceedings; poor child and parent outcomes; insufficient co-ordination between adult and children's services; late intervention to protect children; delay in decision making; and the soaring cost of proceedings, linked to the cost of expert evidence.

The full report is available to download from www.brunel.ac.uk/fdacresearch.

How does FDAC differ from ordinary care proceedings?

FDAC is distinctive because it provides:

- **Judicial continuity** Judges stay with a case from first to final hearing.
- **Fortnightly court review without lawyers** where the judge monitors progress, speaks directly to families and social workers, keeps parents engaged and motivated, and explores ways of resolving problems.

- **A specialist, multi-disciplinary team** linked to the court. The team provides both assessment of parents' difficulties and intensive direct work to help overcome these problems. It also develops and co-ordinates an intervention plan for parents; helps them access substance misuse, parenting and other services for needs that are often entrenched and complex; advises the court on the prospects of parents overcoming their substance misuse within their child's timescale; and provides extra support for parents through volunteer parent mentors.

How was the evaluation conducted?

The FDAC pilot was evaluated by a research team at Brunel University, funded by the Nuffield Foundation and the Home Office. The evaluation was conducted in two stages between 2008 and 2013. The findings summarised here are from both stages, and supersede earlier reports.

The main findings are based on 90 families (122 children) who were referred to, and received, the FDAC programme, and the 101 families (151 children) who formed the comparison sample. In both samples parental substance misuse was a key factor in initiating the care proceedings. A further 16 families were referred to FDAC but declined the service or were excluded according to the agreed exclusion criteria. An annex to the main report has an analysis that incorporates all 106 FDAC cases, including these 16 cases; the analysis resulted in only minor changes to the results and these do not alter the report's conclusions.

The evaluation included follow-up of 24 FDAC and 18 comparison families where children had returned home at the end of proceedings (out of the 32 FDAC and 31 comparison families where reunification had occurred). The initial follow-up was for one year and a smaller number of families were also tracked for up to two more years.

There was also a qualitative element to the evaluation, including interviews with parents and professionals and observations of court hearings.

Key findings from the FDAC evaluation

Substance misuse: more FDAC parents controlled their misuse

Rates of substance misuse cessation were higher for FDAC than comparison parents, and the difference reached statistical significance.

- 40% of FDAC mothers were no longer misusing substances, compared to 25% of the comparison mothers.
- 25% of FDAC fathers were no longer misusing substances, compared to 5% of the comparison fathers (the data on fathers was less complete than for mothers).

Reunited families: higher rate for FDAC families

There was a higher rate of family reunification and substance misuse cessation by FDAC families at the end of proceedings and the difference reached statistical significance.

- 35% of FDAC mothers stopped misusing and were reunited with their children, compared to 19% of the comparison mothers.
- In each sample, we found variable support for families where parents and children were reunited, prompting questions about how all families can be better supported at this stage.

Child maltreatment: lower rate for FDAC children

The rate of neglect or abuse one year after children returned home was lower for FDAC than comparison parents and the difference reached statistical significance.

- Further neglect or abuse of children occurred in 6 of 24 FDAC families, compared with 10 of 18 comparison families (25% v 56%).

Length of proceedings: no quicker in FDAC

- In cases where reunification was not possible, FDAC was not quicker in achieving alternative permanent placement than ordinary proceedings. The mean length of proceedings for both FDAC and the comparison groups was 62 weeks.

Costs of the FDAC pilot

- A costs exercise, conducted at Stage 1 only (not a full cost-benefit analysis), showed that FDAC more than paid for itself, as a result of: shorter court hearings, fewer legal representatives at hearings, fewer contested cases, less use of foster care placements during and after proceedings, and the specialist team undertaking the tasks done by experts in ordinary care proceedings. These findings need to be reviewed in light of the changed context since the completion of Stage 1.

What might explain the results?

FDAC was an important determinant of outcomes.

FDAC offered more opportunities to access services

- In addition to receiving the intensive service from the FDAC team, a higher proportion of FDAC mothers (95% v 55%) and fathers (58% v 27%) were offered help from other agencies for their substance misuse. The FDAC families were also more likely to be offered family services than the comparison families (33% v 18%). The family services included intensive family interventions, family therapy, parenting training and practical help.

These results were based on 57 FDAC and 82 comparison families tracked to final order in Stage 2. The differences reached statistical significance.

FDAC better able to build on parents' potential to change?

An analysis of case characteristics which predicted outcomes suggest that FDAC might be more effective than the ordinary court with those parents who had fewer problems additional to substance misuse, and therefore may have the greater capacity to change their lifestyle.

- The rate of substance misuse cessation and family reunification was higher in the FDAC than in the comparison sample if the case had a low level of child and parent problems (55% [22 of 40] v 16% [9 of 57]). This difference reached statistical significance.
- But there was no difference between the samples in the rate of substance misuse cessation and family reunification where there was a higher level of child and parent problems (18% [9 of 50] and 20% [9 of 44]).
- None of the cases in either sample were 'easy'. All the families had entrenched and multiple difficulties: parental substance misuse, domestic violence, convictions, and mental health problems.

FDAC's approach deemed more helpful

- FDAC is a service parents would recommend to other parents. Those with previous experience of care proceedings found FDAC to be a more helpful court process that gave them a fair chance to change their lifestyle and parent their child well.
- Parents felt motivated by the FDAC team and judges and they valued FDAC's practical and emotional support as well as their treatment intervention.

- Professionals thought that FDAC's Trial for Change approach (support to parents with close monitoring by the court) provided a fair and transparent test of capacity to change. This made it more likely that parents would, if relevant, accept the decision that children could not return to their care.
- Meeting the new 26-week timescale for care proceedings is a challenge for all courts, and there is a particular challenge for the problem-solving approach of FDAC. The concern is that the court is less likely to be the main arena for testing parental capacity to change. Yet our findings about the strengths of FDAC arise from the unique combination of a specialist team attached to the court and motivation and oversight provided by FDAC judges. The impact of a reduced role for the court is uncharted territory.
- A data tracking system should be developed to give FDAC clearer information and improve feedback to local authorities. FDAC teams should use a **common system for tracking outcomes**.
- A short-term FDAC **aftercare service** should be developed to support the role of the local authority in family reunification cases.
- Local authorities should be more proactive in identifying and working with **children's fathers**.
- Support should be available for **parents who are not reunited** with their children at the end of proceedings, to build on any progress made in FDAC, to provide emotional support, and to help prevent untimely new pregnancies.

Recommendations

The evaluation concluded that FDAC is a promising model for care proceedings and should continue to be rolled out more widely within the changing context of the family justice system.

Specific recommendations include:

- Local authorities should set **clearer referral criteria** for FDAC cases, with a focus on families with less entrenched problems and a greater capacity for change.
- FDAC should make **quicker decisions** when parents do not engage.
- Government policy should consider harmonising the support available for children placed **at home on a supervision order** with that proposed for children returning home from voluntary care or receiving post-adoption support.
- Consideration should be given to providing **opportunities for judges** involved with FDAC to learn from each other and to access training in problem-solving court approaches.
- The possibility of additional agencies, such as health and public health, contributing to the costs of commissioning FDAC should be actively considered.

Introduction

This report presents the findings from an independent evaluation of the pilot Family Drug and Alcohol Court (FDAC). FDAC is an innovative approach to care proceedings where parental drug or alcohol misuse is a key feature of the case.

The FDAC pilot began in January 2008 at the Inner London Family Proceedings Court in London. The pilot was funded by the Department for Education, the Ministry of Justice, the Home Office, the Department of Health¹ and three inner-London local authorities (Camden, Islington, and Westminster) – the pilot local authorities. Since April 2012, when government funding came to an end, the FDAC specialist team has been funded by a consortium of five London authorities, including Southwark and Hammersmith & Fulham as well as the original three. The specialist team is provided by a partnership between the Tavistock and Portman NHS Foundation Trust and the children's charity, Coram.

The evaluation was conducted by a research team at Brunel University. It was primarily funded by the Nuffield Foundation, with a contribution from the Home Office towards Stage 1.²

Why was FDAC established?

Parental substance misuse is a major risk factor for child maltreatment. It is a factor in up to two-thirds of care applications³ and parents with substance misuse problems are often involved in repeat care proceedings in relation to subsequent children. There has also been a rise in the number of care proceedings since 2008,⁴ so the scale of the problem is substantial.

FDAC has been adapted to English law and practice from a model of family treatment drug courts (FTDCs) that is used widely in the USA and shows positive results. The US national evaluation of over 2,000 cases found that, compared to proceedings in the ordinary court, more FTDC parents

and children were able to remain together safely. In addition, there were swifter alternative placement decisions for children if parents were unable to stop misusing, all of which meant savings on the cost of foster care during and after proceedings.⁵

The catalysts for the UK pilot were the encouraging evidence from this US evaluation and concerns about the response to parental substance misuse through ordinary care proceedings in England. These concerns were about poor child and parent outcomes; insufficient co-ordination between adult and children's services; late intervention to protect children; delay in reaching decisions; and the soaring costs of proceedings, linked to the length of proceedings and the cost of expert evidence.

What is different about FDAC?

FDAC is distinctive because it is a court-based family intervention that aims to improve children's outcomes by addressing the entrenched difficulties of their parents. FDAC is a specialist court operating within the framework of care proceedings. The distinctive features of the model are:

- **Judicial continuity** – judges deal with the same case throughout.
- **A problem-solving, therapeutic approach** provided via fortnightly court reviews. The reviews provide opportunities for regular monitoring of parents' progress and for judges to engage and motivate parents, speak directly to parents and social workers, and find ways of resolving problems. Lawyers do not attend the reviews.
- **A specialist, multi-disciplinary team** who work with the court. The team:
 - carry out assessments and direct work with parents;
 - devise and co-ordinate an intervention plan;
 - enable and assist parents to engage and stay engaged with substance misuse, parenting and other services to address needs identified;
 - provide regular reports on parental progress to the court and to all others involved in the case; and
 - facilitate additional support for parents through volunteer parent mentors.

¹ The HO contributed to the first three years and DH to the final two (Stage 2). Others contributed throughout.

² The views expressed are those of the authors and not necessarily those of the funders.

³ <https://www.cafcass.gov.uk/media/6437/Cafcass%20Care%20Application%20Study%202012%20FINAL.pdf> (page 21).

⁴ <http://www.cafcass.gov.uk/media/6272/0809%20care%20demand%20update%20FINAL.pdf>

⁵ Worcel S et al (2008) Effects of Family Treatment Drug Courts on Substance Abuse and Child Welfare Outcomes. *Child Abuse Review*, Vol. 17, Issue 6, pp 427-443.

About the FDAC evaluation

The desired outcomes of FDAC were to achieve higher rates of cessation of parental substance misuse, safer and more sustainable family reunification, and swifter placement with permanent alternative carers when reunification was not possible. The evaluation was carried out in two stages between 2008 and 2013. It aimed to:

- describe the FDAC pilot and estimate its costs;
- identify set-up and implementation lessons;
- compare FDAC with ordinary care proceedings; and
- indicate whether this new approach might lead to better outcomes for children and parents.

Stage 1

Stage 1 findings, published in May 2011,⁶ concluded that, at the end of proceedings, parents whose case was heard in FDAC were more likely to stop their substance misuse than parents whose case was heard in ordinary proceedings. As a result, FDAC parents were more likely to be reunited with their children. When return home was not appropriate, children in FDAC cases were placed in alternative permanent homes more swiftly. There were also cost savings for local authorities in FDAC cases, as well as potential savings for courts and the Legal Services Commission (now the Legal Aid Agency). The Family Justice Review in 2011 noted that the FDAC model was promising and recommended further limited roll-out and continued evaluation of the model.⁷ These were the reasons to commission a second stage of the evaluation.

Stage 2

Stage 2 extended the FDAC and comparison samples in order to increase the robustness of the findings. It also provided an opportunity to test the sustainability of family reunification in FDAC and comparison cases after proceedings had ended.

This is the final report from the evaluation. It presents findings based on all the cases in the FDAC and comparison samples from each of the two stages. The costs study was carried out in Stage 1 only. The present report supersedes previous reports.⁸

The samples

The FDAC sample comprised the 106 families (149 children) whose case was listed to be heard in FDAC between January 2008 (the start of the pilot) and December 2010. The cases were referred by the three pilot authorities on the grounds that parental substance misuse was a key factor in initiating the care proceedings. We call this the '*all referrals sample*'. The outcome results reported here are based on the 90 cases where parents were offered and accepted FDAC and received their intervention for varying lengths of time. We call this '*the assessment and intervention sample*'. An appendix to the main report gives the outcome results on the 106 cases in the '*all referrals sample*'. This analysis incorporates the 16 cases where parents declined the service or were excluded according to FDAC's exclusion criteria.⁹ The analysis resulted in only minor changes to the results and these do not alter the report's conclusions.

The comparison sample comprised the 101 families (151 children) subject to care proceedings due to parental substance misuse from another three inner-London local authorities. The comparison authorities used the same exclusion criteria as FDAC and the cases were also heard in the Inner London Family Proceedings Court. Case collection took longer for comparison cases (April 2008 – August 2012) because the third comparison authority joined the study only at Stage 2 and a number of their cases were heard in a different court (the Principal Registry of the Family Division). All cases in each sample were followed up to final order.

We followed up 24 FDAC and 18 comparison family reunification cases for one year after care proceedings ended. The sample was small, determined as it was by the number of family reunifications achieved within our research

⁶ Harwin J, Ryan M and Tunnard J, with Pokhrel S, Alrouh B, Matias C and Momenian-Schneider S (2011) *The Family Drug and Alcohol Court Evaluation Project, Stage 1 Final Report*. Brunel University. <http://www.brunel.ac.uk/fdacresearch>

⁷ Family Justice Review Interim Report, Ministry of Justice, March 2011, para 4.290.

⁸ All available on the Brunel website <http://www.brunel.ac.uk/fdacresearch>

⁹ The exclusion criteria were that a parent was experiencing florid psychosis; or serious domestic violence was posing a major risk to child safety; or there was a history of severe domestic or other violence, and help offered in the past had not been accepted; or there was a history of severe physical or sexual abuse of the children.

window (32 FDAC and 24 comparison cases), by the number of cases where at least a year had elapsed from final order, and by case attrition as families moved out of area and so case information was not available to us (because we did not have ethical approval to follow up those cases).

In addition, it was possible to follow up a small number of families for longer than a year, but only those for whom the care proceedings had finished earlier in the study. Twenty FDAC and 13 comparison families were followed up for two years, and 14 FDAC and eight comparison families were followed up for three years.

To address the question of whether more services were offered to FDAC families during care proceedings, for their substance misuse and other problems, we used a sub-sample (from Stage 2 cases only) of 57 FDAC cases (from the 'assessment and intervention sample') and 82 comparison cases. It was not possible to include Stage 1 cases in this part of the analysis because the tracking period for Stage 1 cases ended six months after the first hearing.

Data sources

Information supplied by the local authorities to the court when they made their care application was collected from court files and used to provide baseline data. Information on child and parent circumstances at the end of the proceedings was collected from court files, parents' NHS files held by the FDAC specialist team, local authority children's files, and

questionnaires designed by the evaluation team for guardians to complete at the end of each case.

Information about convictions and offence types was supplied by the Ministry of Justice, from data extracted from the Police National Computer (PNC). Results based on aggregated data are presented as an annex to our main report.

Qualitative data was derived from semi-structured interviews, themed focus groups and court observations, using schedules designed for the study, adapted from the American Family Drug Treatment Court evaluation forms.

Interviews were held at Stage 1 with 37 FDAC parents during their involvement in the proceedings and at Stage 2 with five FDAC parents who had been reunited with their children for at least one year. At Stage 1 all parents whose case was being heard in FDAC were invited to be interviewed, but only some agreed. No interviews were held with comparison parents. Interviews were held at each stage of the evaluation with the FDAC judges, team and court staff and commissioners involved in the set-up and implementation of FDAC. Focus groups were held with parent mentors, and with professionals who had cases in FDAC between 2008 and 2013 (lawyers, guardians, social workers and staff from adult treatment services).

Court observations by the research team, to see how FDAC was operating as a problem-solving court, were conducted at every hearing in 2008 and 2009 and at two subsequent points in 2010 and 2013.

Main findings from the quantitative evaluation

1. FDAC, and courts in ordinary proceedings, are dealing with 'hard cases'

The case profiles of the 106 families referred to FDAC and the 101 comparison families revealed many common features. More than two-thirds of all the mothers and over three-quarters of all fathers had been misusing for at least 11 years. Over a third of the mothers in each sample had current mental health problems, a history of being looked after; and one or more children removed from their care previously. The majority of the mothers and fathers had convictions and were unemployed. Over a third of all mothers were living in temporary accommodation and more than half the families had had their first contact with Children's Services at least five years before the proceedings started.

The children, too, had many similarities. Emotional and behavioural difficulties affected a third of each sample and health difficulties were common. Over a third of the children in each sample were under one and nearly two-thirds were under five.

There were also a number of statistically significant differences between the two samples, despite the use of the same selection criteria.

- A higher proportion of FDAC mothers and children were White.
- A higher proportion of FDAC mothers misused heroin, cocaine and prescription drugs, had been convicted of drug offences, and had received substance misuse treatment in the past.
- A higher proportion of FDAC children had health difficulties and were withdrawing from drugs at birth.
- A higher proportion of FDAC fathers misused cocaine and cannabis and had been offered services for substance misuse in the past, but a higher proportion of comparison fathers had been convicted of drug offences.
- A higher proportion of FDAC mothers experienced domestic violence.
- A higher proportion of comparison mothers had physical health problems.

This information led us to conclude that all the cases in each sample were 'hard' cases, in that the parents' difficulties were multiple and long-standing. The parental profiles reinforced the picture found in other studies of the many difficulties parents experience in addition to substance misuse, especially the so-called 'toxic trio' of substance misuse, mental health difficulties and domestic violence.

However, the case profiles also drew attention to some problems that have received less attention hitherto. First was the proportion of mothers who had previously had children removed from them through care proceedings. Second was the prevalence of maternal physical health problems in the comparison sample. Its potential impact on parenting capacity and child well-being has received little attention in the child protection literature. Third, although the many similarities between the samples provide a reasonable basis for comparison, the findings of statistical difference between the samples suggest that FDAC mothers had a cluster of more severe substance misuse problems and higher rates of experiencing domestic violence. Both of these findings might be expected to reduce the chances of good outcomes.

2. Outcomes at the end of the care proceedings

Sixteen (15%) of the 106 cases referred to FDAC (the '*all referrals sample*') either declined the offer of FDAC or were excluded, sometimes after a brief assessment, according to the agreed exclusion criteria. All these cases had reverted to ordinary proceedings within a maximum of four weeks. Twelve of these mothers were still misusing at the end of the proceedings and three of them were reunited with their children.

The results below are based on the 90 FDAC cases in the '*assessment and intervention*' sample only and the 101 comparison cases.

We also compared the results of the full '*all referrals*' FDAC sample with those for the comparison group, to ensure that this did not materially affect the conclusions presented here. On the whole, the results of this comparison were similar to those of the narrower '*assessment and intervention*' sample (albeit at slightly lower levels of significance), with the exception of cessation of maternal substance misuse where

the difference was no longer statistically significant.¹⁰ These additional findings are included in an annex to the main report.¹¹

The Stage 2 findings reinforce the learning at Stage 1: FDAC has helped more parents stop misusing substances and deal with other problems, and has harnessed their motivation to change, both of which have helped achieve higher rates of reunification. But, unlike at Stage 1, they show that swifter permanency planning was not achieved when reunification was not appropriate. These are the main findings:

- A higher proportion of FDAC than comparison parents had ceased misusing by the end of proceedings and the differences reached statistical significance:
 - 40% [35 of 88] of FDAC mothers were no longer misusing substances, compared to 25% [24 of 95]¹² of comparison mothers; and
 - 25% of FDAC fathers [13 of 52]¹³ were no longer misusing substances, compared to 5% [2 of 38]¹⁴ of the comparison fathers.
- In both samples, more parents continued to misuse than to stop.
- A greater proportion of FDAC [32 of 90] than comparison [24 of 101] mothers were reunited with their children (36% v 24%) but the difference did not reach statistical significance.
- However, the difference between the proportion of FDAC [31 of 88] and comparison [18 of 95] mothers who had stopped misusing **and** had been reunited with their children did reach statistical significance (35% v 19%). This was because some mothers in the comparison sample who had not stopped misusing, but had reduced their consumption, were reunited with their children.
- Placement with alternative permanent carers when reunification was not possible was not swifter in FDAC than in the comparison sample. This was judged by using

¹⁰ This was based on use of the more conservative two-tailed test. Using the one-tailed test, where there is a prior hypothesis, the result would remain significant, albeit at a lower level. The hypothesis here, based on the Stage 1 results, was that the difference would be in favour of the FDAC group- ie. Higher rates of maternal substance misuse cessation could be anticipated in FDAC than in the comparison group.

¹¹ <http://www.brunel.ac.uk/fdacresearch>

¹² Substance misuse status missing on six comparison mothers.

¹³ Substance misuse status missing on five FDAC fathers.

¹⁴ Substance misuse status missing on 15 comparison fathers.

the duration of proceedings (time between first and final hearings) as a proxy. The mean¹⁵ length of proceedings for alternative permanent placement was similar (62 weeks).

3. Possible explanations for the results about substance misuse and reunification

The evaluation investigated possible reasons for the difference between the two samples in the outcomes relating to substance misuse and reunification.

The offer of services

A central aim of FDAC is to provide parents with timely access to services to address the full range of their substance misuse and related difficulties. This is to be achieved by providing parents with direct help and treatment and by co-ordinating their access to other support services.

The results below are based on 57 Stage 2 FDAC families from the 'assessment and intervention sample' and 82 Stage 2 comparison families for whom services were tracked to final order. It was not possible to include Stage 1 cases as the tracking period was only six months from first hearing, but at that time the average length of care proceedings was over one year.

Key findings here are that FDAC parents were offered more help than comparison parents for their substance misuse problems. This was not simply because of the support parents received directly from FDAC for substance misuse problems. They were also offered more support by other service providers. In addition, FDAC parents were offered more therapeutic family services than comparison parents (in addition to the help they received from FDAC). FDAC played a significant role in this as it co-ordinated access to other community services. The results below all reached statistical significance:

- More FDAC [52 of 55] than comparison [45 of 82] mothers were offered substance misuse services (95% v 55%) – in addition to the help from FDAC.
- More FDAC [28 of 48] than comparison [17 of 64] fathers were offered substance misuse services (58% v 27%) – in addition to the help from FDAC.

¹⁵ Mean is the same as average. The median is the middle value, ie. with an equal number of values on each side. It provides a useful comparison where a very high (or low) value has pulled the mean (or average) value upwards (or downwards). This helps avoid, for example, one very long case skewing the results.

- A greater proportion of FDAC [19 of 57] than comparison [15 of 82] families were offered family services¹⁶ (33% v 18%) – in addition to the help from FDAC.

Parents in FDAC cases were also offered more services than comparison parents for other, non-substance misuse, problems,¹⁷ although this difference did not reach statistical significance. For children, the main input in each sample was help for their mental health and emotional difficulties, and there was no difference between the samples in the offer of services.

Our first conclusion from this analysis is that the intensive substance misuse treatment package made available to FDAC parents laid the foundation for the higher rate of substance misuse cessation by FDAC mothers and fathers, which in turn paved the way for reunification. Prospects for reunification were also enhanced in FDAC by the offer of more therapeutic support to improve parenting skills.

Our second, and linked, conclusion is that the quality of the programme offered is an important determinant of outcomes. Intensity and frequency of treatment, backed by regular testing, and underpinned by a motivating approach and therapeutic support, were intrinsic to the FDAC offer.

We also conclude that the difference in the offer of services to parents between the samples was linked to the activities of the FDAC team in identifying and co-ordinating services for parents in line with their agreed intervention plan.

Our final conclusion is that, as at Stage 1, the differences were about the inputs to parents, not the children.

Case predictors

Professionals were hopeful that the evaluation would provide some indications of which cases were more likely to have successful outcomes. In the Stage 1 report, analysis of a range of variables showed that there were no clear predictors of which parents would be successful in controlling their substance misuse. Similarly, there were no clear predictors of reunification, other than the main factor of cessation of substance misuse.

The predictor analysis reported here found there were a small number of case characteristics that predicted

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- 16** Family services here include intensive family interventions, family therapy, parenting training, and family support.
 - 17** These other (non-substance misuse) services were housing and benefit support, health services, mental health services, domestic violence services, and support to make life-style changes.

outcomes but, somewhat surprisingly, the predictors were different for FDAC and comparison cases.

In FDAC, the factors that predicted outcomes were (a) experience of domestic violence, (b) misuse of crack cocaine, and (c) a history of more than five years' contact with Children's Services. Each of these **reduced** the likelihood of substance misuse cessation **and** subsequent mother/child reunification.

In the comparison sample, the only predictor identified was that a pattern of 'alcohol misuse only' **increased** the chances of achieving both substance misuse cessation **and** reunification.

Outcomes (in both samples) were not linked to other 'difficult' case characteristics such as the length of substance misuse history, the older age of the child, or the mental health profile of the mother.

A further analysis of predictors in combination was carried out, to focus on the interplay between carer and child characteristics. We combined the four maternal risk factors and the three child risk factors¹⁸ that had been either significant or trending that way¹⁹ in the single-factor analysis. A low score meant fewer problems and a high score (the maximum was 7) indicated many problems. We found that:

- if the case had a low level of child and parent problems, the rate of substance misuse cessation and family reunification was higher in the FDAC than the comparison sample (55% [22 of 40] v 16% [9 of 57]) [^{*}]; and
- where there were multiple problems (three or more), rates of substance misuse cessation and family reunification were low, and similar in FDAC and comparison cases (18% [9 of 50] and 20% [9 of 44]).

These findings suggest that, unsurprisingly, where there was a greater combination of problems, parents were less likely to control their substance misuse or be reunited with their children, and there was little distinction here between the samples. Where there were fewer problems, noticeably more FDAC than comparison parents were successful in achieving control of substance misuse **and** reunification with their

18 The parent factors were domestic violence, a history of being looked after, a history of being known to children's services for more than five years, and physical ill-health. The child factors were emotional and behavioural difficulties, born withdrawing from drugs, and developmental delay.

19 A trend is an association that falls short of statistical significance but which, if repeated with a larger number of cases, would achieve significance, as indicated in this study by a percentage difference between outcome groups of at least 10%.

children. This would suggest that FDAC was better able to build on parental capacity to change. It was interesting that predictors in the comparison sample were more random, in that there was no relationship between the number of problems and the likelihood of cessation and reunification.

Fewer problems for the purposes of the predictor analysis did not mean that the case was an 'easy' one: we have already noted the long-standing problems faced by the parents in both samples.

The conclusion from these single-factor and combined-factor analyses is that identification of risk factors is a relevant but insufficient explanation of outcomes.

4. The follow-up of family reunification after proceedings ended

We followed up FDAC and comparison cases where children had been reunited with their parents. The minimum length of follow-up was after one year had elapsed from the final order in the care proceedings. The sample was small, determined as it was by the number of family reunifications achieved, by the number of cases where at least a year had elapsed from final order, and by case attrition as families moved out of area and so case information was not available to us. We were able to follow up only a small number of families for two years and an even smaller number for three years.

32 FDAC families and 24 comparison families were reunited at the end of the care proceedings. We were able to follow up 24 FDAC cases (34 children) and 18 comparison cases (31 children) after one year had elapsed. All of the children were living with their mothers. Most of the children in each sample were subject to supervision orders that place a duty on children's social care to 'advise, assist and befriend' the child.

What we found

- At the end of one year, most FDAC (20 of 24) and comparison mothers (14 of 18) were still living with their children (83% v 78%).
- A similar rate of FDAC (3 of 24) and comparison cases (3 of 18) returned to court in the first year after reunification (13% v 17%).
- Less than half the FDAC (6 of 24) and comparison mothers (8 of 18) relapsed in the first year (25% v 44%).
- In both samples there was further neglect or abuse of children in the first year after proceedings ended. This was

the case for fewer FDAC (6 of 24) than comparison (10 of 18) families (25% v 56%), and fewer FDAC (10 of 34) than comparison (17 of 31) children (29% v 55%). These findings reached statistical significance.

- Maternal relapse and further neglect or abuse occurred mainly in the first year after reunification.
- Maternal relapse after two or three years was extremely rare.
- In years two and three, maternal relapse and further neglect or abuse were lower in FDAC than comparison cases.

What we found about services

We examined the services offered to support families during the first year of reunification and found that:

- No more than half the mothers in each sample were offered substance misuse services in the year after proceedings ended.
- Only between a third and a half of all mothers were offered psychosocial, practical or health services, in addition to the input provided by Children's Services.
- There was considerable variation in the frequency of social work contacts during the year – they ranged from four to over 20 meetings.
- More frequent visiting was associated with new child protection concerns, and with return to court for an extension of a supervision order or for fresh proceedings.
- Only rarely did the court attach directions to a supervision order.

FDAC services and support to families had ended once the proceedings had been completed. Families in both samples were reliant on adult treatment services, on support provided by Children's Services, and on support they could access themselves. The qualitative evidence reflects the findings here - that support during the period of a supervision order is very variable.

The question posed by the findings is how all families can be supported better after reunification, in order to increase the chances of reunification being sustained and being safe and positive for children. Key to this is how to prevent relapse, because this was the trigger for fresh neglect or abuse in most of the cases where it arose.

5. The costs study

The aim of the costs exercise was to identify the cost of the FDAC team and, as far as possible, to compare FDAC costs to those of ordinary proceedings. The aim was not to establish the cost effectiveness or cost benefits of FDAC – this would have required a wider-ranging examination of costs and a longer follow-up period for measuring outcomes. The analysis did not include the costs of any additional services provided as these were not delivered by FDAC. The focus was on FDAC as a new type of service.

Data on costs relates to a sub-sample of 22 FDAC families and 19 comparison families in the Stage 1 study whose case had reached final order by the end of May 2010. The FDAC families were those who had given consent for us to have access to their files. This exercise was part of the Stage 1 study only, as the costs element was not funded at Stage 2.

The exercise generated a model for calculating the cost of the FDAC specialist team that remains relevant. The model²⁰ included both the 'top-down' and 'bottom-up' approach to calculating costs, with the 'bottom-up' approach offering the advantage of calculations over different periods of time and taking account of the fact that different families 'cost' different amounts of money.

²⁰ Harwin J, Ryan M and Tunnard J et al (2011) *The Family Drug and Alcohol Court Evaluation Project, Stage 1 Final Report*. Brunel University. Annex 6.

The key findings at Stage 1 were that:

- The average cost of the FDAC team per family was £8,740 over the life of the case. This cost is offset by savings to the local authorities from more children staying in their families, both during the proceedings and after final order.
- FDAC reduced costs in other ways: through shorter care placements (£4,000 less per child); shorter court hearings and less need for legal representatives at hearings (saving local authorities £682 per family); and fewer contested cases. In addition, the specialist team carries out work equivalent to that done by experts in ordinary care cases, and this saved £1,200 per case.
- FDAC has the potential to save money in the longer term for adult treatment, health and probation services.
- The costing method used for this evaluation provides a solid basis for investigating the cost effectiveness and cost benefits of the FDAC model.

The model for costing the FDAC specialist team remains relevant, but our findings would need to be reviewed in light of the changed context since the completion of Stage 1: shorter duration of proceedings, fewer hearings per case, less use of expert assessments, and the cut in expert fees. The evidence on cost savings in relation to local authority foster care placements would also need to be reviewed.

Main findings from the qualitative evaluation

Interviews with the FDAC judges and specialist team, and with professionals with cases in FDAC at different points during its five years of operation, confirm one central message – there is consensus amongst professionals of the value of the FDAC model. The perceived strengths are:

- **The role of the judge**, specifically having the same FDAC judge throughout a case and having non-lawyer reviews, both of which promote a problem-solving approach to the resolution of care proceedings.
- **An independent, multi-disciplinary team** working closely with the court and other parties.
- **Proceedings that are less adversarial** than ordinary care proceedings, largely a result of the multi-disciplinary approach. This provides a more collaborative court atmosphere, whilst retaining due formality.

Parents interviewed at either stage of the evaluation shared the same positive view:

- FDAC is a service they would recommend to other parents. Those with previous experience of care proceedings found FDAC to be a more helpful court process that gave them a fair chance to change their lifestyle and parent their child well.
- Parents value the practical and emotional support and treatment intervention from the FDAC team. They felt motivated by workers who knew how to help them regain responsibility whilst supporting them through difficulties.
- Parents would like more help to be available, from FDAC and other services, after care proceedings end.

Parents and professionals commented that a unique feature of FDAC is the regular and ongoing conversation that takes place between parents, judges, social workers and FDAC key workers at the non-lawyer court reviews.

Professionals thought that the 'Trial for Change' approach of FDAC – support to parents closely monitored by the court – provided a fair and open test of parents' capacity to change.

This made it more likely that parents would, if relevant, accept the decision that their children could not return to their care.

Some professionals thought that there was too narrow a definition of success in FDAC. They thought that FDAC achieved other successes, such as parents gaining insight into the impact of their substance misuse on children, or managing to reduce their substance misuse even if they couldn't stop completely, or acknowledging that they were not able to parent their children and being able to help their children move to another permanent home.

Concerns were expressed throughout the pilot about parents being given too many chances to control their alcohol or substance misuse, when the chances of success seemed slim. The judges and the FDAC team agreed that this had occurred, especially in the early stage, and they recognised that greater attention should be paid to tracking timescales and making decisions on cases where progress by parents was slow.

There is a continuing minority view that the focus on parents in FDAC inevitably leads to a lack of attention to the child. The majority view is that this focus on parents is positive, and complements the focus of the local authority and the guardian, both of which are on the child.

There were mixed views about the value of supervision orders. It was recognised that this could be due in part to local authority policy and practice in relation to the status of children living at home under a supervision order. It was suggested that it would be helpful for local authorities to review the level of support provided to families whilst the order was in place.

Concerns were raised about the impact of the impending changes to legislation, including the 26-week time limit for concluding care proceedings and the extent to which this will help or hinder attempts to improve outcomes for children affected by parental substance misuse.

Amongst professionals there was a lack of clarity about which cases should be referred to FDAC, with some considering that the FDAC process is best suited for young children and others thinking it is better for older children. There were also those who thought that the age of the child was less important than parental motivation to change.

Commissioners were facing severe restrictions on budgets, and negotiations that some had had with Public Health colleagues or Clinical Commissioning Groups about jointly commissioning FDAC do not seem to have borne fruit.

Conclusions and recommendations

This five-year comparison of FDAC and ordinary care proceedings has tracked the progress of some 200 families from six local authorities (three pilot and three comparison). Our main conclusions and recommendations are set out below.

Conclusions

1. Treatment efficacy

The evaluation findings provide evidence that FDAC succeeds in helping more mothers and fathers than in ordinary care proceedings to overcome the substance misuse that has placed their children at risk of significant harm; to be reunited with their children; and to continue living with their children with less recurrence of abuse or neglect. The findings also provide evidence of other benefits for the many parents who, despite help from FDAC, did not stop misusing drugs and/or alcohol.

The many similarities between the FDAC and comparison cases make it reasonable to infer that involvement in FDAC was an important contributory factor to the difference in outcomes in relation to cessation of misuse, reunification, and reduced risk of neglect or abuse after return home. It suggests that there is added value to be gained from the FDAC approach that combines treatment and assessment within care proceedings. The findings also suggest that FDAC helps parents access and stay in treatment, consistent with the national strategy on substance misuse²¹ and its objective of helping people make a full recovery from drug and alcohol misuse.

We found that FDAC, in line with the problem-solving court model on which it is based, operates in a distinctively different way to the traditional court process involving expert assessment and evidence. The multi-disciplinary team works closely with the court and others throughout the case, providing their own assessment and interventions and co-ordinating the interventions of others. A likely consequence of this was our finding that more FDAC than comparison parents were offered substance misuse and family services over and above those they received from the FDAC team. The difference in the offer of additional substance misuse services and family services reached statistical significance.

The judges also played a different role and this, too, contributed to FDAC's success. Through the non-lawyer reviews, they motivated parents to change their lifestyle and make good use

²¹ Home Office (2010) Reducing demand, restricting supply, building recovery: supporting people to live a drug-free life.

of services on offer, whilst keeping the case on track and being clear with parents about the court's power to remove children from their care. For all these reasons, parents and professionals would like to see FDAC rolled out more widely.

2. The need for better support for reunification

Our follow-up of cases where children had been reunified with their parents at the end of proceedings showed positive findings, in the sense that the great majority of reunifications remained intact. But in each sample (albeit less in FDAC) there was a worrying message about children experiencing further neglect or abuse, mainly because of a mother's relapse into substance misuse or, in a few cases, because of her being subject to domestic violence again. The majority of these children were subject to a supervision order.

In some cases these findings posed questions about the appropriateness of the decision to return children home, especially in cases (in the comparison sample) where the mother had not stopped misusing, or (in both samples) where mothers were trying to care for several children who each had a range of problems. This poses some problems for local authorities and the courts, given that finding a suitable permanent home is likely to prove difficult for some older children and because older children who want to stay at home will choose to do so. With regards to returning children to mothers who had improved but not stopped misusing, there are also no easy answers. Courts will need to decide this question on a case by case basis

Another concern related to the very low level of support provided to vulnerable families after reunification. Recovery is a long process,²² requiring different levels and types of support once treatment has ended. We know, from other research, of the ongoing failure to ensure that parents and children receive adequate support when children return home from care.²³

²² Advisory Council on the Misuse of Drugs (2013) What recovery outcomes does the evidence tell us we can expect? Second Report of the Recovery Committee.

²³ Wade J, Biehal N, Farelly N and Sinclair I (2011) *Caring for Abused and Neglected Children: Making the right decision for reunification or long term foster care*. London; Jessica Kingsley; Ward H, Brown R, Westlake D (2012) *Safeguarding Babies and Very Young Children from Abuse and Neglect*. London; Jessica Kingsley; Farmer E and Lutman E (2010) *Case Management and Outcomes for Neglected Children Returned to their Parents: a five year follow up study*. London. DCSF; Thoburn J, Robinson J and Anderson B (2012) *SCIE: Research Briefing 42: Returning Children Home from Public Care*. London. Social Care Institute for Excellence; Care Inquiry (2013) *Making Not Breaking: Building Relationships for our most Vulnerable Children*; Farmer et al (2011) *Achieving Successful Returns from Care*, BAAF, London. And see *Re B (A Child)* [2013] UKSC 33.

The government's agenda for adoption reform²⁴ places emphasis on speeding up decisions and action in placing babies and young children with potential adoptive parents. When combined with the push to complete care proceedings within 26 weeks, and the research evidence about the fragility of reunification in some circumstances,²⁵ this could serve to heighten doubts about the value of FDAC's focus on supporting reunification in cases where that is appropriate.

It is, however, important to remember that it is not possible to narrow the role of the court to that of speeding up the move to adoption. Given the duty in legislation for local authorities and the courts to actively consider keeping children with their family wherever possible, reaffirmed in *Re B*,²⁶ reunification will remain an option for all children in principle and for many children in practice, and it is crucial to give due attention to supporting safe permanence for children who return home. Reunification can never be guaranteed to be risk free, but it is of note that parents who have been through FDAC did better than other parents in keeping children safe from harm after they returned home (although these results would need testing with larger numbers to increase confidence in the findings).

The proposal for offering greater support to parents at this stage was favoured by parents and professionals alike. Such a proposal builds on the evidence for long-term support to achieve recovery, as well as on the value of parents maintaining links with known and trusted professionals after receiving an intensive service to reduce risk of relapse into substance misuse.²⁷ FDAC would, in effect, be providing a short-term bridging service to ease the transfer of the support role to the local authority.

An important question is how an aftercare service would be funded. One possibility would be a pooling of costs by those services most likely to benefit, especially Children's Services, adult social care, and child and adult health and mental health services. We go further and say that this should be a service that all local authorities – not just those using FDAC – should provide for all families, and for as long as needed, following a decision to return a child home.

The evaluation showed that there might be scope at policy as well as practice level to strengthen the monitoring and

support for children on a supervision order. Proposals in the recent government consultation for improving permanence for looked after children, including those who are returned home, would be highly relevant to children returned home on a supervision order.²⁸ So, too, would the public health outcomes framework for looked after children, with its indicator for monitoring their emotional well-being, in recognition of the risk of '*an even greater increase in rates of undiagnosed mental health problems ... and alcohol and substance misuse*'.²⁹ Extension of this indicator to children on supervision orders is a possible hook on which to draw in extra health funding to support these children.

The lack of research into the outcomes of children returned home on a supervision order, or indeed data on their numbers, leaves us unable to contextualise some of our findings in relation to family reunification. We do not know, for instance, how many children return home on supervision orders to a parent or parents with substance misuse problems, or the frequency and timing of reunification breakdown and/or return to court. The lack of national data about this contributes to this group of children remaining invisible as a policy priority. Anecdotal evidence that shorter care proceedings are leading to an increase in supervision orders supports the need for closer scrutiny of what happens to the children involved and of the potential for increasing the role of supervision orders and of court directions attached to them.

3. The contribution of FDAC when families are not reunited

In both samples, the proportion of parents who did not keep their children exceeded the proportion whose children returned home. The qualitative evidence from the study indicated that the FDAC process was more positive than the ordinary court process in enabling parents to understand more clearly the concerns about their children's needs and to accept the decision of the court. We do not know what impact this help might have on parental behaviour in the longer term, and there may be value in FDAC teams monitoring these softer outcomes, such as improvements in the control of substance misuse, and in the quality of relationships with children who have not returned home.

There is increasing momentum to support parents who have recently had babies removed through care proceedings, in order to reduce the risk of repeat removals of children from their care. Such projects are sometimes part of a support package to promote parent and child health and

²⁴ An Action Plan for Adoption 2012; Further Action on Adoption 2013.

²⁵ Wade J et al (above); Ward H et al (above) and Farmer and Lutman (above).

²⁶ *Re B (A Child)* [2013] UKSC 33.

²⁷ McKay J (2009) *Continuing care research: What we've learned and where we're going*. *Journal of Substance Misuse Treatment* 36, 131-145.

²⁸ DfE (2013) *Improving permanence for looked after children: Consultation*.

²⁹ Department of Health (2013) *Improving Outcomes and Supporting Transparency. Part 1A: A Public Health Outcomes Framework for England 2013-2016*.

well-being. A number of projects are already established or in development.³⁰ There would be value in the current, and any future, FDAC having links with such projects, especially given our finding that 40 per cent of the mothers had had children removed in previous proceedings.

4. The costs of FDAC

Local authorities that have the option of using the current FDAC, or contributing to its development in other areas, will have to decide whether the costs of the team are justified. In 2011 the cost was calculated at £8,700 per family, and is now (2014) just over £12,000, a figure that is in line with other multi-disciplinary teams offering assessment in court cases or offering a specialist, intensive treatment programme for vulnerable families with complex needs.³¹

As noted previously, the aim of our costing exercise was not to establish the cost effectiveness or cost benefits of FDAC – this would have required a wider-ranging examination of costs and a longer follow-up period for measuring outcomes. However, a main message from the costing exercise in our report at the end of Stage 1³² was about the savings for FDAC cases through reduced use of experts, shorter hearings, and fewer hearings with lawyers present. There were savings, too, in the cost of foster care placements during proceedings and family reunification at the end. All these savings would need to be revisited in the light of shorter care proceedings generally (under the new legislation), the reduced fee levels for experts, less use of expert assessments overall, and the current cost of local authority placements and services.

The cost of the FDAC team needs to be weighed against the potential longer-term savings to local authorities, adult treatment services and the courts that arise from the greater treatment efficacy of FDAC. The costs of repeat proceedings for a mother, with the same and/or a new child, the consequences of taking more children into care, and the potential savings on family reunification all need to be

30 Broadhurst K and Mason C (2013) 'Maternal outcasts: raising the profile of women who are vulnerable to successive, compulsory removals of their children – a plea for preventative action'. *Journal of Social Welfare and Family Law*, 35:3, 291-304.

31 *Evaluation of the alternative commissioning of experts pilot*, Legal Services Commission http://www.legalservices.gov.uk/docs/stat_and_guidance/ACE_Pilot_Evaluation_Final_Report_June_2011; *Turning around the lives of families with multiple problems – evaluation of the Family and Young Carer Pathfinder programme*. DfE Research Report DFE-RR154. <https://www.education.gov.uk/publications/eOrderingDownload/DFE-RR154.pdf>.

32 Harwin J, Ryan M and Tunnard J, with Pokhrel S, Alrouh B, Matias C and Momenian-Schneider S (2011) *The Family Drug and Alcohol Court Evaluation Project, Stage 1 Final Report*. Brunel University.

factored into the equation of whether investment in FDAC is likely to give a good return.

At times of intense financial austerity and an increasing demand on services it is particularly important to spend money wisely, and the evidence of FDAC's success in achieving outcomes relating to substance misuse cessation and reunification should help inform decisions about future commissioning of FDAC. The specialist team is now commissioned exclusively by Children's Services although good arguments can be made for contributions from the Legal Aid Agency, because it provides expert assessments for care proceedings; from Public Health, because it provides substance misuse interventions; and from Clinical Commissioning Groups, because they provide psychiatric and psychotherapeutic services to children and families.

Furthermore, it will be a noticeable gap if the extent of parental substance misuse, and information about its impact, is not included in relevant local needs assessments, particularly Joint Strategic Needs Assessments (JSNAs). The benefit of Children's Services commissioners pursuing this as an issue is that it would help acknowledge clearly how parental substance misuse can exert a negative impact on people's lives and this, in turn, might increase commitment to tackle the short- and longer-term consequences for children and families.

Finally, the robust methodology used to cost the FDAC specialist team remains relevant. It gives a breakdown of the cost of the different components of the input from the FDAC team. The costing generated a model for calculating cost variations per case, based on features such as the length of the case and the number of children, and this should be particularly useful. This approach could be used by commissioners and service providers if they wished to develop a costing mechanism that offers more flexibility than the current flat-fee arrangement.³³

5. Challenges in maximising the benefits of FDAC

We found a number of ways in which the potential of FDAC, a young and evolving service, could be enhanced further:

(a) Reviewing how cases are selected for FDAC

The predictor analysis makes clear that, in both samples, cases with more parent and child problems reduce the chances of substance misuse cessation leading to reunification. By contrast, in FDAC and comparison cases with a similar lower level of parent and child difficulties,

33 Harwin J, Ryan M and Tunnard J, with Pokhrel S, Alrouh B, Matias C and Momenian-Schneider S (2011) *The Family Drug and Alcohol Court Evaluation Project, Stage 1 Final Report*. Brunel University (section B4 and annex 6).

FDAC was more successful in helping parents stop misusing and be reunited with their children. This would suggest that the practice we were told about, that intractable cases were referred to FDAC, must raise questions about whether FDAC is being used to best advantage.

(b) Bringing cases to court earlier

Related to the above point, it had been anticipated that FDAC's approach of treatment intervention within the framework of court proceedings would encourage local authorities to bring cases to court earlier, in the belief that this might enhance the prospects of success. This was in light of research identifying that cases were coming to court later than they had before the implementation of the Children Act 1989.³⁴

However, given the current legal and policy context of a strong emphasis on pre-proceedings activity before bringing proceedings,³⁵ it seems unlikely that local authorities will be prepared to consider early use of care proceedings in FDAC. The cost of issuing proceedings might be another factor here, as Children's Services face increasingly stringent budget reductions. It seems likely that, for the time being at least, the court will continue to be seen as a last resort, despite the opinion of the Family Justice Review to the contrary.³⁶

This is a worrying scenario, all the more so given that the lengthy histories of parental substance in our samples meant that over half the parents found it impossible to control their drugs and/or alcohol misuse by the end of proceedings, and older children had high levels of emotional problems, having experienced many years of neglect. Encouraging local authorities to work intensively with families where care proceedings seem likely should not necessarily mean delaying taking cases to court for so long that children are harmed.

(c) Continuing to learn from parent mentoring

Parent mentors are a distinct element of the FDAC approach. We found that a group of parent mentors, changing over time, has been in existence from the start of FDAC and now includes parents who have used FDAC themselves. It is clear that this element of the service needs adequate resourcing, to ensure that mentors receive ongoing training and supervision and that the specialist team and parents can make best use of their input. It is

also clear that those with experience of having, or being, a parent mentor valued the benefits that accrued from the experience. Beyond that, we have not been able to draw any firm conclusions about the impact of this aspect of the FDAC service, though we are mindful that research into recovery from dependence on drugs and alcohol stresses the importance of mutual support, as well as social networks, in supporting sustained recovery.³⁷

(d) Improving ways of monitoring progress

In FDAC cases when reunification was not appropriate, it took longer than in comparison cases for children to be placed with permanent alternative carers. This was contrary to what FDAC was hoping to achieve. It remains an issue for FDAC because of the tighter timescales stipulated in the new legislation. Better and more routine monitoring (by FDAC and the local authorities) of the length of care proceedings in every case, coupled with other measures to gain feedback on case performance, would help reduce the time children spend in care proceedings.

Another point about monitoring relates to the information collected by FDAC. Whilst producing some case analysis, for quarterly reports to commissioners, it makes little use of standardised measures. For instance, it does not use TOPS³⁸ to monitor parental substance misuse outcomes, or the SDQ³⁹ for measuring change in children's functioning. An added bonus of using these or similar instruments is that they would help FDAC benchmark their outcomes with other services.

(e) Challenging the gaps in administrative data

The many gaps that we found in the administrative data sources throughout our study were a matter of concern. In particular, the dearth of information about children's fathers left us feeling that Children's Services were ambivalent or unsure about how to work with fathers, and that fathers were left marginalised. The problem is one that has been identified in a number of other studies.⁴⁰ The practice exceptions that we found attested to the value of tackling these deficiencies. Without adequate information, agencies are hampered in their ability to work with individuals and to develop services to respond to common needs.

³⁴ Aldgate J and Statham J (2001) *The Children Act Now: Messages from Research*. Norwich. TSO

³⁵ Practice Direction 36 C(2013): Pilot Public Law Outline

³⁶ *Family Justice Review Final Report*, Ministry of Justice, November 2011, para 3.50.

³⁷ Advisory Council on the Misuse of Drugs (2013) *What recovery outcomes does the evidence tell us we can expect?* Second Report of the Recovery Committee.

³⁸ *The Treatment Outcomes Profile* <http://www.nta.nhs.uk/top-brief.aspx>

³⁹ *The Strengths and Difficulties Questionnaire* - <http://www.sdqinfo.org/>

⁴⁰ Ryan M (2000) *Working with Fathers*. Radcliffe Medical Press.

(f) Remaining alert to the impact of the Children and Families Act 2014

Meeting the 26-week timescale is a challenge for all courts, but some particular challenges arise for the problem-solving approach of the FDAC court, as professionals have pointed out in our consultation interviews and focus groups. Of note here is the comment of the President of the Family Division (overseeing the implementation of the new Public Law Outline) that the PLO should not be an obstacle to the functioning of a good model:

... we must see how best the PLO can accommodate the FDAC model (I put it this way, rather than the other way round). We must always remember that the PLO is a means of achieving justice and the best outcomes for children and, wherever possible, their families. It is not, and must never be allowed to become, a straightjacket, least of all if rigorous adherence to an inflexible timetable risks putting justice in jeopardy.⁴¹

Application of the new timescale will reduce the time available to test parents' motivation and ability to control their problematic drinking or drug use, through a therapeutic intervention overseen by the court. This might be an advantage in cases where it is clear that reunification is not appropriate, because it will mean that FDAC would speed up its decision-making and ensure swifter permanency for some children. A spin-off of faster decision-making in such clear-cut cases is that FDAC could devote more time to help the parents who have greater capacity to change.

The new legislation provides flexibility for the court to allow an extension of the time limit in exceptional circumstances, with no upper limit specified on the number of extensions.⁴² The indications are that these will be considered appropriate for FDAC cases where parents are engaged with the service and where their child's return home seems likely. Enabling parents who are doing well to remain in the court process, to consolidate progress, will be important. A conclusion of the USA national evaluation was that family reunification cases stayed in court for up to a year, the maximum time allowed.

However, because extensions are not automatic under the legislation, there is a risk that the courts might prefer to

⁴¹ President of the Family Division (2013) View from the President's Chambers, No 7 the process of reform, changing cultures https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/189397/DSCF-RB214.pdf.

⁴² Section 32(5) *Children Act 1989*, as amended by section 14 *Children and Families Act 2014*; Ryder Mr Justice (2012) Family Modernisation Programme: Fourth Update.

conclude promising cases quickly, making a supervision order as a way of keeping the case under review and enabling its return to court, if necessary. There is some evidence of the increasing use of supervision orders. Our findings on the variability of support under a supervision order suggest that this might not provide enough support to consolidate the progress that parents have made in FDAC.

The most challenging cases will continue to be those where there are indications of a parent's capacity to change but their progress is uneven. FDAC might be able to have a greater role in pre-proceedings assessments, and this might enhance the prospects of a new-born baby living safely with their parents. A concern here is that the court would then be less likely to be the main arena for testing parental capacity to change. This is a concern because our findings are based on the value of the work of the specialist team in combination with the court process and the oversight provided by the FDAC judges. The impact of a reduced role for the FDAC court is uncharted territory.

A final note

The climate in which FDAC operates at present undoubtedly poses challenges to the concept of a court that seeks to reunite families, and that needs time and specialist support to help bring about the changes necessary. The recent funding support from the Department for Education, to enable the model to be rolled out to new sites and to be developed and monitored, is a positive development that will provide further time to learn about what helps and hinders progress in improving outcomes for vulnerable children before, during and after care proceedings.

Recommendations

We consider that FDAC is a promising model for care proceedings and should continue. It has demonstrated its potential as a court that oversees treatment intervention as well as adjudicating on the matter of children at risk of significant harm attributable to parents.

Rolling out FDAC more widely

- Local authorities and the court system should be encouraged to consider adopting the FDAC model.

Decisions about referral and early action

- Local authorities should set clearer referral criteria for FDAC cases, with a focus on families with less entrenched problems and a greater capacity for change.

- FDAC should continue to pay attention to quicker decision-making when parents do not engage with the service or show very little sign of progress.
- The development of a data tracking system would give FDAC clearer information and improve their feedback to the local authorities involved.

Tracking outcomes

- The current FDAC team, and those established in other areas, should use a common system for tracking outcomes for children and parents and should make use of standardised measures to compare progress over time. The tracking should include the harder-to-measure outcomes in cases where parents are not reunited with their children.

More support after family reunification

- A short-term FDAC aftercare service, starting at the end of proceedings, should be developed, to support the role of the local authority in family reunification cases.
- Local authorities should ensure their policies in relation to supervision orders enhance the safety and sustainability of family reunification. Attention should be paid to how supervision orders could play a more useful role in supporting reunification, including the court's use of directions attached to the order.
- Government policy should consider harmonising the support available for children placed at home on a supervision order with that proposed for children returning home from voluntary care⁴³ or receiving post-adoption support.

Working with fathers

- Local authorities should be more proactive in identifying and working with children's fathers.

Support when reunification is not achieved

- Support should be available for parents who are not reunited with their children at the end of proceedings, to build on any progress made in FDAC, to provide emotional support, and to help prevent untimely new pregnancies.

FDAC costs and potential benefits

- The possibility of additional agencies contributing to the costs of commissioning FDAC should be pursued, including Public Health, Clinical Commissioning Groups and the Legal Aid Agency.
- The potential longer-term cost benefits of parents controlling their substance misuse and being reunited with their children should receive a higher profile.

Learning from new developments

- FDAC should monitor carefully any new developments in applying the model, including pre-proceedings work, adapting to the 26-week timescale whilst applying for extensions where needed, embedding the parent mentor programme, and extending the FDAC model to cases where domestic violence and mental health problems are triggers for care proceedings.
- Consideration should be given to providing opportunities for judges involved in FDAC work to learn from each other and to access training in problem-solving court approaches.

⁴³ DfE (2013) *Improving permanence for looked after children: Consultation*. It includes proposals to strengthen support for children returning home from accommodation under section 20 of the Children Act 1989.

