

# THE FAMILY DRUG & ALCOHOL COURT (FDAC)

---

## INTERIM REPORT

FDAC Research Team  
Brunel University  
August 2009

Lead Investigator – Professor Judith Harwin  
[Judith.Harwin@brunel.ac.uk](mailto:Judith.Harwin@brunel.ac.uk)

To access the report follow the link at [www.brunel.ac.uk/fdacresearch](http://www.brunel.ac.uk/fdacresearch)

# CONTENTS

<b>SUMMARY OF KEY ISSUES AND FINDINGS</b>	iii-ix
<b>INTRODUCTION TO THE INTERIM REPORT</b>	1
<b>PART A: SETTING THE SCENE</b>	
A1 - History, background, rationale, key features	2
A2 - The FDAC court and FDAC service	10
A3 - The evaluation	16
<b>PART B: SOME EMERGING FINDINGS</b>	
B1 - The FDAC sample in Year One	22
B2 - The approach to costing FDAC	38
B3 - Perspectives on FDAC	44
<b>PART C: EARLY LEARNING AND NEXT STEPS</b>	
Early learning from the pilot	70
Conclusion	82
<b>Annexes</b>	
1 - FDAC court process flowchart	
2 - Formal agreement signed by parents	
3 - FDAC team process flowchart	
4 - FDAC team assessment algorithm	
5 - Key facts about children, care proceedings and care	

## FIGURES

1 - The FDAC specialist team	13
2 - Families offered FDAC (January 2008-09) and the number of children in the current case (families=37)	23
3 - Age of parents	24
4 - Ethnicity of parents	24
5 - Pattern of substance misuse	25
6 - Drugs misused by mothers	26
7 - Number of substances misused by mothers	26
8 - Drugs misused by fathers	27
9 - Number of substances misused by fathers	27
10 - Length of family involvement with children's services	29
11 - Ethnicity of the children	30
12 - Analysis of judicial behaviour over a six-month period (7 early cases)	56
13 - Mothers' attendance at reviews	62
14 - Fathers' attendance at reviews	62

## TABLES

1 - Differences between FDAC and standard care proceedings	10
2 - Summary of the main components of the FDAC evaluation and the features of the comparison with non-FDAC authorities	13
3 - Local authority concerns	31
4 - The children's living arrangements	32
5 - The court orders sought	33
6 - Four-step model of costing FDAC	40
7 - Data (sources and description) used to estimate FDAC specialist team costs	41

# OVERVIEW OF KEY ISSUES AND FINDINGS

## INTRODUCTION

This report presents interim findings from the evaluation of the first pilot Family Drug and Alcohol Court (FDAC) in Britain. FDAC is a new approach to care proceedings, in cases where parental substance misuse is a key element in the local authority decision to bring proceedings. It is being piloted at the Wells Street Inner London Family Proceedings Court and runs for three years, to the end of December 2010. The work is co-funded by the Department for Children, Schools and Families, the Ministry of Justice and the Home Office and the three pilot authorities (Camden, Islington and Westminster). The evaluation is being conducted by a research team at Brunel University, with funding from the Nuffield Foundation and the Home Office.

FDAC is a specialist court for a problem that is anything but special. Its potential to help break the inter-generational cycle of harm associated with parental substance misuse goes straight to the heart of public policy and practice. Parental substance misuse is a formidable social problem, accounting for 34 per cent of long-term cases in children's services in some areas and up to 60-70 per cent of all care proceedings. It is a major risk factor for child maltreatment, family separation and offending, and poor educational performance and substance misuse by children and young people. The parents' many difficulties create serious problems for their children and place major demands on health, welfare and criminal justice services.

For these reasons, parental substance misuse is a cross-cutting government agenda, underpinned by national policies that aim to strengthen families through community-based early intervention and support programmes. FDAC is distinctive because it is a court-based family intervention which aims to improve children's outcomes by addressing the entrenched difficulties of their parents.

FDAC has been adapted to English law and practice from a model of family treatment drug courts that is used widely in the USA and is showing promising results. Their national evaluation found that, compared to traditional court procedures and welfare services, the model produced a higher number of cases where parents and children were able to remain together safely, and with swifter alternative placement decisions for the child if parents were unable to address their substance misuse successfully. These positive results are attributed to the increased take-up and completion of substance misuse treatment by parents in the family treatment drug courts. This encouraging evidence from the USA, and the difficulties in England in the operation of standard care proceedings involving parental substance misuse, were the catalysts for the FDAC pilot.

## **FDAC AND STANDARD CARE PROCEEDINGS**

FDAC is a specialist court operating within the framework of care proceedings, with parents given the option of joining the pilot. The key features of FDAC which are not present in standard care proceedings are:

- two specialist district judges to manage the proceedings
- frequent non-lawyer review hearings in which the judges encourage and motivate parents to engage with services
- a multi-disciplinary specialist team to advise the court about parent progress and related issues, assess and support the family, and link them into relevant local services. The emphasis is on direct work with parents and children, not just assessment of their needs. (The team is provided by the Tavistock and Portman NHS Trust Foundation in partnership with the children's charity, Coram Family.)
- parent mentors (non-professionals) to provide support to parents and act as positive role models on the basis of their own life experience, and
- a team of children's guardians allocated to FDAC cases.

## **THE EVALUATION**

The overall purpose of the full evaluation is to describe the FDAC pilot and identify set-up and implementation lessons, to compare FDAC with standard care proceedings and costs, and to indicate whether this new approach might lead to better outcomes for children and parents.

This interim report has a more limited purpose – to draw lessons from the establishment of FDAC and its first year of operation, to reflect on the challenges faced and how they have been addressed, and to outline the model used for costing FDAC.

The research team has used various sources to extract the early learning presented here. They include an analysis of administrative child and parent file data; regular observation of how the court operates; interviews with parents, judges and the FDAC team; a focus group with children's guardians; some informal feedback meetings held at the court premises with social workers and lawyers; and information gained through observations or membership of the work of FDAC's governance groups. Quantitative and qualitative information has been captured using interview and recording schedules adapted from the USA national evaluation tools.

## **THE SAMPLE FOR THE INTERIM REPORT**

The court anticipated taking 60 cases per year, based on projections from the feasibility study. In fact, numbers were lower in the first twelve months: FDAC currently deals with up to five new cases each month and up to twelve review hearings are also listed for each Monday, the weekly FDAC day at Wells Street.

Thirty-seven (37) families with 51 children entered FDAC in its first year. Twenty-three (23) fathers were parties to the proceedings and 25 cases concerned single parent mothers. In approximately half the cases children had been removed before proceedings began. The majority of parents were aged 30 or more and were White British. A small number were Black African, Black Caribbean or described as Black/Other.

Maternal substance misuse was the trigger to all the care proceedings but most of the fathers also misused substances. A majority of the mothers and fathers misused both illegal drugs and alcohol and had long experience of substance misuse. Very few cases involved alcohol misuse alone.

Substance misuse was rarely the only problem. Over half the mothers had current or previous mental health problems and domestic abuse experience, half were on income support, and housing difficulties were common. Just over half the mothers, and two-thirds of fathers, had a past criminal conviction. Most families had had contact with children's services before the current proceedings, some for several years.

The children were young – 38 were less than five and 18 of those were under a year old. The largest ethnic groups were White British (22 children) and mixed heritage (14 children). Emotional and health difficulties affected approximately one third of the children. The combined category of 'neglect, physical harm and emotional harm' was the most common reason for proceedings being brought.

## **PROGRESS OF FDAC DURING THE FIRST YEAR**

### **A high level of operational efficiency**

A detailed feasibility study and service specification had outlined the main tasks to be accomplished in the FDAC set-up phase. Nevertheless, turning the plan into a fully operational service within a very tight timescale has presented a major challenge, which has been met well. Regular informal feedback sessions at the end of the court day, and the early meetings initiated by the FDAC team for lawyers and social workers, helped establish a sense of partnership and ownership as well as providing forums for identifying and resolving problems as they arose. Adjustments have been made throughout the year, following discussion and review by the two main governance bodies, the Steering Group

and the Cross Borough Operational Group (CBOG). The detailed written procedures, policies and information for professionals and parents produced by FDAC are likely to be of benefit to those thinking of developing a similar model elsewhere.

## **Operating as a problem-solving court**

Early findings from all our sources indicate that FDAC is establishing itself as a problem-solving court. There are three aspects to this.

### **1. Judicial scrutiny and continuity**

The FDAC judges play a major role in motivating parents, whilst emphasising parental responsibility and the consequences of non-compliance. Observations of the court suggest that, within the limits of their powers, the judges engage in problem-solving activities that normally lie outside the judicial remit, such as housing and financial difficulties. The qualitative interviews indicate that the non-lawyer judicial reviews promote direct interaction between judge and parents and are the main court mechanism to progress the case, prevent problems from escalating and reinforce the value of positive parental effort. The evaluation tracking data shows that there was a high rate of parental compliance in attending review hearings. In over three-quarters of the cases, both mothers and fathers attended 75 per cent of their hearings. By the end of the first year most cases were returning regularly for review by the judge who had presided over the first hearing. This judicial continuity, a core feature of problem-solving courts, is rare in standard care proceedings.

### **2. The FDAC specialist team (quick assessment and links to services)**

The specialist FDAC multi-disciplinary team provides swift assessments and regular updates for the court, with the first assessment made available within three weeks of the first hearing. Direct substance misuse services are provided to parents from the first hearing and include relapse prevention, one-to-one intensive counselling, activities to promote engagement, and regular drug and alcohol testing. The team facilitates access to community-based drug and alcohol services and are pro-active about linking parents to a wide range of support services such as domestic violence, housing and income support. They have developed formal links and agreed protocols with agencies most relevant for parents they work with, notably housing and domestic violence services. In court, the FDAC team are supportive to parents whilst at the same time providing impartial and independent advice to the judges. The interviews indicate that they are successful in managing this difficult dual role.

### **3. A pro-active approach to case management**

The court is adopting a pro-active approach to decision making with particular focus on the timescale of the child. Most families who exited FDAC did so within the first five months of coming before the court. In nearly all these cases the decision to terminate FDAC has been initiated by the FDAC team in consultation with all key partners. A longer period of time (6-8 months) is proving necessary for parents who engage well with FDAC, including these who control their substance misuse and demonstrate their ability to provide safe and stable care for their children. Cases where parents are engaging with substance misuse services but concerns remained about parenting capacity leave FDAC at a later stage but move swiftly to an Issues Resolution Hearing and final order.

### **Parental support for FDAC**

All but two of the 37 families accepted the invitation to join FDAC. Interviews with parents showed that the majority placed a high value on the judge's involvement in their case and valued the support from the FDAC team. All parents said they would recommend FDAC to other parents in care proceedings.

## **CHALLENGES**

### **Identification and selection of cases**

A particular challenge in the first year has been the uniformly 'heavy-end' profile of FDAC cases. It has made the work of the court particularly difficult. The challenge for the future is to see whether it is possible to recruit a wider spectrum of cases, as envisaged in the feasibility study and service specification. A related challenge is to see whether the low number of referrals in the first year to FDAC for parental alcohol misuse alone can be increased. The picture suggests that the way in which cases are identified and selected for referral to FDAC may need to be reviewed so as to maximise prospects for successful parental engagement and to establish the potential of FDAC across a wide range of cases.

It is not clear why fewer cases entered FDAC than anticipated. One possibility is the run-in time that is generally needed for a new project to get established. Another is that new ways of working with parents in the community with substance misuse problems may have reduced the need to bring care proceedings on some children. In addition, the FDAC start-up coincided with the introduction of the Public Law Outline (PLO) which, along with the increase in court fees, has been linked to a decrease in the rate of care proceedings nationally between April –September 2008. Monitoring the number of cases



referred to FDAC over the full three years of the pilot will allow us to gain a better insight than is possible at present into the potential demand and use of FDAC.

### **Intervening early through court proceedings**

Establishing the potential of FDAC to intervene early through court proceedings is an important issue. It had been envisaged in the feasibility study that court action would not be seen as a last resort and that the local authorities would, therefore, be encouraged to bring cases to court sooner rather than later. This has not been the experience so far. A number of factors may inhibit bringing proceedings earlier. There is the partnership principle of the Children Act 1989 and the emphasis in the Human Rights Act 1998 on ensuring a proportionate approach by the local authority when intervening in family life. The PLO may also inhibit early intervention because of the processes required before initiating proceedings. It is an open and important question whether policies which appear to discourage early court involvement may weaken the potential of FDAC to deal with cases before harm is severe and difficulties are entrenched.

### **Parent mentors**

The parent mentor programme is potentially one of the most distinctive features of the FDAC model – the provision of help to parents through non-professionals who act as a positive role model based on their own life experiences. Yet the numbers fall well short of the target figure of 15-20 active parent mentors. An important challenge is to increase their numbers and continue developing the scheme.

One of early learning points is that the mentoring programme needs a longer than anticipated lead-in time. Selection and training are lengthy processes and follow-up support and retention require dedicated input. This component of the programme has also needed more funding than originally envisaged, thereby restricting its development. It has also been necessary, for now at least, to broaden the eligibility criteria set out in the feasibility study in order to increase the pool of available mentors. It will be important to continue to track carefully the development and impact of this unique element of FDAC.

### **The role of the FDAC team and its contribution to assessing parenting**

Clarifying the respective roles of the FDAC team, the local authority and CAF/CASS in assessing parenting is an important direction for the future. There has been ongoing discussion during the first year about this matter. The feasibility study envisaged that parenting assessments would be carried out by existing services in the three boroughs and, on the whole, this has been the

case. However, the staged assessment model introduced by the FDAC team (with stage one focusing on substance misuse and stage two on parenting capacity) has particular implications for the work and role of the local authority, as well as for the role and resource capacity of FDAC. This practice and policy issue needs to be kept under review.

## **The role of FDAC in co-ordinating local services**

An important function of the FDAC team is to help parents receive practical support for the full range of their problems and to link them into local services quickly. The early indications are that it has been easier to enable access to local drug rather than alcohol services because the latter are in short supply. There can also be delays in accessing residential services. Housing has proved a particular challenge, despite the team's positive and fruitful relationships with housing link workers in each authority.

## **CONCLUSION**

FDAC is developing a distinctive model that is in line with its overall aims of motivating parents to engage in treatment and taking timely decisions if parents cannot address their substance misuse within their child's timescale. As would be expected for a pilot project, the service is still evolving. The interim evaluation has highlighted important areas of progress, as well as practice and policy issues that should be addressed as the programme continues to be implemented. In the final report we will revisit many of these issues. We will also explore the extent to which FDAC has the potential to lead to better outcomes for children and their parents than standard care proceedings.

# INTRODUCTION TO THE INTERIM REPORT

The Family Drug and Alcohol Court (FDAC), a new approach to care proceedings where parental substance misuse<sup>1</sup> is a key element in the case, is being piloted at the Inner London Family Proceedings Court in Wells Street and will run for three years, from January 2008 to the end of December 2010.

Brunel University has been sponsored by the Nuffield Foundation to carry out a 30-month descriptive study of this pilot. Additional funding has been received from the Home Office to cover interviews with parents who take part in FDAC.

This interim report has been prepared for the sponsors of the research (the Nuffield Foundation and the Home Office), for the FDAC Steering Group, and for the organisations funding the pilot (the Department for Children Schools and Families, the Ministry of Justice, the Home Office and the London Boroughs of Camden, Islington and Westminster). A report at this stage was requested by the Nuffield Foundation and the FDAC commissioners to ensure that any early learning could inform both the later stages of the pilot and any future commissioning decisions. A final report for the Nuffield Foundation is due at the end of July 2010.

As an interim report, it is a description of work in progress - the data that has been recorded is still being analysed and more will be collected as the project continues. Nevertheless, there is value in taking stock now, to describe the operation of FDAC and to explain how it is being evaluated. The main focus is on the establishment and early development of FDAC, the challenges it has faced and how it has responded. As part of this we explore whether there is evidence of an emerging FDAC model and we identify issues that may merit further attention in the final report.

The report describes:

- the history, background and rationale of FDAC
- how the court and the specialist team work
- the demographics of parents and children in all cases entering FDAC in its first year
- our approach in costing FDAC, and
- perspectives on FDAC from parents, judges, the FDAC team, children's guardians and court observations by the research team.

We conclude with a discussion about the early learning from the pilot and next steps for the research.

---

<sup>1</sup> For the purposes of this pilot and evaluation the term substance misuse refers to the problem use of drugs or alcohol which is having a negative impact on parenting capacity.

## PART A: SETTING THE SCENE

### A1 - HISTORY, BACKGROUND, RATIONALE, KEY FEATURES

#### Parental substance misuse – the problems

A range of factors led to a Steering Group being formed in 2003 to look at the possibility of developing a Family Drug and Alcohol Court in a Family Proceedings Court in England.

These included:

- increased understanding of, and growing concern about, the impact of parental misuse of drugs and alcohol on children in the family
- the high percentage of cases in the child protection system and brought to court in care proceedings where parental substance misuse was a significant feature
- concern identified in research and other policy initiatives that responses from children's services and adult substance misuse services were often disjointed and un-coordinated and lacked a focus on the needs of the family as a whole, resulting in poor outcomes for children, and
- an interest in the approach of Family Treatment Drug Courts (FTDCs), set up in the USA from the mid-1990s, which were taking a specialist and problem-solving court approach to the USA equivalent of care proceedings where parental substance misuse was a key feature.

*Hidden Harm*, the report by the Advisory Council on the Misuse of Drugs (2003), and *Bottling it Up* by Turning Point (2006) had drawn attention to the negative and long-term impact of parental drug and alcohol misuse on children and to the high number of children affected by such misuse. *Hidden Harm* reported that at least 2-3 per cent (200-300,000) of children under 16 in England and Wales are living with one or two parents misusing illegal drugs<sup>2</sup> and up to 9 per cent (1.3 million children) are estimated to be affected by parental alcohol misuse<sup>3</sup>. Both reports recommended, among other things, an earlier response to families affected by parental substance misuse and improved co-ordination between adult drug and alcohol services and children's services in responding to families.

Research studies had identified that parental substance misuse was a feature in a high percentage of cases referred to children and family social care services. It accounts for up to 34 per cent of all long-term cases in children's services in

---

<sup>2</sup> Advisory Council on the Misuse of Drugs (ACMD) (2003) *Hidden Harm: responding to the needs of children of problem drug users*. Report of an inquiry by the Advisory Council on the Misuse of Drugs. Home Office.

<sup>3</sup> Turning Point (2006) *Bottling it up: the effects of alcohol misuse on children, parents and families*. London.

some areas (Forrester and Harwin, 2006<sup>4</sup>) and is a major risk factor for child maltreatment, especially neglect. Parental substance misuse also increases the risk of child family separation, offending, poor educational performance and substance misuse by children and young people<sup>5</sup>. A range of problems in the responses from both children's and adult services have also been identified (<sup>6</sup>).

Developments since the publication of *Hidden Harm* have led to improvements in collaboration between adult and children's services but, even with improved early intervention and inter-agency collaboration, it is inevitable that compulsory state intervention through court proceedings will be needed to protect some children. In some cases family support and other children's service interventions will not succeed in safeguarding the child. There is, therefore, a crucial role for the court to play in these cases. Yet once court proceedings have begun the focus of attention is the collection of expert evidence about the extent of substance misuse, the prognosis for change and judgments about parenting ability. There is no consistent attempt at this stage to motivate and engage parents in substance misuse, parenting and family support services. Problem-solving courts offer a different, and promising, way ahead.

## **Problem-solving courts: their features and philosophy**

Specialist problem-solving courts have been developed over the last 15 years in other jurisdictions as a practical and more interventionist approach within the criminal justice system to specific issues such as drug misuse, domestic violence and mental health problems. They are based on the principles of 'therapeutic jurisprudence', the main principle being that the health, welfare and rehabilitation of the offender, as well as their punishment, are key issues to be addressed in

---

<sup>4</sup> Forrester D and Harwin J (2006) Parental substance misuse and child care social work: Findings from the first stage of a study of 100 families. *Child and Family Social Work*, vol. 11, no. 4, pp. 325–335.

<sup>5</sup> Barnard M and McKeganey N (2004) The impact of parental problem drug use on children: what is the problem and what can be done to help? *Addiction*, 99, 552–559; Gorin S (2004) *Understanding What Children Say. Children's Experiences of Domestic Violence, Parental Substance Misuse and Parental Health Problems*. National Children's Bureau; Harbin F and Murphy M (2000) (eds) *Substance Misuse and Child Care: How to Understand, Assist and Intervene when Drugs Affect Parenting*. Russell House Publishing; Farmer E, Sturgess W and O'Neill T (2008) *The Reunification of Looked After Children with their Parents: Patterns, Interventions and Outcomes*. Report to the Department for Children, Schools and Families, University of Bristol.

<sup>6</sup> Hart D and Powell J (2006) *Adult Drug Problems, Children's Needs: Assessing the impact of parental drug use. A toolkit for practitioners*. London. NCB; Forrester and Harwin, 2006 (see footnote 4); Gyngell K (2007) *Breakthrough Britain: ending the costs of social breakdown. Volume 4: Addictions. Policy recommendations to the Conservative Party Social Justice Policy Group*, July 2007; RSA (2007) *Reducing the harms from drugs: improving treatment and support. Drugs - facing facts. Report of the RSA Commission on Illegal Drugs, Communities and Public Policy*, RSA.

sentencing. A number of these courts are now being tested in England and Wales<sup>7</sup>.

Problem-solving courts have a number of key features. They focus on longer-term outcomes rather than simply the sentence or order that is made. People work in non-traditional ways in the court room. There is multi-disciplinary collaboration in the court setting and specially-trained judges or magistrates who play a key role in the regular monitoring of a defendant's progress in complying with, for example, substance misuse services. These elements have been extended to civil cases where it is personal - notably parental - behaviour that is under scrutiny. This is the approach that underpins the Family Drug Treatment Court (FTDC) in the USA, and it is the model on which FDAC is based.

A national evaluation of FTDCs<sup>8</sup> provides an encouraging picture of their impact. In comparison with standard court and services, under the new model:

- more children were reunited successfully with their parents
- there was swifter decision making to find alternative permanent new homes when reunification was not possible
- fewer cases ended in termination of parental rights, and
- there were cost savings, particularly on foster care services, because children spent less time in out-of-home care.

A crucial question is what mediates the results. The evaluation suggests that the court process and associated services played a central role. FTDC parents were more likely to:

- access substance misuse treatment faster
- resume treatment after a relapse, and
- complete treatment successfully.

Research shows that better outcomes are positively associated with both retention in services and user satisfaction with services.<sup>9</sup>

The encouraging USA evidence, and the need for new interventions in England at the point of care proceedings, were the catalysts for developing FDAC.

---

<sup>7</sup> Plotnikoff J and Woolfson R (2005) Review of the Effectiveness of Specialist Courts in Other Jurisdictions. DCA Research Series 3/05, Department for Constitutional Affairs, London.

<sup>8</sup> Worcel S et al (2007) *Family Treatment Drug Court Evaluation Final Report*. Submitted to Center for Substance Misuse Treatment, Substance Abuse and Mental Health Services Administration, US Department of Health and Human Sciences; Green B et al (2007) How effective are Family Treatment Drug Courts? Outcomes from a Four-Site National Study, *Child Maltreatment*; 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.

<sup>9</sup> Morris ZM and McKeganey N (2005) *Retention in Drug Treatment in Scotland: Accounting for Retention and its Implications for Policy and Practice*.

## **A feasibility study: testing the potential of FDAC**

In 2005 the FDAC Steering Group commissioned a study to establish the feasibility of developing a similar model to the FTDC within the English legal and social care system. The steering group included representatives from adult and children's services in the three inner-London boroughs involved in the pilot project, the Inner London Family Proceedings Court, CAFCASS, relevant government departments and the legal profession.

The feasibility study was conducted in association with Brunel University. It involved 57 interviews with practitioners in adult and children's services, third sector providers of services, children's guardians and solicitors, and parents who had been involved in child protection or care proceedings because of their substance misuse. Relevant research and policy was reviewed and the range of services available in the three boroughs was mapped. Details were collected of the number of care proceedings brought by each borough where parental substance misuse was a key issue; this was so for 60-70 per cent of cases in the year ending March 2005. The study<sup>10</sup>, published in July 2006, supported the piloting of the FDAC initiative. It proposed a model for the operation of the court and the make-up of the specialist team and it provided projected costs of the specialist team for a three-year pilot.

## **Official support and launch**

By May 2007 funding had been secured for the specialist team, from the three boroughs taking part in the pilot, the DCSF, the MoJ and the Home Office. A partnership agreement between the three boroughs assigned Camden to lead on commissioning, procurement and contract management with providers of the specialist team. A service specification for the team was developed, based on the proposed model in the feasibility report. An invitation to tender was published at the end of May 2007 and the successful joint bid by the Tavistock Portman NHS Trust Foundation and Coram Family was agreed in November 2007.

Besides the partnership agreement mentioned above, a governance structure was developed to support the strategic oversight and operational delivery of the FDAC pilot. This consists of the Steering Group and a range of operational sub-groups, including the Cross Borough Commissioning Group (CBCG) and the Cross Borough Operational Group (CBOG).

Between July 2006 and the end of 2007 the Steering Group retained oversight of work within the court, CAFCASS and the three boroughs to develop the systems

---

<sup>10</sup> Ryan M, Harwin J and Chamberlain C (2006) Report on the feasibility of establishing a family drug and alcohol court at Wells St Family Proceedings Court. Prepared for LB Camden, LB Islington, LB Westminster, CAFCASS, Wells St Inner London FPC, and Brunel University.



and structures to support the operation of the pilot. The formal, public launch of FDAC took place on 25 November 2007 and the court began hearing cases on 28 January 2008.

## **FDAC ethos and desired outcomes**

The service specification for the specialist team set out the ethos and anticipated outcomes for FDAC.

### **Ethos**

- This is a positive, proactive approach to addressing parental substance misuse. There will be a presumption that the parent acknowledges they have a substance misuse issue and is prepared to address that issue.
- It will ensure that effective services are provided in a timely and co-ordinated way for parents and at the same time there will be a clear focus on the welfare of the child, and the needs and wishes of children and young people will be identified and responded to.
- The same judge will review the parents' progress throughout the time that they are engaging in services. The judge has an important role to play in getting the message across to parents that people believe in their ability to change.
- This will be a model that is focused clearly on the impact on the child of the substance misuse. It is not helpful in this context to talk about either an 'abstinence model' or a 'harm minimisation model'. The approach will depend on the circumstances of the case and so, in some cases, the recommendation will be abstinence.
- The plan for the parent and the services provided will be grounded in what we know from research about effective interventions.
- The wider family will be involved from the earliest possible stage, and will be provided with support and information, unless it is assessed that it would be unsafe to involve some members of the family, for example in domestic violence cases.
- Parents should receive support and encouragement as they address their substance misuse.
- Parents who do not succeed in the programme, and then come back to court at a later stage in relation to subsequent children, should be able to access the system again.
- All parents should be given the opportunity of entering the programme but where the prognosis is poor the timescales for showing engagement and commitment to the programme should be short.



## Outcomes

- A higher proportion of children will be successfully reunited with their parents compared to traditional service delivery.
- A higher proportion of children will achieve permanency, more rapidly, where reunification is not possible.
- Parents are able to access and maintain treatment for their substance misuse.
- Parents are successful in achieving and maintaining controlled substance use or complete abstinence.
- Parents are successful in addressing related psychosocial difficulties (mental health, domestic violence, housing, family planning).
- Children are able to achieve positive outcomes as defined in the Every Child Matters agenda – safety, health, education, achievement and enjoyment, and economic well-being.

## FDAC in the context of national policies

The FDAC pilot court has been funded by the DCSF, the Home Office and the Ministry of Justice under the *Care Matters: Time for Change* programme. The main aim of this comprehensive programme is to improve the outcomes for children already in the care system and for those who are at risk of entering it. Research has shown consistently that a history of being in care can be associated with a range of negative outcomes<sup>11</sup>, although it is also important to recognise that many factors influence care outcomes and that it is easy to oversimplify complex evidence<sup>12</sup> - children can also do well in care. Nevertheless, it is a fact that children from the care system are over-represented in prison, psychiatric and homeless populations. Their educational and social outcomes are also frequently poor and family ties may be lost. The financial costs are considerable: £1.61 billion is spent on children in care each year<sup>13</sup>.

---

<sup>11</sup> DfES (2006) *Care Matters: Transforming the Lives of Children and Young People in Care*. October, Cm 6932; House of Commons Children, Schools and Families Committee (2009) *Looked-after Children*. Third Report of Session 2008-09, Vol. 1, HC111-1.

<sup>12</sup> Bullock R, Courtney ME, Parker R, Sinclair I and Thoburn J (2006) *Can the corporate state parent?* *Adoption & Fostering*, Volume 30, No 4, pp 6-19; Sinclair I, Baker C, Lee J and Gibbs I (2007) *The Pursuit of Permanence: A Study of the English Child Care System*. Jessica Kingsley, London; Sinclair I, Gibbs I and Wilson K (2004) *Foster Placements: Why They Succeed and Why They Fail*. Jessica Kingsley Publishers, London.

<sup>13</sup> Narey M (2007) *Beyond Care Matters: Future of the care population*. Working group report DfES; House of Commons Children, Schools and Families Committee (2009) *Looked-after Children*. Third Report of Session 2008-09, Vol. 1, HC111-1.

The number of children in care has ranged from 61,200 in 2004 to 59,500 at 31 March 2008<sup>14</sup> (the latest year for which figures are available). 63 per cent of all looked after children at the end of March 2008 were on a care order. Of the 23,000 children who entered care in the year ending March 2008, 19 per cent did so under a care order.

The rate of care applications has been particularly volatile over the last 18 months. According to CAF/CASS<sup>15</sup>, the number of care applications in the first quarter of 2009-10 (April-June) increased by 80 per cent over the same period in the previous year (up from 1,148 to 2,071). Indeed, the figure for June 2009 (774) is reported to be the highest ever recorded for a single month. However, the total number of care applications between 2005-06 and 2008-09 has remained fairly constant (6,613 in 2005-06; 6,786 in 2006-07; 6,240 in 2007-08 and 6,471 in 2008-09).

It is not possible to report reliably on the proportion of care proceedings that involve parental substance misuse as no national statistics are collected. This means that it is not possible to track the trends over time and indicate how far the current surge in care applications might involve parental substance misuse. However, the indications are that parental substance misuse may be playing an increasing role in care applications. As already noted, the FDAC feasibility study found that parental substance misuse was a major factor in 60-70 per cent of all care proceedings in 2004-05 in the three Inner London authorities participating in the FDAC pilot<sup>16</sup>. Although caution is needed in extrapolating to different parts of the country, this rate is substantially higher than the 44 per cent found in Harwin et al's study of court care plans<sup>17</sup>. It is against this background that the FDAC initiative has been funded under the *Care Matters* programme.

FDAC links in well with a number of other current policy initiatives. Reference has already been made to the reports by the Advisory Council on the Misuse of Drugs<sup>18</sup> and Turning Point<sup>19</sup> which informed the development of the pilot. Similar messages of the need for a family-focused approach and better co-ordination of

---

<sup>14</sup> DCSF (2008) Children looked after in England (including adoption and care leavers) year ending 31 March 2008. Statistical First Release, SFR/23-2008, DCSF.

<sup>15</sup> Cafcass Care Demand Statistics: Figures derived from Cafcass national case management system. Note: A case can 'involve multiple children and multiple application types'. <http://www.cafcass.gov.uk/PDF/0910%20Q1%20care%20demand%20update%202009%2007%2016.pdf>

<sup>16</sup> Ryan M, Harwin J and Chamberlain C (2006) *Report on the feasibility of establishing a family drug and alcohol court at Wells St Family Proceedings Court*. Prepared for LB Camden, LB Islington, LB Westminster, CAF/CASS, Wells St Inner London FPC and Brunel University.

<sup>17</sup> Harwin J, Owen M, Locke R and Forrester D (2003) *Making Care Orders Work*. TSO, London.

<sup>18</sup> Advisory Council on the Misuse of Drugs (2003) *Hidden Harm: Responding to the needs of Children of Problem Drug Users*. London: Home Office.

<sup>19</sup> Turning Point (2006) *Bottling It Up: The Effects of Alcohol Misuse on Children, Parents and Families*. London.

adult and children's services were contained in the follow-up report by the Advisory Council on the Misuse of Drugs (2007)<sup>20</sup>.

The government's Ten Year Drug Strategy<sup>21</sup> acknowledges that the impact of parental drug misuse on children can be significant and long lasting but had been underestimated previously. It contains commitments to ensure prompt access to treatment for parents, assessments which take account of the whole family's needs, and more 'family friendly' drug treatment services which link families into tailored packages of support, including intensive interventions drawing on lessons from the Family Intervention Projects and from this pilot. More recently, the Chief Medical Officer's report<sup>22</sup> has emphasised both the continuing rise in alcohol consumption in England and the negative impact of problem drinking, and has stressed the need for a step change in society's attitude to alcohol.

DCSF is currently funding a pilot of Multi-Systemic Therapy for Child Abuse and Neglect (MST.CAN) which includes an intervention in cases involving parental substance misuse<sup>23</sup>.

The Think Family<sup>24</sup> approach set out in the New Opportunities White Paper<sup>25</sup> and earlier policy documents is encouraging improved information sharing and co-ordination between adult and children's services in all areas, building on the learning from the 15 Family Pathfinders. Think Family recognises that where families are experiencing a range of risk factors there needs to be a focus on intensive and targeted multi-agency support for the whole family, to help address their complex and chronic problems.

---

<sup>20</sup> Advisory Council on the Misuse of Drugs (2007) Hidden Harm Three Years On: Realities, Challenges and Opportunities. Report of an inquiry by the Advisory Council on the Misuse of Drugs. Home Office, London.

<sup>21</sup> HM Government (2008) Drugs: protecting families and communities. The 2008 Drug Strategy.

<sup>22</sup> Department of Health (2009) Annual Report of the Chief Medical Officer.

<sup>23</sup> DfES (2007) Care Matters: Time for Change. Cm 7137.

<sup>24</sup> Cabinet Office Social Exclusion Task Force (2008) Think Family: Improving the life chances of families at risk.

<sup>25</sup> HM Government (2009) New Opportunities: Fair Chances for the Future. White Paper.

## A2 - THE FDAC COURT AND FDAC SERVICE

### How the FDAC court works

This section describes how proceedings are being conducted at the present time (July 2009). Changes to the process that have occurred over the course of the pilot, and issues requiring further resolution, are discussed later in the report.

Proceedings in the FDAC court are care proceedings, brought by the local authority under section 31 of the Children Act 1989. The normal processes prior to the issue of proceedings are followed, in accordance with the Public Law Outline (PLO). If parental substance misuse is a key feature of a case the local authority contacts the listing office at Wells Street at the point where they are considering issuing proceedings. They notify the court of a potential FDAC case and the case is listed to go before FDAC the following week. If that list is full the case may be listed to go before FDAC in two weeks' time or, if this would be too long a delay, it is listed for a first hearing in a non-FDAC court and transferred to FDAC after that hearing.

Table 1 sets out the differences between care proceedings in FDAC and standard care proceedings

**Table 1: Differences between FDAC and standard care proceedings**

<b>FDAC</b>	<b>Standard care proceedings</b>
<b>Judges</b> <ul style="list-style-type: none"> <li>- two dedicated judges</li> <li>- two others provide back up</li> </ul>	No dedicated judges or magistrates – so very little judicial continuity
<b>Specialist team</b> <ul style="list-style-type: none"> <li>- a multi-disciplinary team linked to the court , carrying out range of tasks including assessment, developing and facilitating an intervention plan, direct work with parents, linking parents into services, reporting to the court on a regular basis</li> </ul>	No specialist team
<b>Hearings</b> <ul style="list-style-type: none"> <li>- regular reviews without legal representatives</li> </ul>	No hearings without lawyers – little opportunity for parents to speak directly to judge or magistrate.
<b>Guardians</b> <ul style="list-style-type: none"> <li>- a dedicated pool</li> <li>- appointed straight away</li> <li>- appoint their own solicitor</li> </ul>	No dedicated guardians – often delays in their appointment, and solicitors often appointed first
<b>Assessment of substance misuse</b> <ul style="list-style-type: none"> <li>- assessment, prognosis and drug/alcohol testing via the FDAC team</li> <li>- within 2/3 weeks of first hearing</li> </ul>	Parents' solicitors responsible for organising drug/alcohol testing – delays can occur. Assessment and prognosis by experts – same problems as set out below

<p><b>Other expert assessment</b></p> <ul style="list-style-type: none"> <li>- can be ordered by the court, if needed, but aim is for FDAC team to do this work</li> <li>- parents sign an agreement to take part in FDAC, accepting team's independence and authorising them to do assessment</li> <li>- assessment presented within 2/3 weeks of first hearing</li> <li>- final report prepared for final hearing or when case exits FDAC</li> </ul>	<p>Assessments ordered by the court</p> <ul style="list-style-type: none"> <li>- legal representatives for all parties usually draw up lengthy letter of instruction to expert</li> <li>- tendency for series of consecutive assessments</li> <li>- reports usually arrive several months into proceedings</li> <li>- delays common</li> </ul>
<p><b>Services</b></p> <ul style="list-style-type: none"> <li>- services for parents co-ordinated by FDAC team</li> </ul>	<p>Little co-ordination of services for parents</p>

The FDAC sits one day a week, on a Monday. There are two District Judges who hear the cases regularly, and two other District Judges who can cover for holidays and sickness. Five or six new cases can be selected each month (two to be heard on the first Monday and one each week after that). These limits are imposed by available time within the court and the FDAC specialist team.

Once a case is selected for FDAC a children's guardian is appointed, from the dedicated pool of 12 guardians involved in the FDAC pilot, and they in turn appoint a solicitor to represent the child or children.

**First hearing** At the first court hearing members of the specialist team meet the parents and their legal representatives to explain what involvement in FDAC will mean in practice. Parent mentors attached to FDAC are also available to discuss the process with parents. Parents decide, with advice from their legal representative, whether or not they wish to take part in FDAC. If they opt in, the process begins at once. As these are care proceedings where the local authority view is that the children are suffering or likely to suffer significant harm attributable to parental action or inaction, the local authority may be seeking an interim order at the first hearing and the court will deal with this in the normal way. In all cases, the court orders disclosure of all the papers in the proceedings to the specialist team and the court hearing is followed by a two-week assessment period. A process flowchart is at annex 1. There are two other options for parents at the first hearing – they may choose not to join FDAC, and the case is then listed for normal care proceedings. Or they may ask for more time to decide, and the case is relisted for the following week.

**Leaving FDAC** Parents who opt into FDAC may withdraw from the specialist court at any later stage. Or the parties may agree, on the recommendation of the specialist team, that the case should exit FDAC. The grounds will be that parents have failed to engage with the process or the time required for parents to address their substance misuse problems will be considerably longer than the appropriate time needed to provide the child with a long-term stable home. Cases leaving FDAC revert to standard care proceedings.

**Second hearing** The case returns to FDAC three weeks after the first hearing. By then the specialist team will have filed the report of their assessment and their proposed intervention plan. If the court and all parties are in agreement with the plan the parent signs a formal agreement to take part in the FDAC process (annex 2). The local authority updates its care plan to take account of the intervention plan.

**Review hearings** After the second hearing the case returns to court every two weeks, also on a Monday, for review by the same judge. The specialist team prepares a short written report each time. Reviews are attended by the parents, the key worker from the specialist team and the local authority social worker. Legal representatives do not attend reviews and legal aid is not available for them. Children's guardians may attend if they wish, and usually do so. The reviews are the opportunity for a relatively informal discussion, led by the judge, about the parents' progress and any problems that may have arisen. If any party to the proceedings has serious concerns about any aspect of the case then the court will direct that legal representatives should attend the next review and legal costs will be covered by the Legal Services Commission.

If a contested issue arises in an ongoing FDAC case, for example over an interim order or over contact arrangements, the matter is listed for a non-FDAC day and may or may not be heard by the relevant FDAC judge. This is because of capacity within the court, not because it is thought inappropriate for the FDAC judge to deal with contested issues. Before a matter is listed for a contested hearing there will be full discussion in second or review hearings (with lawyers attending) to try and resolve the disagreement.

The Public Law Outline (PLO) applies to FDAC care proceedings, with advocates' meetings, Case Management Conferences (CMCs) and Issues Resolution Hearings (IRHs) all taking place as usual. But there is an element of flexibility. In particular, the dates for final hearings are not set until there is some clarity about how the case is progressing.

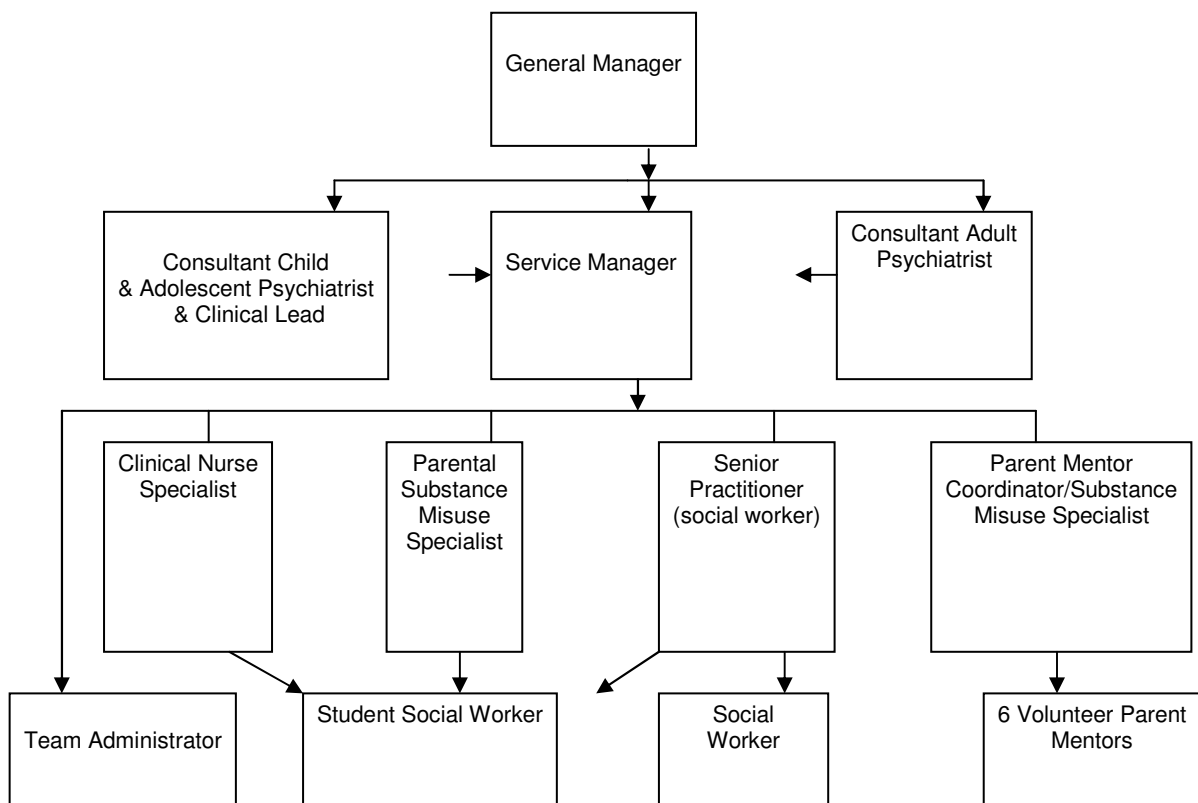
Cases progress as normal to a final hearing, with the same range of options open to the court as in normal care proceedings. Parents leaving FDAC who have addressed their substance misuse satisfactorily and demonstrated that they are parenting satisfactorily receive a 'graduation' certificate at the final FDAC hearing. This certificate is not awarded to parents for whom there are continuing parenting concerns, even if they have addressed their substance misuse satisfactorily. We return to this point later, in the section on set-up lessons.

## How the FDAC specialist team works

As for the court process above, this is a brief description of the specialist team and how it operates now, just over a year into the pilot (July 2009). A process flowchart is at annex 3. Changes over time to the way of working, and issues that continue to require resolution, are discussed later in the report.

The specialist team is provided by a partnership between Tavistock Portman NHS Trust Foundation and Coram Family. The team (see figure 1) works from a building on the Coram Family site. Space is limited, but includes administrative offices, a small interview room and a larger room used for assessment and observation sessions with families and for intervention planning and review meetings with professionals and families. The general manager and the consultant psychiatrists, all of whom offer about a day a week to the team, are not based at the office. The staff depicted in the chart below, apart from these three post holders, form the core specialist team.

**Figure 1: The FDAC specialist team**



**Court work** At least two team members (and sometimes up to seven) attend court each Monday. Parent mentors are there, too, to support parents they are



linked to and to be on hand to talk to parents attending their first hearing. The court waiting area is reserved for FDAC use, with one interview room used by the team and two others used for meetings needed by any parties. The team members attending on the day have a preliminary briefing session with the FDAC judge to run through any particular issues in relation to cases listed for second hearings or reviews. FDAC team members play an active role in each hearing. In between hearings they are available throughout the day. For first hearings, they explain the process to parents, to their legal representatives, and to other family members who are attending to support a parent or to be joined as a party to the case. For ongoing cases, they engage in discussions with parents, legal representatives and guardians.

**Assessment and intervention work** The assessment phase begins on the day a parent tells the court they agree to join FDAC. After the hearing they and their representatives are told more about the process. A team member is identified as the key worker for the case and an early home visit is made if the children are living at home with the parents. Background papers from the local authority (including the core assessment, and, where available the care plan) and from other sources are collected and studied. These documents are used by the FDAC team to inform the FDAC assessment and to identify any gaps and discrepancies in information that need to be addressed. Parents and children spend a day at the office, for an assessment that focuses on their substance misuse problems and on parenting. All team members, including the child and adult psychiatrists, meet to formulate a proposed intervention plan. This is followed by an intervention planning meeting to discuss the assessment and proposed plan, attended by team members, parents, the local authority social worker and the children's guardian. The plan is presented to the court at the next hearing. If the formal FDAC agreement is signed at that stage the intervention plan begins to be implemented.

The initial focus of intervention is to support parents gain control of their substance misuse in order to create a safe-enough environment for their child. Control is not defined as total abstinence – the starting point for the team and the court is that the expectation will depend on the particular circumstances in each case. The arrangements for monitoring parenting capacity in this first phase are flexible. If the parents are still with their child, either in a residential unit or at home, the FDAC team in collaboration with the local authority will recommend in their plan which professionals should be responsible for assessing and monitoring parenting capacity. If the parents are separated from their child, parenting capacity is monitored by the local authority, through the contact arrangements with the child. If parents are not able to make the changes necessary to control their drug use, the case exits FDAC with a recommendation that the child should be found a permanent placement away from the parent/s. This part of the process may last for up to three months, sometimes less. If parents demonstrate that they are developing some control of their substance misuse in the first three months, the next phase focuses more on parenting



issues whilst continuing to monitor progress with substance misuse (see algorithm at annex 4). This is about whether parents can maintain their recovery and whether they have the capacity to meet their child's needs within an appropriate time frame, determined by the child's age and particular needs. The purpose of the new assessment is to update, in the light of parents' present functioning, the assessment of parenting capacity presented to the court at the first hearing. The FDAC team liaises closely with the local authority in devising the parenting assessment and at the present time a case-by-case decision is made as to which organisation undertakes the work (see section C - Expert assessment).

In summary, the assessment and intervention work is about undertaking assessments, co-ordinating intervention plans, problem solving as necessary, helping motivate parents to engage and remain engaged with substance misuse and parenting services, and providing regular reports on parental progress to the court and all others involved in the case. The particularly distinctive features of the team's work are the speed with which assessments are provided to the court; the regular feedback and link with the court through reviews; and the combination of direct, therapeutic work with parents with assessment and co-ordination of other services.

**Volunteer parent mentors** The parent mentor role is divided into two phases. In the first phase, the mentor provides initial support to the parent from the time of the first hearing through the assessment and planning stage. If parents decide to accept the FDAC service, a mentor may be matched to the parent, to undertake a specific type of support that will have been set out in the parent's individual intervention plan. Core aspects of their role include helping parents engage with the service and understand the court process and accompanying and supporting them to access services specified in the intervention plan. They are supervised by the parent mentor co-ordinator, who is also responsible for their recruitment, selection and training.

**Other work** The team has a broad liaison role with local agencies in the three boroughs, including regular contact with housing and domestic violence link workers, treatment services and children's services. They also carry out a range of alcohol and drug use tests, including blood and urine testing, mouth swabs and hair strand checks. They do the latter two at court, if necessary.

## **A3 - THE EVALUATION**

The Brunel University research team comprises Professor Judith Harwin (lead investigator), Dr Carla Matias (full-time research fellow), Dr Subhash Pokhrel (economist), Bachar Alrouh (part-time project assistant) and occasional administrative and technical assistance. Dr Sharon Momenian-Schneider was research fellow in the early months of the project and retains a continuing consultant role. Mary Ryan and Jo Tunnard are consultants to the evaluation, on the basis of their work on the FDAC feasibility study, their legal and advocacy backgrounds, and their experience of working with third sector and social care organisations concerned with parental substance misuse. Professor Jim Orford, Emeritus Professor, Birmingham University, and Dr Beth Green, President, NPC Research, Portland, USA, act as consultants on research matters. The team is supported by a Research Advisory Committee.

### **Evaluation aims**

In July 2010 the final report will report in detail on the overall aims of the evaluation. These are:

- to describe the FDAC pilot and identify set-up and implementation lessons
- to make comparisons with standard court proceedings involving parental substance misuse, including a comparison of costs, and
- to indicate whether this different approach might lead to better outcomes for children and parents.

At this interim stage, we describe the emerging FDAC model and early set-up lessons, the profile of the cases coming to court, the model adopted for costing the pilot, and the issues that merit discussion and consideration as the pilot continues. It is premature to draw on cases in the comparison sample or to comment on child and parent outcomes.

### **Design and methodology**

In order to achieve the aims of the research, we have embarked on several interlinked strands of activity:

1. Collecting baseline information and tracking cases over six months
2. Observing what happens in court
3. Gaining perspectives from those involved in the pilot cases
4. Developing a model for costing FDAC.

## **1. Collecting baseline information and tracking cases for six months**

File information from care proceedings cases involving parental substance misuse, from the pilot authorities and offered FDAC, will be compared with information from similar cases from one or two comparison authorities, also heard at the Inner London Family Proceedings Court but under standard care proceedings (non-FDAC). The file information relates to consecutive cases (FDAC and non-FDAC) coming before the court between January 2008 and June 2009 and the tracking period for each case is six months from the date of the first hearing. The target sample is 60 FDAC cases and 20-30 comparison cases. Data is collected on all the children in the case.

**To date** Baseline data from court files on all FDAC cases from the first 12 months, and on cases from the comparison authority over 6 months, has been collected on a paper questionnaire and transferred to the evaluation database.

## **2. Observing what happens in the FDAC court**

A member of the research team sits at the back of the court and completes a questionnaire about the court process for each hearing, using a questionnaire designed to capture data about the ethos and problem-solving nature of the court. Time in the court waiting room is used for discussion with parties about the evaluation, including explaining and obtaining parental consent for interview. There is no observation of comparison cases as research is already available on standard care proceedings<sup>26</sup>.

**To date** Court observation has occurred during each FDAC sitting since the court opened, bar very occasional absence through sickness. A questionnaire has been completed for each hearing. Quantitative information from questionnaires has been transferred to the evaluation database and qualitative comments retained separately.

## **3. Gaining perspectives from those involved in the pilot cases**

The plan is to use a mixture of interviews and focus groups to canvas the views of those involved in FDAC cases - parents, the FDAC team, the judges and court staff, children's guardians, lawyers, social workers, commissioners and service providers. Interviews will not be conducted for the comparison cases as this level of detail on perspectives was not considered necessary for a preliminary evaluation and, as with the court process, information is available from other research studies.

**To date** Schedules have been developed and piloted by the team for each group interviewed. Most interviews and focus groups have been tape recorded and in

---

<sup>26</sup> Freeman P and Hunt J (1998) Parental Perspectives on Care Proceedings - Studies in Evaluating the Children Act 1989. TSO, London.

all cases contemporaneous notes have been taken and transcribed. Interviews or group meetings have been held with:

- the nine members of the FDAC specialist team
- the four District Judges who have presided over FDAC cases
- the former Chair of the Cross Borough Operational Group, who had also been a member of the Steering Group for the feasibility study
- the former co-ordinator of the Commissioning and Contract Managing groups, who had also had responsibility for managing the tendering and commissioning process on behalf of the lead borough, Camden
- 22 parents (19 mothers and 3 fathers), and
- nine of the 12 guardians in the FDAC pool of guardians.

Focus groups and interviews with lawyers, social workers and representatives of adult treatment services and other service providers will be conducted in the coming months. These perspectives on the pilot are not able to be included in this report (with the exception of drawing on informal meetings of social workers and lawyers at court) but will be included in the final report.

The table below sets out the different strands of activity and indicates which is to be conducted in the pilot and comparison authorities.

**Table 2: Summary of the main components of the FDAC evaluation and the features of the comparison with non-FDAC authorities**

Activity	FDAC pilot authorities	Comparison authorities	Purpose
Collect baseline sample	√	√	Administrative data (court, children's services files): to establish similarities and differences in the samples
Track cases for six months from 1 <sup>st</sup> hearing	√	√	Administrative data as above: to compare child and parent short-term outcomes
Court observation	√	×	No access to court in non-FDAC cases
Interviews with parents, judges, FDAC team (including parent mentors) and FDAC commissioners	√	×	To capture direct experiences of participants
Focus groups/ interviews with social workers, guardians, service providers	√	×	As above
Interviews with senior managers, children's services	√	√	To discuss implications of the findings
Costings	√	√	Comparison of like-for-like placement data. Other costs (eg. of assessments), although key, cannot be matched directly.

#### **4. Developing a model for costing FDAC**

It was envisaged that the cost modelling work would need to draw on a range of sources, including models developed for other purposes, published unit cost data, information from court and agency case files, and material from interviews and questionnaires from key informants. The model will provide for comparison between FDAC and non-FDAC proceedings. The approach to costing FDAC is outlined in Section B of this report. For the comparison authorities, equivalent costs such as the costs of expert evidence and time costs of local authority staff to attend hearings will be identified and measured through specially designed information sheets to be filled in by the local authority legal team. This will be family-level data. This data will be presented in the final report.

**To date** The development work has included a time activity survey with the FDAC team and a survey of inputs by the guardians. The model being tested by the evaluation team, and more detail about the work involved in doing that, is described in section B2 of this report.

#### **Some issues arising**

##### **Sample size**

On the basis of the feasibility study, the sample size was set at 60 cases entering FDAC in a year. But it became evident early in the pilot that this target would not be reached. A supplementary grant was secured from the Nuffield Foundation to allow the sample collection period to be extended by five months. The tracking period remains unchanged – six months from each first hearing. Possible reasons for fewer cases than anticipated entering FDAC are discussed later in the report.

##### **Comparison authority**

The London Borough of Hammersmith & Fulham was identified as a similar local authority to the pilot authorities and agreed to become the non-FDAC comparison. An agreement has recently been reached with the London Borough of Southwark to become the second comparison authority, to increase the size of this sub-sample.

##### **Tracking progress (parents and children)**

The period for tracking each case (six months) is short, inevitably so for an evaluation of this kind – a descriptive study to explore set-up lessons. Inevitably, too, in some cases the court process will not be completed by the end of the tracking period. And the short follow-up period also limits what can be learnt in relation to outcomes for parents and children. Even though the main purpose of the outcome component is modest – to establish whether there are sufficiently encouraging results to warrant a longer-term outcome study with a different research design (such as a randomised controlled trial) – capturing change in

such a short period is a challenge and a limitation of the study. To help mitigate these limitations we have set up a system with help from CAFCASS. This will provide us with information, even in cases that have exited FDAC, about when each case finishes, the nature of the final order, and child and parent progress up to the final hearing.

We have adopted the following priority indicators to track progress:

*The child's service outcome and/or case progression (depending on the content of the court care plan)*

- child remains with parent throughout, or reunification of child to their birth parent, with length of time taken
- if there is no plan for reunification, the type of placement and time taken to secure it
- stability of living arrangements, measured by placement moves

*Parental service outcome and/or case progression*

- substance misuse - time to treatment, length of treatment period, whether treatment completed
- other services - whether provided, whether access fast tracked, duration period and completion (if relevant)

*Child welfare*

- evidence of maltreatment (recurrence of neglect and/or abuse) and/or significant harm

*Parental well-being*

- if plan is for reduction of substance misuse – abstinent or reduced use in line with court recommendation, no change, or relapse
- if plan is for ending substance misuse - relapse frequency and recovery.

We have included in our outcome measures a new category: the child remains with the parent throughout (see first point, above). In the service specification only reunification is listed but this excludes the reality that some children subject to care proceedings are not separated from their parents. We return to this issue in our learning points as part of a wider discussion about what constitutes 'success'.

### **Development of questionnaires**

To ensure consistency in data collection and court observation, we developed schedules (questionnaires) for each part of the study. For this we drew on the research instruments developed for the large-scale national evaluation of family

drug and alcohol courts in the USA<sup>27</sup>, adapting them to fit the objectives of the FDAC pilot. Each questionnaire was written, piloted and revised by the team several times in the early weeks of the evaluation and commented on by the Research Advisory Committee and the consultant to the project who had been a member of the national American evaluation. There is more information about the data collection questionnaires in relevant sections of the report.

The schedules developed for collecting information from other sources (CAFCASS, FDAC team files and local authority files) underwent a similar process of piloting and revision.

### **Data analysis**

We are using Access and the Statistical Package for the Social Sciences (SPSS) for the analysis of quantitative data, and grounded theory<sup>28</sup> for the analysis of interviews and other qualitative data.

### **Ethical approval**

The evaluation has full approval from the Brunel University Research Ethics Committee, the Camden and Islington Community Research Ethics Committee, from CAFCASS, and from FDAC pilot and comparison local authorities. The basis for permission to access files and interview parents is set out below and later, under set-up lessons, we discuss the impact of ethical approval on the evaluation.

- The researchers have court authorisation under the Family Proceedings Court (Children Act 1989) rules (Rule 23A as amended) to access court files in FDAC and comparison authorities for the duration of the study, without parental consent. They also have written court approval to conduct parental interviews (subject to parents giving signed informed consent).
- Access to case files held by the FDAC team is subject to signed parental consent. The team has full approval to interview the FDAC team and NHS personnel, under the provisions of the ethical approval from the Camden and Islington Community Research Ethics Committee.
- Signed parental consent is required to access the children's services files in the three pilot authorities. In the comparison authority, parental opt out has been agreed as the basis for accessing files. These arrangements have been approved by the senior management of each authority.

---

<sup>27</sup> Worcel S et al (2007) *Family Treatment Drug Court Evaluation Final Report*. Submitted to Center for Substance Misuse Treatment, Substance Abuse and Mental Health Services Administration, US Department of Health and Human Sciences; 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.

<sup>28</sup> Strauss A and Corbin J (1990) *Basics of qualitative research: grounded theory procedures and techniques*. London: Sage.



## **PART B: SOME EMERGING FINDINGS**

### **B1 - THE FDAC SAMPLE IN YEAR ONE**

This section reports on the families who were invited to join the FDAC pilot in the first year of operation. It describes the nature of the child care concerns and parental difficulties that triggered the proceedings, and it provides information about the orders and placements sought by the three pilot local authorities. It concludes with details about how long the cases remain in FDAC, how many have exited, and why. All the data is aggregated, rather than provided separately for each local authority, in order to provide an overview of year one. The case profiles cover all the mothers, their children involved in the case and fathers who are parties to the proceedings. As noted earlier in the report, no information is presented at this stage about cases from the comparison authority.

#### **How we collected the data**

A baseline questionnaire was used to transfer data from the court files held on families invited to join FDAC (and on those in the comparison authority). The information was extracted from the application filed by the local authority at the start of proceedings. The baseline questionnaire asks for information about the child and their mother and father. The information collected on each parent is about their socio-demographics, substance misuse and other psychosocial difficulties and any convictions, current (and any past) involvement with children's services, and legal information about the application for care proceedings. The information collected on each child in the case covers their physical health, their behaviour and development, their education (if old enough), any history of neglect or abuse, and current (and any past) legal orders and placements.

#### **The families involved**

In the year to the end of January 2009, the first year of the pilot, 37 families with 51 children involved in the care proceedings were invited to join FDAC. From those families, 37 mothers and 23 fathers were parties to the proceedings. The proceedings were initiated in all cases because of serious concerns about the mother's substance misuse. All but two families accepted the FDAC invitation.

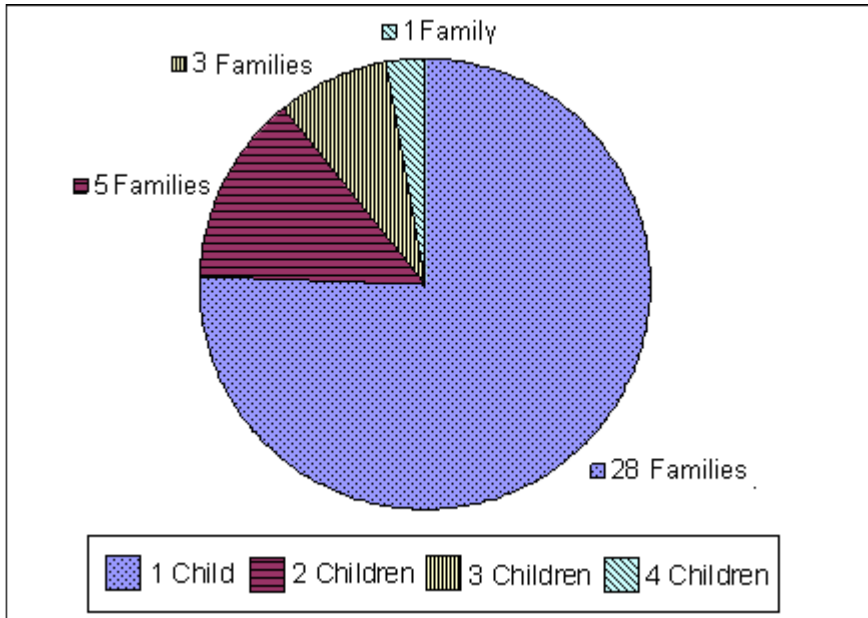
#### **Household composition and size**

Twenty-five (25) families were headed by a lone mother and none by a lone father. Ten (10) mothers and fathers were living together. Two mothers were living with a new partner. As shown in figure 2, families with one child predominated (28 out of 37). In some cases other children had been removed



previously. Information about this is missing for six families; for the other 31 families, 23 children had been removed, from 18 families.

**Figure 2: Families offered FDAC (January 2008-09) and the number of children in the current case (families=37)**

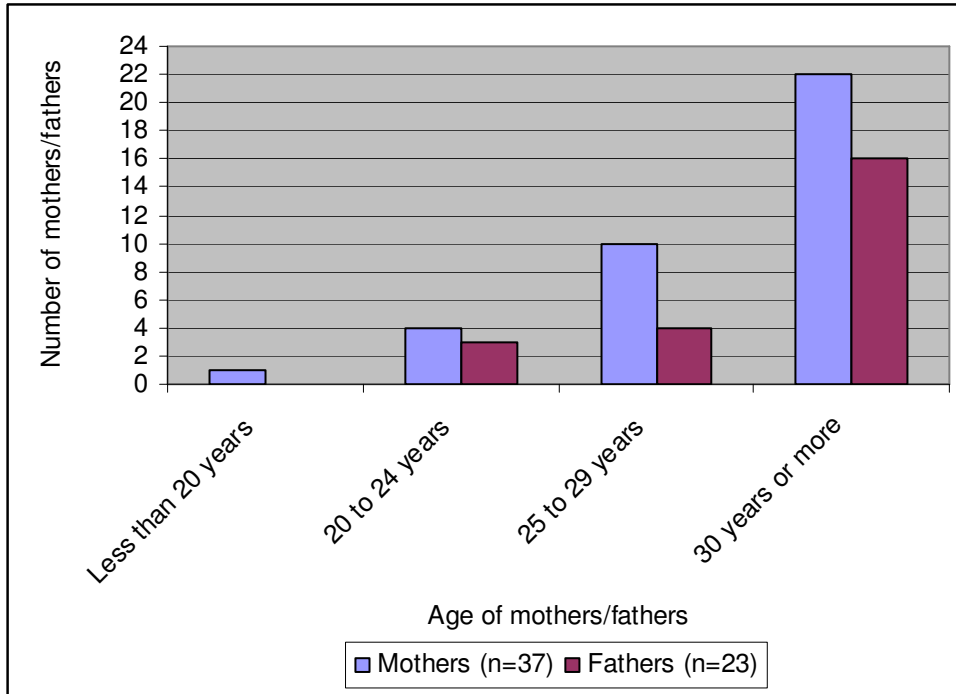


### **Age and ethnicity of parents**

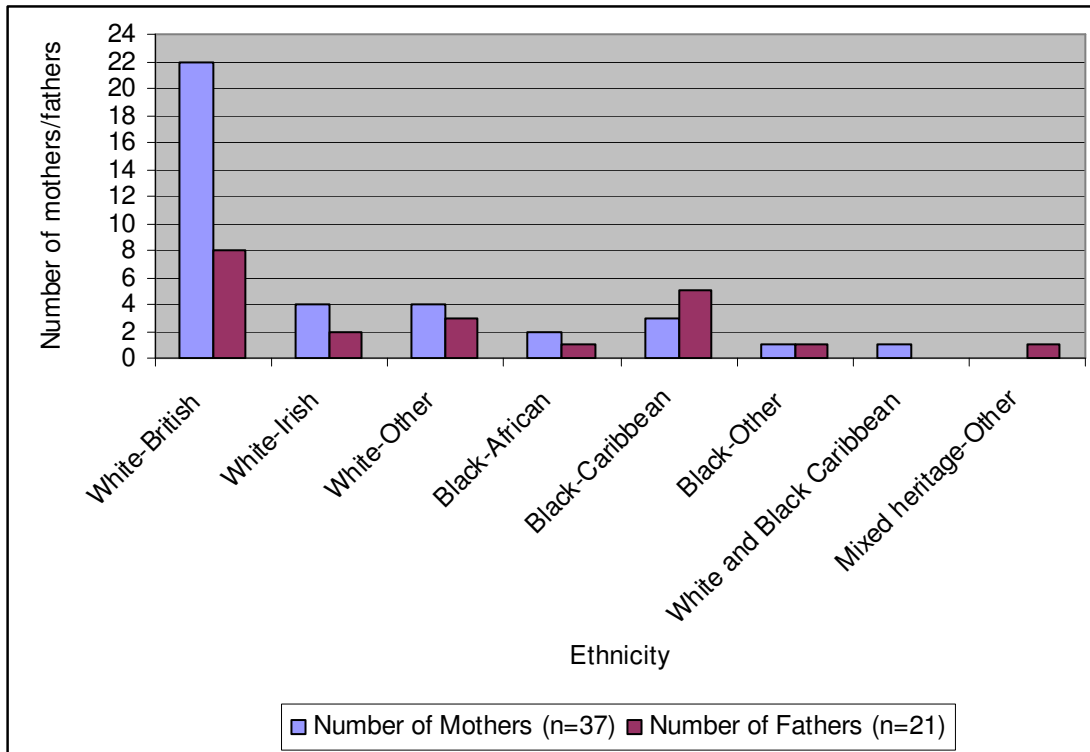
There were more mothers and fathers aged 30 or over than in any other age band, and very few parents were under 25 (figure 3), a fact that is likely to be linked to the fact that some parents, as noted above, had had children previously.

The ethnicity of the largest group of mothers and fathers was White British (figure 4). A small number of parents were Black African, Black Caribbean and described as Black/Other. One mother and one father were of mixed heritage.

**Figure 3: Age of parents**



**Figure 4: Ethnicity of parents**



Note: information missing on 2 fathers

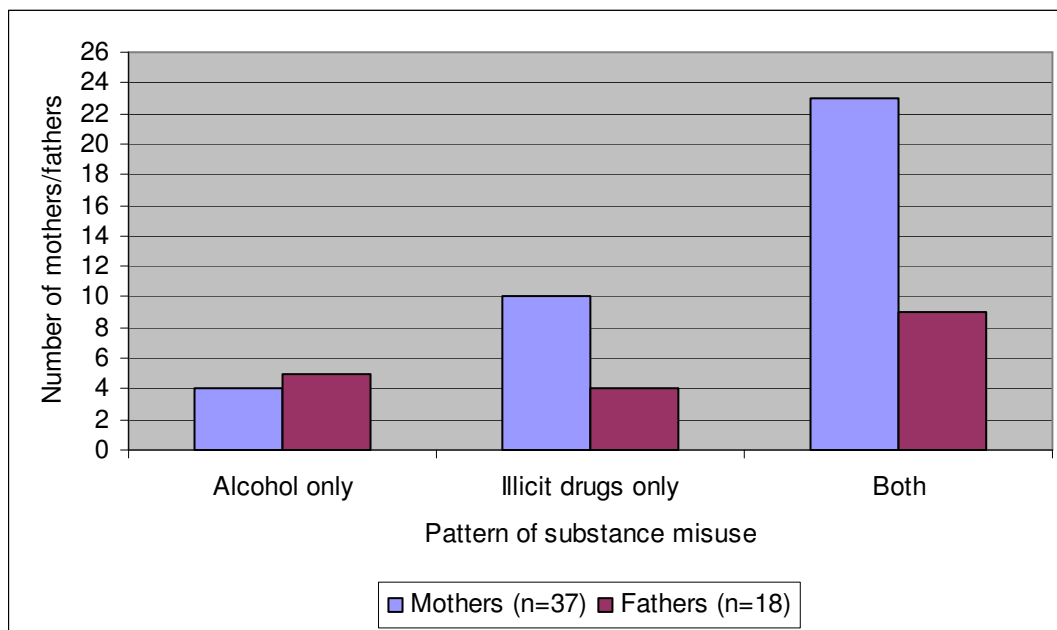
### Income, employment and housing

A high proportion of the parents were unemployed (mothers 31 of 37, fathers 19 of 23). Of mothers, just over half were on income support and just under a third receiving housing benefit. Income support and housing benefit were the commonest benefits for fathers, too. Information about age on leaving school, educational qualifications and housing was recorded too infrequently to merit reporting here.

### Parental substance misuse

All the mothers misused substances, as did 18 of the 20 fathers for whom information is available. Maternal and paternal misuse of both alcohol and illegal drugs was the most frequent pattern (figure 5). Very few cases involved alcohol misuse alone.

**Figure 5: Pattern of substance misuse**



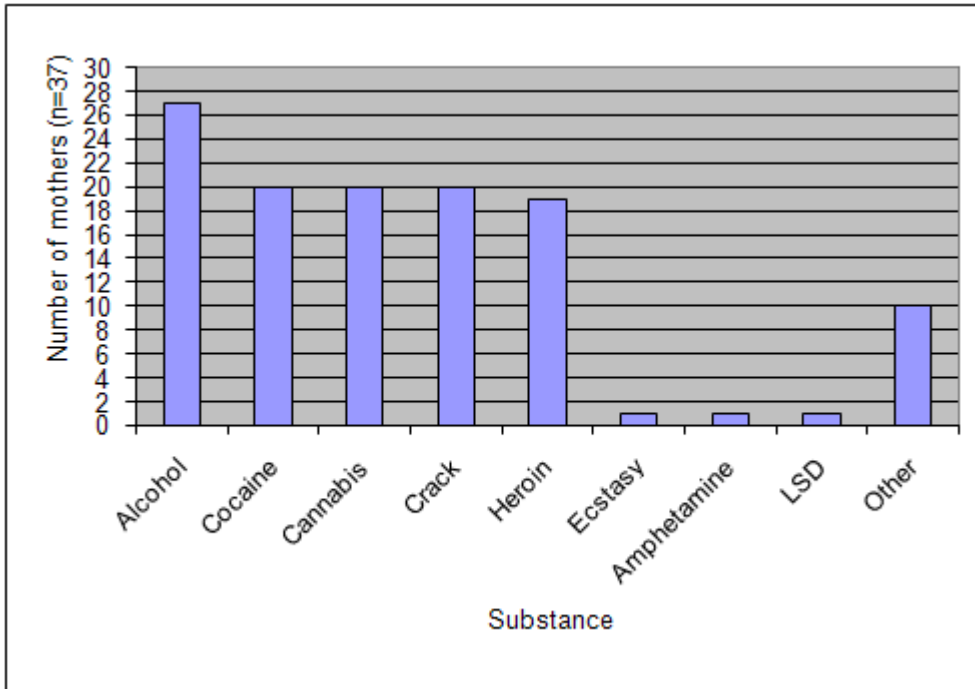
Note: information missing on 3 fathers (and 2 have no substance misuse issues)

Many mothers had a very long history of substance misuse: 27 had misused for ten years or more. Four of the five fathers for whom this information is recorded had been misusing for at least ten years, and two for over 20 years.

### Mothers

Although very few mothers misused alcohol alone, most misused it alongside their misuse of illegal drugs (figure 6).

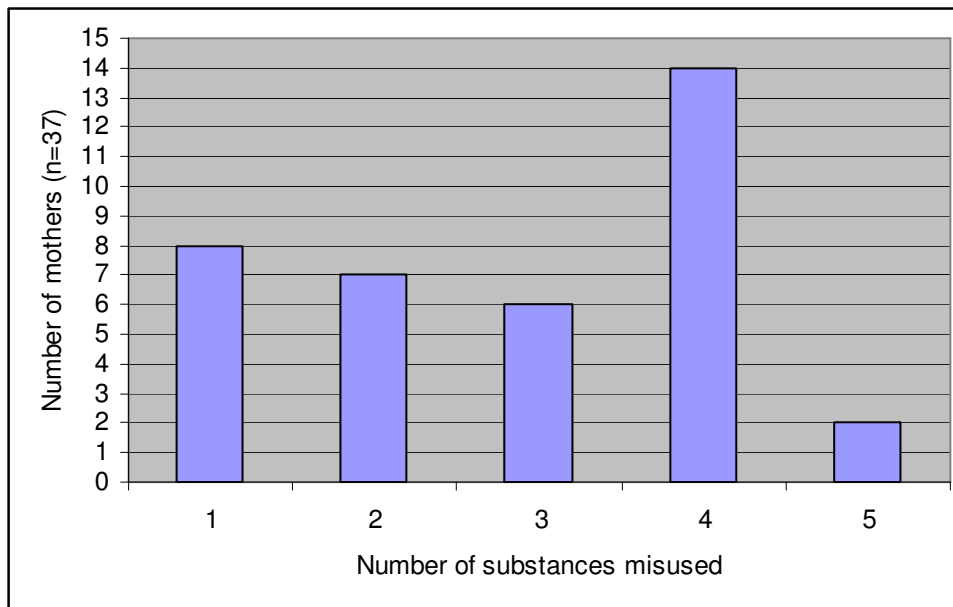
**Figure 6: Drugs misused by mothers**



Note: Other includes ketamine and benzodiazepines.

Figure 7 reflects maternal misuse of the five most common drugs in the sample - heroin, crack, cannabis, alcohol and cocaine. Most mothers misused more than one substance, and just over one third (n=14 of 37) misused four substances.

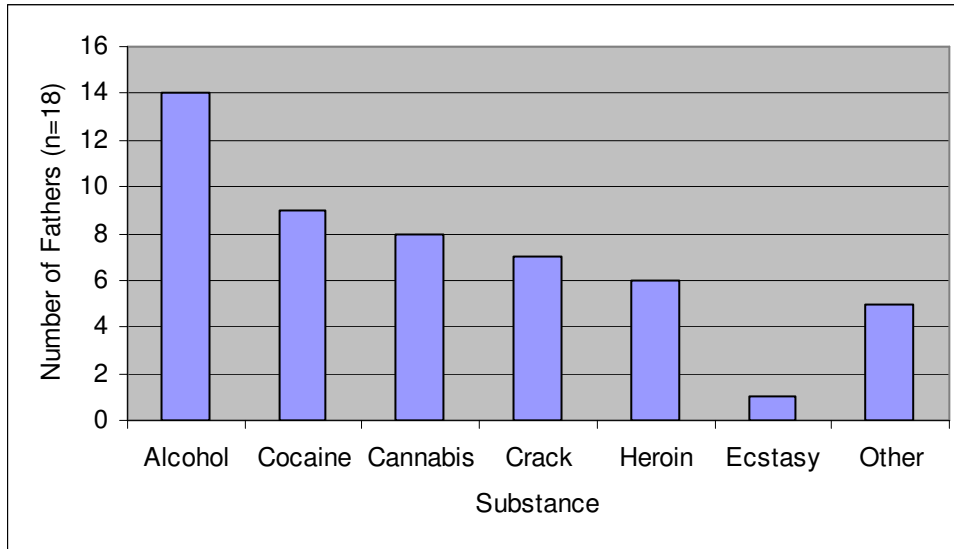
**Figure 7: Number of substances misused by mothers**



## Fathers

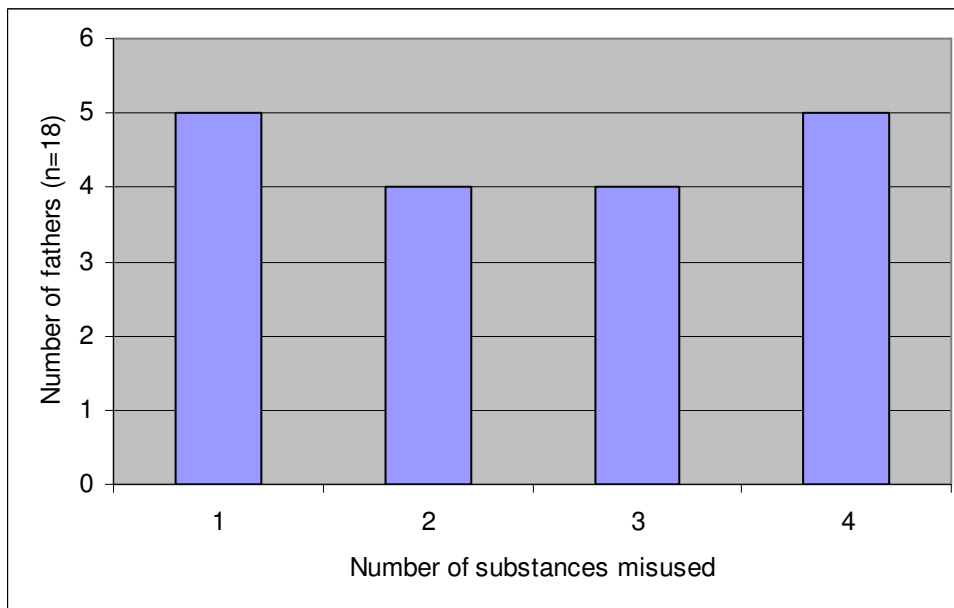
As with the mothers, misuse of both alcohol and other, illegal, drugs is the most common pattern for fathers (figure 8). Similarly, the most commonly-used illegal drugs are crack, cocaine, heroin and cannabis. With the exception of ecstasy there was a fairly even spread of the numbers of fathers using one or more different drugs (figure 9).

**Figure 8: Drugs misused by fathers**



Note: information missing on 3 fathers (and 2 have no substance misuse issues)

**Figure 9: Number of substances misused by fathers**



Note: information missing on 3 fathers (and 2 have substance misuse issues)

In all 10 cases where mother and father were living together, both parents were misusing substances, with the result that the children had neither parent acting in a protective capacity.

### **Psychosocial difficulties of parents**

The mothers had a range of difficulties, with available file information showing that:

- 20 mothers had a history of mental health problems (mostly depression<sup>29</sup>)
- 24 had been subject to domestic abuse in the past, and
- 11 had been in care as a child.

There is little recorded about the psychosocial difficulties of fathers, bar the fact that three had been in care as a child.

### **Offending history**

Many parents (mothers 19 of 37, fathers 16 of 23) had a past conviction, and it was common for parents to have had several convictions, and for different types of crime. Offences involving violence were common (a third of mothers and just over half of fathers). More drug-related convictions were for possession rather than dealing. Other offences included theft (9 mothers, 11 fathers), actual or grievous bodily harm (3 mothers, 6 fathers), prostitution (5 mothers), crime against property (10 mothers, 9 fathers) and crime against the person (eg common assault 10 mothers, 11 fathers).

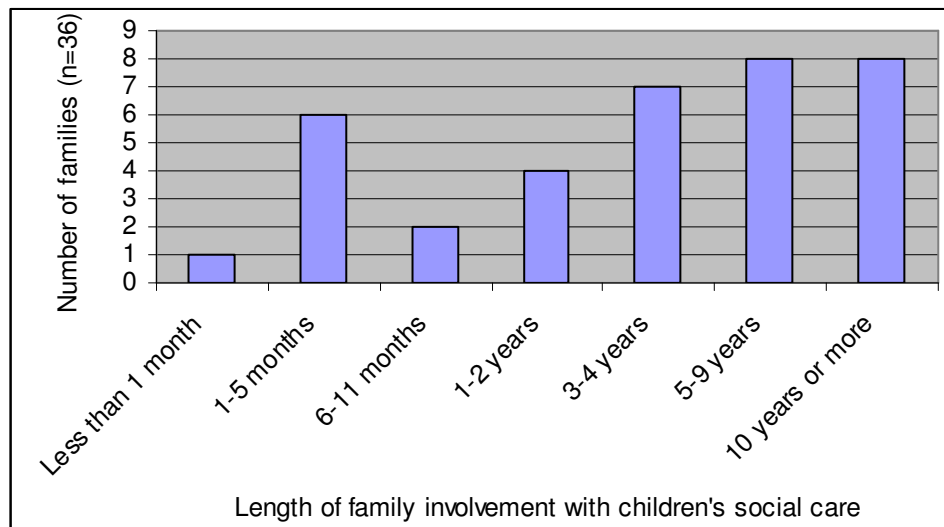
### **Previous involvement with children's services**

A majority of the families were known to children's services prior to the current care proceedings (figure 10). The largest number of families had been known for five years or more, with half of that group in contact for ten or more years. This does not mean that families had been open cases to children's services over this time, but reflects the time since their first involvement. Just under a quarter of all the families had been in contact for less than a year and half of the children under one (n=9) in the present proceedings came from this group of families.

---

<sup>29</sup> We tried (without success) to establish whether this was a diagnosis by a health professional.

**Figure 10: Length of family involvement with children's services**



Note: information missing on 1 family

### **The children**

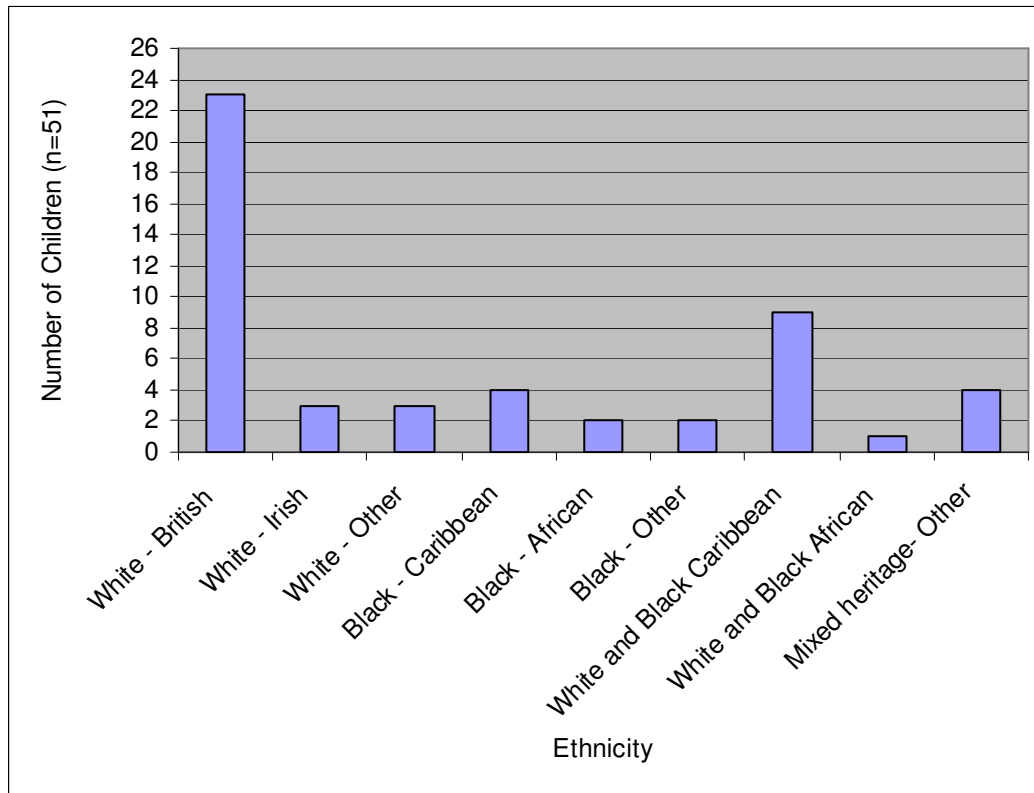
A feature of the sample of 51 children was their young age. Thirty-eight (38) were under five and 18 of these were under a year. Four were aged 5-8 years, six were 9-12, and three were 13-16. There was a fairly equal distribution of boys (24) and girls (27).

The children were predominantly White British (n=23). Those of mixed heritage were the second largest group (n=14). The proportion of White British children (45 per cent) is lower than found in Masson's study (68 per cent)<sup>30</sup> and in the national figures (66 per cent) for children who started to be looked after in the year ending March 2008<sup>31</sup>. This is likely to reflect the higher proportion in London of children from a minority ethnic group.

<sup>30</sup> Masson J, Pearce J, Bader K, Joyner O, Marsden J and Westlake D (2008) Care Profiling Study. MoJ Research Report 5/08, Ministry of Justice.

<sup>31</sup> DCSF (2008) Children looked after in England (including adoption and care leavers) year ending 31 March 2008. Statistical First Release SFR/23-2008, DCSF.

**Figure 11: Ethnicity of the children**



## Children's difficulties

### Health and welfare difficulties

The 51 children had a range of problems, with some children featuring in more than one category:

- 19 had emotional and behavioural difficulties
- 18 had health difficulties
- 11 were born withdrawing from drugs, and
- 7 had developmental delay.

Emotional and behavioural problems (temper tantrums, aggression, bed-wetting, anxiety and tearfulness) were recorded more frequently for children under five. So were physical health problems, largely because of the number of babies born withdrawing from drugs (n=11) or born prematurely (n=4), but also including five children with asthma. Development delay included both cognitive and motor delay.



### The local authority concerns

As these were care proceedings, all the children were deemed to be suffering or at risk of significant harm, now or in the future. Applications do not always specify the type of harm but, where information was recorded, it was about physical harm, emotional harm and neglect, with the majority of children experiencing two or all of these harms. It can be seen from the table below that only a minority of cases involved likely harm as the sole category (and this always related to infants).

**Table 3: Local authority concerns**

Type of Harm	Likelihood of Harm	Both Actual and Likelihood of Harm	Children (n=51)
Physical harm only	0	1	1
Emotional harm only	0	4	4
Neglect only	2	0	2
Physical and emotional harm	0	1	1
Physical harm and neglect	1	1	2
Emotional harm and neglect	1	11	12
Physical and emotional harm and neglect	2	17	19
<b>Total</b>	6	35	41*

Note: \*Information not available for 10 children

### The child's living arrangements at the time of the first hearing

The children were living in a range of settings at the time of the first hearing. There was a fairly even spread between home (n=13), the extended family (n=10), foster care (n=13) and hospital (n=10). A few young children were with parent/s in an assessment unit, and one teenage girl was in a crisis centre.

**Table 4: The children's living arrangements**

<b>Who the child was living with at time of first hearing</b>	<b>Children (n=51)</b>
Mother (in family home)	8
Both parents (in family home)	5
Maternal grandparent/s	6
Parental grandparent/s	1
Aunt/uncle	2
Maternal cousin	1
Foster carer/s	13
Mother/father in residential parenting assessment unit	4
In hospital/neo-natal unit	10
In residential facility (crisis centre)	1
<b>Total</b>	<b>51</b>

### **Court orders sought**

When the local authority started care proceedings it sought an interim care order (ICO) for 35 of the children, with an interim supervision order (ISO) sought for almost all the rest (13 children). For three children no interim order was being sought. Section 20 arrangements were in place in two of these cases and in the third (the mother and baby residential unit) there was agreement that the placement should continue. In all three cases the local authority was of the view that the threshold criteria in section 31 of the Children Act 1989 had been met and that an order would be needed in the long term to protect the children.<sup>32</sup>

There was a clear association between the type of order sought and the placement plan. An ICO was most frequently requested when the plan was foster care or when mother and child went into a residential parenting assessment unit. An ISO was generally sought for children living at home with parent/s or living with other relatives or friends.

---

<sup>32</sup> The 'no order' principle requires the court to be satisfied that making an order will be better for the child than making no order. Where a child is being accommodated under section 20 and a parent is willing for that to continue in the short term there may not be a need for an interim order.

**Table 5: The court orders sought**

Placement	Order Sought			Children (n=51)
	ISO	ICO	No order	
No removal from parent	10	3	0	13
Friends and family	3	3	1	7
Foster care	0	22	0	22
Mother and baby foster care	0	2	0	2
Mother and baby residential parenting assessment unit	0	4	1	5
Crisis centre	0	1	1	2
<b>Total</b>	13	35	3	51

### **An update on the 37 cases: patterns of involvement in the FDAC pilot**

In order to provide a preliminary picture of the pattern of engagement with the FDAC process we present an update of the cases at 30 April 2009. At this point 23 families had left FDAC and 14 were still in the programme. Families who had entered FDAC in late 2008 were still at a relatively early stage in the process.

In summary:

- 27 families had remained in FDAC for 12 weeks or more.
- A period of six to eight months was the minimum time it took parents to deal with their substance misuse and provide suitable parenting for their child (3 families).
- Most families who exited FDAC did so within the first five months, and nine left within the first two months.
- The maximum length of stay in FDAC to date has been 9 to 12 months (4 families).

Several points need to be made in relation to the picture of families exiting and remaining in FDAC. First, FDAC was able to meet the NHS National Treatment Agency for Substance Misuse (NTA) standard for retention in treatment of twelve weeks for 27 families. Second, the most common reason for leaving FDAC was non-engagement with the FDAC plan and inability to make the changes required to fit the child's timescale. All cases that exited reverted to standard care proceedings. The early indications are that FDAC was proactive in taking decisions to recommend that families exited where it was apparent that they would not benefit from the services offered. This is an important aspect of the service.

Third, parents who were doing well stayed in FDAC longer. This was because the two-stage FDAC assessment and intervention process takes six months or longer as parents have to demonstrate their ability to tackle their substance misuse (stage 1) before assessment of their parenting (stage 2) can begin. In many cases it is also necessary to ensure that suitable support networks are in place to deal with potential relapse. This is particularly important for parents who have spent a lengthy period in residential units: they will need ongoing monitoring and support in the community to ensure they can successfully cope with the demands of parenting in a 'normal' setting.

Fourth, if parents are engaging well with substance misuse services but issues remain about parenting, the case will take some time to exit FDAC. In these circumstances, the case then moves fairly swiftly to an Issues Resolution Hearing and final order.

All these considerations help explain why the process can appear protracted.

The length of the process also means that a number of families in this snapshot could not have completed the programme within the six-month tracking period. This applies to 7 of the 14 families still in FDAC – they had been in FDAC for a maximum of five months only. This highlights the fact that we are dealing with a moving picture. A different picture might emerge if a longer tracking period were used. And cut-off points are not hard and fast, another issue that we will keep under review in the coming months.

Finally, it should be noted that the FDAC made a final order in each of three cases so far where parents have controlled their substance misuse and demonstrated their parenting capacity. The purpose of the order was two-fold: to ensure that parents were not left isolated after receiving intense support from FDAC and to keep the child's safety and welfare under review. In two of the cases a supervision order was made, and in the other a family assistance order.

## **Discussion**

A number of points have emerged from this analysis.

In the majority of cases referred to FDAC, parents had been in contact with children's services for some time, and 44 per cent for five years or more (although not necessarily throughout that period). This was similar to the pattern in Masson's study (49 per cent in contact for five years or more).

A second point is that proceedings were initiated because of maternal substance misuse although in many cases both parents were currently misusing and each had a long history of misuse. Typically, they involved misuse of both illegal drugs and alcohol, with alcohol alone featuring only rarely. A similar finding by Forrester

and Harwin (2007) supports the indication in FDAC that swifter action is taken to bring care proceedings in cases involving illegal drugs compared to alcohol.<sup>33</sup> The research showed that, compared to cases involving babies whose parents misused Class A drugs, the children (mostly toddlers) affected by alcohol misuse were more likely to have experienced significant harm and neglect before their case came to court, and they were less likely to be found an alternative permanent home after the care order was made. Many whose case was not brought to court continued to be exposed to parental alcohol misuse and domestic violence. The third point here is that this worrying research evidence highlights the importance of tracking referral patterns related to alcohol in the present evaluation.

Fourth, parents in the sample are similar in profile to those found in other studies of parental substance misuse (Cleaver et al, 1999; Forrester and Harwin, 2006) and of parents in care proceedings (Brophy, 2006; Masson et al, 2008)<sup>34</sup> where domestic violence, mental health problems, poverty and housing difficulties feature. All these difficulties are common in the present study. Maternal substance misuse was frequently accompanied by other psychosocial difficulties, especially mental health difficulties and domestic violence. Past offences also feature strongly, a well-established link, as parents seek to fund their substance misuse (Cleaver et al, 1999; Kroll and Taylor 2003<sup>35</sup>).

As in other studies of children in care proceedings the FDAC children are very young, with a disproportionate number of babies compared to other age groups. The proportion of children under a year was higher than in Masson's 2008 study of care proceedings (39 v 29 per cent) and substantially higher than the national figure (19 per cent) for all children who started to be looked after in the year ending 31 March 2008 (see footnote 14). However, as this national figure also includes children looked after under voluntary arrangements, the comparison with Masson's figures is closer. The proportion of children aged under five in the present study also exceeds that in Masson's study (75 v 57 per cent).

The children were vulnerable in other ways apart from their very young age. A combination of three types of actual or likely harm consequent on maternal substance misuse (neglect, emotional harm, and physical harm) was the most

---

<sup>33</sup> Forrester D and Harwin J (2006) Parental substance misuse and child care social work: Findings from the first stage of a study of 100 families. *Child and Family Social Work*, vol. 11, no. 4, pp. 325–335; Forrester D and Harwin J (2007) Outcomes for children whose parents misuse drugs or alcohol: A 2-year follow-up study. *British Journal of Social Work*, BJSW Advance Access published on 3 August 2007. Available at <doi:10.1093/bjsw/bcm051>.

<sup>34</sup> Masson J, Pearce J, Bader K, Joyner O, Marsden J and Westlake D (2008) Care Profiling Study. MoJ Research Report 5/08, Ministry of Justice; Cleaver H, Unell I. and Aldgate J. (1999) Children's needs, parenting capacity: The impact of parental mental illness, problem alcohol and drug use, and domestic violence on children's development. London, TSO; Brophy J (2006) Research review: Child care proceedings under the Children Act 1989. Department for Constitutional Affairs, Research Series 5/06.

<sup>35</sup> Cleaver et al see footnote 34. Kroll B and Taylor A (2003) Parental Substance Misuse and Child Welfare. Jessica Kingsley Publications.

frequent catalyst for bringing proceedings. As well as serious child protection concerns, over a third of the children also had physical health problems and a range of emotional and behavioural difficulties. The rate of emotional and behavioural problems in the looked after child population substantially exceeds that found amongst their peers who are not looked after by children's services (Meltzer et al, 2003)<sup>36</sup>. There are fewer surveys of the extent of emotional and behavioural difficulties in children under five, partly because of methodological difficulties. A recent survey by Sempik and colleagues<sup>37</sup> found that 19 per cent of looked after children under five displayed emotional and behavioural problems. In our study it was 16 per cent.

The picture we have been able to present on fathers is much more limited than for mothers, due to patchier recording of information. This is a common but troubling finding because it leaves fathers marginalised as well as disadvantaged in accessing the help they may need<sup>38</sup>. But for both mothers and fathers there were important information gaps. Many studies comment on the variability of information that can be derived from administrative data and this study is no exception. Data gaps in relation to substance misuse, mental health problems, other psychosocial difficulties and income, education and housing weaken the opportunities for addressing these issues at both policy and practice level.

Important questions raised by this analysis are whether cases might have been referred to FDAC earlier, and what factors might have influenced the referral pattern. We return to this in the final section. Whatever the reasons, it is clear that in its first year of operation the court was dealing with very serious cases which posed considerable challenges.

Against this background, the emerging patterns of parental engagement and length of time spent in FDAC are particularly important. They raise some wider issues about recruitment, retention and the meaning of success in FDAC (see learning points for fuller discussion of these topics). Using the NTA standards, the early indications are that the FDAC programme was helping parents engage with substance misuse services, and swift decisions were taken when the indications of engagement were not promising. However, engagement with substance misuse services is but the first step for parents and we have seen how protracted the process can be. This helps explain the low number of parents able to complete the FDAC programme so far. At the point of the snapshot survey, a fifth of parents had not been in FDAC long enough to have met the programme criteria for exiting with their child.

---

<sup>36</sup> Meltzer H, Gatward R, Corbin T, Goodman R and Ford, T (2003) The mental health of young people looked after by local authorities in England. London: TSO.

<sup>37</sup> Sempik J, Ward H and Darker, AI (2008) Emotional and Behavioural Difficulties of Children and Young People at Entry into Care. *Clinical Child Psychology and Psychiatry*, Vol. 13, No. 2, 221-233.

<sup>38</sup> Ryan M (2000) *Working with Fathers*. London: DH; Family Rights Group (2006) *Fathers Matter: research findings on fathers and their involvement with social care services*. London: FRG.

But the picture also raises questions about the identification and selection of cases for FDAC. These were hard cases, with parents beset by entrenched difficulties. Whilst a key purpose of FDAC is to help motivate parents, the characteristics of the cases cannot be ignored. In the final report we will examine the patterns of engagement and drop-out systematically, in the light of parental and child profiles, to see how far they contribute to the different case trajectories. The trajectories raise another key question – what is meant by ‘success’ and ‘failure’? There is a risk that families who address their substance misuse well but are not able to do within the child’s timescale may be perceived – and perceive themselves – as failures, even when parents have gained insights into their inability to provide stable care for this child. Parents deprived of a child will often go on to have more children. It is important to consider how FDAC can acknowledge the achievements of parents who meet some but not all the programme objectives. Valuing and validating their experience may reap benefits if and when they do have other children in the future. We aim to return to all these issues in the final report.

## **B2 - THE APPROACH TO COSTING FDAC**

This section is about the work undertaken so far to develop a model for costing FDAC. It describes the aims of the costing exercise, explains the approach taken, and illustrates the methodology, using information about FDAC team activity.

### **Aims and focus of activity**

The primary aim of the costing exercise is to identify and describe FDAC's components and activities and, so far as is possible, to compare FDAC costs to those of standard care proceedings and services. As with other parts of the evaluation, the advice of the Research Advisory Committee has informed decisions made about the focus of the work.

The main differences between standard care proceedings and the FDAC process relate to the activities of the court and its specialist team and the role of the guardian. For this reason we concentrate on estimating the costs of these three components - the specialist team, the court, and the children's guardians.

There are, of course, other important costs associated with FDAC, including those of the local authorities and of parental substance misuse treatment and other services. It is beyond the scope of an initial evaluation to explore these in as much detail as the other, more central, costs indicated above. We will, though, estimate the cost of local authority placements in both the pilot and comparison sites and analyse this information to explore the financial impact of different patterns of placement use. This part of the study is informed by previous research in the children's services field.<sup>39</sup>

### **The approach adopted: 'bottom-up' rather than 'top-down'**

There are two main ways of thinking about and costing services. 'Top-down' is so called because calculations start from the overall spend on a service, whilst 'bottom-up' starts from the discrete components of the service to be costed.

#### **Top-down approach**

This is the traditional way of measuring the unit costs of a service such as children's residential care. Using this method, the local authority's 'average cost per resident per day' is calculated by dividing the total annual spend on residential care by the total number of places in the homes and the number of

---

<sup>39</sup> Ward H, Holmes L and Soper J (2008) *Costs and Consequences of Placing Children in Care*. Jessica Kingsley Publishers; Ward H and Holmes L (2008) Calculating the costs of local authority care for children with contrasting needs. *Child & Family Social Work*, 13, 80-90.



weeks in the year.<sup>40</sup> Because the approach treats every service unit equally, it does not indicate where variations in costs might occur. For example, if we were to use this approach to cost FDAC, we would not be able to answer questions such as:

- why does family A cost more than family B?
- why is the cost of process X (eg. key work at the office) significantly higher for a small number of families?
- why are the costs for some families substantial at the beginning but decline sharply over time?
- how are the real costs of delivering the service spread between agencies (eg. what is the cost per case for the specialist team, the court and CAFCASS)?
- what is the contribution of 'hidden costs' to the 'real costs' of delivering the service (eg. what is the impact on an agency of capital overheads)?

Cost information that captures variation is more accurate than information that provides average costs only. It provides the precision that is important when deciding how to spend budgets and plan services.

### **Bottom-up approach**

This is the approach that captures variation. It generates a more accurate 'unit cost' because the calculation is based on having a detailed description of each component of the service and because it takes into account hidden costs such as capital overheads. There are four steps in the calculation<sup>41</sup>, described below.

The approach requires that an estimate is made of the cost of each service component for each service recipient. This makes it possible to analyse the variation in costs between service recipients and over time. Moreover, the amount of detail provided about how costs have been estimated means that the same exercise can be repeated - by other people, at other times, and in other places or settings. This comparative element is a crucial strength of the bottom-up methodology.

This approach was chosen as the best way of costing FDAC, in order to take full account of variations in the service offered to different families, to include the impact of overheads and other hidden costs, and so that the model could reflect the price differences in service provision (as, for example, in and out of London).

---

<sup>40</sup> Beecham J and Sinclair I (2007) *Costs and Outcomes in Children's Social Care: Messages from Research*. Jessica Kingsley Publishers.

<sup>41</sup> Allen C and Beecham J (1993) Costing services: ideals and reality. In Netten A and Beecham J (eds) *Costing community care: Theory and Practice*. Avebury, Aldershot; Ward and colleagues (footnote 39) have applied the framework to estimate costs of looked-after children.

The four steps are:

1. **description** of the service ingredients, such as staffing
2. **identification** of the activities and the unit of measurements, such as the frequency and time spent on direct contacts with families
3. **estimation** of the cost implications of the service elements – this means assigning a monetary value to each service component, and
4. **calculation** of the total costs, using the information obtained at steps 2 and 3.

The table below shows how the four steps can be applied to costing FDAC.

**Table 6: Four-step model of costing FDAC (adapted from Allen and Beecham, 1993)**

Step	Activity carried out	Example in FDAC	Example in comparison LA
1 Describe service ingredients	Informal interviews with key players Observation of court proceedings Review of court files	FDAC specialist team FDAC court	The legal costs, mainly expert evidence and court attendance
2 Identify activities and unit of measurements	Several levels of inputs identified for each service ingredient Data recording forms devised and data collected	For the specialist team: - staff type - type of event (eg. contact, assessment, court attendance) - time spent on activity/ event	Legal costs: - type and frequency of expert assessment and reports ordered by the court - type of staff attending court and time spent
3 Estimate the costs implications	The data is pooled to estimate average amount of time spent by each group of individuals on each activity/event identified. The data on time use is converted into costs by applying unit costs (see Curtis 2008, footnote 42)	For the specialist team: - costs of direct contacts - costs of assessments - costs of court attendances	Legal costs: - costs of expert evidence - costs of court attendances
4 Calculate the total costs	The figures above are added together, to arrive at total costs.	Cost of FDAC broken down by: - cost of specialist team - cost of FDAC court	Cost of standard care proceedings broken down by: - cost of expert evidence - cost of court

## Costing the FDAC team: an illustration of the bottom-up approach

This section describes the approach we have taken to costing the FDAC team. We are not setting out actual costs at this stage; it would be premature to do so, because:

- some assumptions, such as for capital and management overheads, need to be linked to imminent findings from a further research study led by Harriet Ward, a member of our Research Advisory Committee
- the MoJ and DCSF are considering revisiting the cost assumptions around care proceedings which are now somewhat outdated, and
- it would be unwise to show figures about the cost of the FDAC team in isolation from other FDAC activities.

### Methodology

To calculate the costs of the FDAC specialist team, we developed three templates that we then linked together. Table 7 explains the templates and describes the information needed to make the model work.

**Table 7: Data (sources and description) used to estimate FDAC specialist team costs**

Data source	Data description
1 Staff unit costs	This is information about pay, overheads (management and capital) and working hours, combined to arrive at the unit cost per hour for each team member. The unit cost can be calculated as a national average, a cost for London and a cost for outside London. We use the standardised model suggested in Curtis (2008). <sup>42</sup>
2 Frequency of activities by case	This is detailed information extracted from FDAC case files where we have signed parental consent, about activity under a number of headings. The activities are those agreed with the FDAC team as capturing the range of work undertaken. A member of the research team has collected information on the number of times these activities were carried out in each case during the six-month tracking period that starts from the date of the first FDAC hearing.
3 FDAC team survey of time and activity	This is information collected during a seven-week survey (from 23 February 2009) to record how each team member spends time on new and ongoing cases. The survey form asked each member of the team to record the time spent on each activity (table 3) and the number of cases the activity related to. The forms were completed on a daily or weekly basis. The data was used to calculate the total time each team member spent on each activity for each case.

<sup>42</sup> Curtis L (2008) Unit Costs of Health and Social Care 2008. University of Kent: Personal Social Services Research Unit.

## **Linking the data**

In order to estimate the costs of the FDAC team, the data from source 1 (unit costs) is linked to that from source 3 (time and activity survey) to arrive at the team's total costs per activity. This figure is then linked to source 2 (frequency of activities) to estimate the activity unit costs for the team. A weighted approach is used, to take account of the fact that:

- team members do not undertake every activity
- some activities are carried out primarily by particular team members
- different salaries and their associated overhead costs means that the estimated costs need to reflect both the time spent and the type of professional engaged in particular activities, and
- the team costs reflect London figures but it will be useful to capture the cost of delivering the service in other parts of the country through modeling regional variations in court costs.

Using the time-use data and the service information being collected on FDAC cases, it will be possible to estimate how the costs might vary across the activities. Different cases will cost different amounts depending on the nature and frequency of activities, the time spent on each and which team member delivers them.

The bottom-up approach helps to identify the most expensive activity, the least expensive, and the pattern of expenditure in between. It also helps identify which type of case and which type of activity is associated with higher or lower costs. Further analysis, linking this data to the characteristics of individual cases, will help shed light on the factors that might best predict variation in case costs. This is information that could not be obtained from the more traditional, top-down, approach to costing.

## **Next steps and some issues arising**

The above work on the costs of the specialist team will continue, with future analysis including information added to the templates from other cases, subject to our receiving consent from parents to access FDAC and local authority files. We will also continue the work we have embarked on to explore the time costs of court hearings, the cost of placements, and the input of the guardians. And we will analyse the information collected from the pilot and comparison authorities to draw conclusions about the costs associated with FDAC and non-FDAC cases.

It is important to note that this is not a cost-effectiveness study. The evaluation is a descriptive study and the effectiveness of the intervention is not yet established. We will be able to show that some components of the FDAC intervention are cheaper or more expensive than others, and why that is so. But,

at this stage, we will not be able to link these costs to outcomes for children and parents. The six-month tracking period is too short for that.

What the study will do, however, is provide another building block for this sort of calculation in the future. As part of this, for the final report we will compare our estimates with relevant existing data from work using both the top-down and bottom-up approaches to costing services.

## B3 – PERSPECTIVES ON FDAC

In this section we examine a crucial question – are there early indications of an emerging FDAC model operating as a problem-solving court? For this preliminary snapshot we examine five key issues about FDAC and its specialist team:

1. the role of the FDAC team – in court, doing assessment work, and as direct service provider and link into community services
2. the role of the judges in motivating parents
3. the review hearings
4. problem solving within the court, and
5. the role of guardians, lawyers and social workers.

We draw on all our sources<sup>43</sup> to explore these issues: interviews with parents and a range of other participants<sup>44</sup>, focus group work, and data collected through tracking cases and from observing the court process.

A need to prioritise quantitative data collection in the first year of the evaluation meant that a decision was made to defer interviews and focus groups with lawyers, social workers and treatment and other service providers to the second year of data collection. As a result, our perspectives from these participants in FDAC are limited to the contemporaneous notes taken at four meetings held for lawyers and social workers involved in FDAC cases. These meetings were seen as opportunities to disseminate information about the progress of the pilot as well as forums for discussing problems or issues arising. The final report will provide and fuller information about the views of social workers, lawyers and treatment and other service providers.

The data presented from tracking cases and observing the court process is from seven early FDAC cases, with 42 hearings attended and analysed by the research team. The cases are not a random sample; they were selected because they covered all three pilot authorities and demonstrated different substance misuse problems and trajectories within FDAC. The hearings were conducted by all four judges. They were attended by 10 parents and six other adult relatives, with babies generally present at hearings for four cases. The box provides a summary of family circumstances and progress in FDAC.

---

<sup>43</sup> See section A3 for description of sources.

<sup>44</sup> The 22 parents interviewed were all involved in FDAC at the time of interview, at different stages of the process. Subsequently, three of the parents completed FDAC successfully and eight others exited at different stages.

### **Seven early FDAC cases**

In this group of 7 families, four children were newborn babies and the others were 3 months, 2 years and 4 years old. Mothers were aged between their mid-20s and mid-30s and five of them had older children, some living with relatives and others in care. Fathers were involved in three of the cases, and other relatives featured in each case.

The main substance misuse problem for four of the mothers was cocaine, with problems for two of them long-standing, having started in their early teenage years. Alcohol was the main problem for two others, and amphetamines for the other mother. For fathers involved in the case, the problem was a combination of alcohol and other drugs.

One mother was to be helped through community-based substance misuse and parenting services, two through mother and baby foster care and the remaining four through residential mother and baby treatment services. In all cases FDAC was providing, or aimed to provide, parents with a relapse prevention service.

At the six-month stage, one set of parents had exited from FDAC for lack of sufficient engagement and, in another, there were ongoing concerns that the mother continued to misuse drugs. In the other five cases all was going well and, in two cases, parents who were dealing well with their substance misuse and showing good parenting capacity exited FDAC two or three months later because they had successfully completed the FDAC programme.

## **1. The role of the FDAC team – in court, doing assessments, and as direct service provider and link into community services**

A key aspect of problem-solving courts is the presence of a multi-disciplinary team identifying services which are needed, supporting defendants, or in this case parents, into accessing these services and motivating them to sustain engagement with treatment services. In addition, a key feature of the multi-disciplinary team in the FDAC pilot is their role in providing a quick expert assessment to the court and regularly updating the court and the parties to the proceedings on the progress of the parent.

In relation to assessment, the service specification for FDAC, based on the proposal in the feasibility study agreed by the steering group and practitioners group, states:

*At the point of referral, a lead member of the team will undertake an assessment, looking at the parents' substance misuse, its impact on parenting, the needs and wishes of the child, the family's history, environmental issues such as housing and money, past contact with agencies, capacity for change, and services*

*required. This assessment will be intensive, comprehensive and completed within 5-10 days.*

*All parties will be encouraged not to commission separate expert assessments, but to sign up to the programme recommended by the FDAC team ... the role of the team is to mobilise services in the two week period between the second hearing and the first review.*

There is thus an expectation that the assessment will be comprehensive and quick and combined with supporting parents into services. There is also the expectation that parties will not seek additional expert assessments.

### **The role of the FDAC team - views of the team**

The FDAC team describe their work as a mixture of direct therapeutic work with parents, co-ordination of other services, and ongoing information collection to inform the assessment and regular reports to the court and the parties to the proceedings.

*We make sure parents get services. We co-ordinate the network and encourage parents to attend.*

*Even before the second hearing we try and get people into services ... through engaging the family, meeting the service providers.*

*We make arrangements for referrals, give feedback to other professionals, get feedback from treatment agencies.*

The team were very clear that their approach was one of motivating and engaging parents from their first contact with them and during the assessment process:

*Assessment is our chance to engage and motivate. We can use it as a relationship building exercise as well ... it is the way you do it ... engaging is as important as getting the information.*

*It is important to be warm and empathic ... there is a lot of information gathering but I prioritise open questions regarding goals and expectations ... building a therapeutic alliance, using MI [motivational interviewing] techniques.*

Some team members identified some degree of tension between building a therapeutic relationship with parents whilst at the same time providing impartial assessments to the court within tight time limits, especially in the early stages of trying to engage parents.



They referred to a range of theories underpinning their approach, including:

- Motivational Interviewing (MI)
- Attachment theory
- Systems theory
- Psycho-dynamic approach
- Cognitive behavioural therapy
- Cognitive analytical therapy
- Solution focused, and
- Client centred.

They all regarded it as a strength that they were a 'multi-modal' and multi-disciplinary team, able to take different approaches depending on the different people they were working with:

*The approach is more behaviour focused for some families; for others it is more psycho-dynamic.*

The team had little opportunities for joint training before the pilot started but have all received a one-day session on Motivational Interviewing. Individual team members have also accessed a wide range of training opportunities during the first year of the pilot and have been able to benefit from skills' training provided by team colleagues.

The direct work described by the team includes:

- ongoing observation and assessment
- advocacy
- life skills work
- brief interventions
- crisis intervention
- emotional support and encouragement
- anger management
- cognitive analytical therapy
- adolescent substance misuse work
- physical and sexual health and advice
- blood-borne virus (BBV) monitoring
- mental health screening
- drug testing
- harm reduction
- relapse prevention, and
- accessing charitable funds.

The range of other services that the team were communicating with, either because they had linked families into services there, or because families were

already receiving these services but ongoing communication was important for the key work role, included:

- community and residential substance misuse services
- children's services
- providers of community or residential parenting assessments
- GPs
- hospitals
- community mental health teams
- men's groups run by Coram
- hostels
- nursery staff
- schools
- benefit offices
- housing, and
- domestic violence workers.

*It's about brokering relationships, collaborating with all professionals while helping the parent.*

*We make sure that things are happening ... we phone up and advocate. And they know we'll be calling.*

In terms of getting parents into substance misuse services more quickly the general manager said that there was not an issue with delays for either community or residential drug treatment but that there were still delays in getting residential placements for alcohol rehabilitation.

The team noted that the intervention plan would build on services and interventions already being provided to parents, children and the family.

The team see it as very important that they are able to provide a preliminary assessment within the first few weeks of the hearing, based on an analysis of the available background information and their own observations and interviews with parents and, where old enough, children:

*You get a better grasp of the issues sooner.*

The members of the team with a child and family social work background focus on the family and parenting parts of the assessment, including the impact of substance misuse on the children. They do this work with parents through interviews and observations and with children through a variety of approaches including play and drawing. The substance misuse workers focus on the history and extent of substance misuse, and issues of mental and physical health. The team explores the risk and protective factors impacting on the parents, child and

family. The whole team then meets to analyse all the information together. They stress that it is a team approach to assessment.

There was limited use of standardised measures as part of the assessment process during the first year of the pilot. Substance misuse team members were using the Treatment Outcomes Profile<sup>45</sup> and were in the process of developing their own assessment tool. The team was beginning to make use of the General Health Questionnaire<sup>46</sup> also.

The team is clear that initially the focus is on the parents and whether or not they can control their substance misuse. They also consider whether or not parents can create a safe enough environment for their child within an appropriate time frame. In line with the staged approach to assessment, more detailed information in relation to the child's strengths and difficulties is the focus of the second stage of the process, once parents have achieved control over their substance misuse, which looks at parenting and the needs of the child.

### **The role of the FDAC team - views of others**

Many parents were very appreciative of the FDAC service and singled out a number of features they particularly valued:

*I like it because they're strict and they try to help you and support you.*

*It's been like a lifeline ... They talk to me normal. If I phone up, they are always at hand to speak and explain things.*

*They take the time to listen. They don't judge you straight away.*

*My key worker stands out ... he's fair, not a soft touch, and will say things that perhaps you don't want to hear. But he has your best interests at heart.*

Parents were usually clear about the overall goal of the intervention—either abstinence or not using street drugs – and, in the main, they agreed with the plan. The exceptions were those parents who did not accept they had a substance misuse problem or had been unable to complete the programme.

Parents did not necessarily expect that FDAC would be able to provide all services but they looked to it to liaise with the local authority and other agencies. A minority of parents felt let down by FDAC. They voiced concerns over the accuracy and fairness of reports or were disappointed that promised services had not materialised. A few parents disliked some of the services they were offered and could not see their relevance and in other cases wanted services which FDAC did not consider necessary.

---

<sup>45</sup> This is the standardised measure developed by the National Treatment Agency for substance misuse services.

<sup>46</sup> Goldberg D (1992) General Health Questionnaire (GHQ-12). NFER-Nelson, Windsor, UK.

The general view of the guardians was that the team was helpful in reducing delay in accessing services:

*It's helped eliminate some of the issues in ordinary proceedings – there's no difficulty in getting services. FDAC arrive and just coordinate services so that reduces delay and helps in the proceedings.*

The guardians felt that overall there was an improvement over normal care proceedings in accessing community drug services and forging stronger links with housing services. If there was a delay in getting into residential treatment then FDAC would be working with the parent to prepare them for this, which was also helpful. The view was that the work of the team should free up the local authority social worker to concentrate on organising community services for the child.

Those guardians who had had experience of parent mentors being involved with their cases were all very positive about their role in providing support to parents.

### **The role of the FDAC team – findings from observations**

The court observations were used to explore the way in which the FDAC team carried out its multiple roles both within and outside the courtroom.

The team used a variety of strategies to engage and support parents. Outside court they were observed being friendly and supportive towards parents, greeting family members and children warmly, showing an interest in babies' behaviour and development, and taking upset or angry parents to one side or to a more private place and spending time with them.

In court they also took opportunities to praise parents for their endeavours and their achievements. They found different ways of affirming and validating the efforts of parents and gave examples of why they thought they were making progress. They were also ready to challenge parents when necessary. They were knowledgeable about the minutiae of a parent's weekly schedule of treatment and contact meetings and how that might impact on times and dates being set for future court hearings.

### **Views about assessment**

There was general agreement amongst judges that the FDAC team assessments were of good quality. The independence of the FDAC team was seen as a particular strength in helping to ensure an impartial assessment. The judges thought that the provision of assessments at an early stage speeded up the whole process.

One judge noted that it would be important to ensure that the team remained independent from the court – but that that might also be difficult given their ‘integral relationship with the court’.

The judges also acknowledged that concerns had been expressed by lawyers about the different approach within FDAC to obtaining expert evidence:

*Lawyers – or some of them – find it hard to take on board the independent nature of the team. They are very set on doing nine page letters of instruction and they find it hard not to do this for FDAC. We’ve dealt with this by stressing the independence of the team and if there are specific matters that the lawyers want the team to consider then they will do that. If lawyers think a particular specialist opinion is needed then the FDAC team will instruct suitable experts. I think it is just a question of time ... I think the key thing is that lawyers need to have confidence in the team. Independent experts used in care proceedings are hugely expensive and cause delays.*

Guardians all agreed that there had been confusion and concerns at the start of the pilot and a lack of clarity about what the team was assessing and how they were doing this. For some guardians this confusion remained, while others now felt much clearer about it. The difference of views may reflect differences in the cases they are involved with. Particular causes of confusion were the extent to which the FDAC team would be involved in parenting assessments, considerations about residential assessments, and – in assessments relating to children – decisions about placement (for example, the assessment of wider family members) and family contact. There was general consensus amongst guardians that the team is good at assessing substance misuse and that it was helpful to have that information quickly. It was also helpful that the team took responsibility for drug testing and for the interpretation of the results.

It was apparent that the difference between the FDAC team approach and the instruction of experts in normal care proceedings – where letters of instruction set out exactly the areas to be covered in the assessment – caused some confusion for guardians, lawyers and social workers. In particular there was a lack of clarity about whether the team, or individual members within it, could be asked to focus on a specific issue and what the process should be where the necessary expertise was not available within the team itself.

At the meetings with lawyers and social workers very similar concerns and questions to those of the guardians were raised in relation to the assessment process, including initial confusion because of the team approach and the lack of a letter of instruction from the parties together with questions about:

- whether individual members of the team could be called to give evidence if necessary
- whether the team carried out parenting assessments
- whether they would comment on issues of placement and contact

- whether they would make recommendations about services needed for children, and
- which theories underpinned the team's approach.

The FDAC team has responded quickly and constructively to the questions and concerns raised. They have developed an assessment model, or algorithm, which sets out different stages and gives a detailed list of what is covered at different stages of their assessment (see annex 4).

*We've developed the idea of an algorithm for every case ... a basic algorithm but with a number of variations on that according to needs. By algorithm we are implying that the decision-making process has identifiable steps and a sequence, with time limits for each ... We may need to amend as we go ... I hope it will evolve.*

This approach has helped to clarify the issues being considered by the team and at what stage. It would also appear to have helped the team make speedier decisions that cases should exit FDAC because parents have been unable to control their substance misuse. These developments mean that assessment is now more of an ongoing process throughout a family's involvement with FDAC. There remain issues about the extent to which the FDAC team will carry out parenting assessments. The original intention, as set out in the service specification, was that parenting assessments would be conducted by local providers who already have service level agreements with the three boroughs to carry out this type of work. In such situations the team liaises closely with those providing the parenting assessment. The extension of the assessment role to cover parenting has implications for the capacity of the team.

A further issue raised and discussed at all meetings has been the use of the FDAC assessment as evidence in cases which exit from FDAC. The hoped for advantages in terms of both improved outcomes and reduced costs from quicker decision making within FDAC would be lost if a further series of expert assessments were ordered by another court once the case reverted to standard care proceedings. Both guardians and lawyers have been very positive about second reports completed by the FDAC team for cases about to exit FDAC: they have been sufficiently comprehensive for the standard court to decide that no further assessments are needed before a final order is made. However, there is a lack of clarity about whether these second reports will be provided in every case. The research team has set up systems to ensure data is collected on cases which exit FDAC to monitor whether or not further expert assessments are ordered.

In conclusion, the FDAC team is providing a distinctly different service from that provided by agencies commissioned to provide assessments for standard care proceedings. From the first hearing, the team is in regular contact with parents who agree to take part in the pilot. Assessments conducted by the team are different to those in standard care proceedings, they are provided more quickly,

and a team approach is used. The team has responded to concerns and queries raised by lawyers and guardians and has developed a staged approach to the assessment process. The assessment work is combined with direct therapeutic work with parents, using a range of approaches. In addition to this direct work, the team (in partnership with the local authority) co-ordinates the delivery of a range of treatment and other support services for parents and children. And, through review hearings, the team retains regular and direct contact with the court.

## **2. The role of the judges in motivating parents**

Another key feature of problem-solving courts is the role of the judge in monitoring the progress of defendants or parties, through regular contact with them, and in motivating people to make changes and stay engaged in treatment. The service specification for FDAC states that 'the judge has an important role to play in getting the message across to parents that people believe in their ability to change'.

### **Views of the judges**

The interviews with judges demonstrated the importance they attached to this role:

*Judges are reluctant to think they have the power to change behaviour but others say we shouldn't underestimate that for some people we are a significant person.*

*Maybe I have an over-inflated idea about the role of judges – I think it can be effective if a judge makes direct comments, for example, to a mother about parenting. If there is any mystique or respect for our role then the act of congratulating them [parents] will be positive.*

This was their basis for striving to be 'positive' with parents, to engage them and to help problem solve. But the judges were also clear that the direct contact with parents was more difficult when things were not progressing well:

*That is the not so palatable side of it. You have got to be courteous but you shouldn't mince your words.*

*I think I treat all parents with consideration but that doesn't stop me from being robust.*

### **The role of the judges – findings from observations**

How far did the judges behave in ways that demonstrated both the supportive and affirming approach to parents and their ability to address difficult issues and be firm? Our court observations in the seven early cases suggest that the judges were both supportive to parents and at the same time emphasised parental



responsibility and the consequences of parental actions. There were differences between the judges, reflecting different personalities and approaches to their role.

The judges made active efforts to engage the parents, to show interest in their lives and to be friendly and supportive. Parents were welcomed warmly, asked how they were and how things had been going. Babies were frequently brought to court by their parents and favourable comments were made about their behaviour and appearance. If children were not there judges often asked to see photos of them. The judges expressed interest in parents' particular circumstances or difficulties, sometimes using humour to put parents at ease.

At review hearings in particular, opening and closing remarks demonstrated a friendly approach. Often a comment on a feature of the case signalled the judge's clear grasp of the situation and, in all cases, the judge found something positive to say from the latest report. At the end, parents were thanked for their hard work and were encouraged to keep going. They were told – in different words – that the judge wished them well, would look forward to seeing them next time, and would be interested to hear about their progress.

*Tell me what you think. What are the important things for you?*

*Don't feel you are just a number. To us you are special. Bring a photo of your baby next time, will you?*

The judges also expressed empathy and conveyed to parents that they understood something of the pain they were experiencing, as parents, struggling to cope with not seeing their children often enough or having to confront the prospect of not being allowed to care for them in the future.

*Every parent wants to see more of their children. It's very hard. I suppose you have time on our hands at the weekends, when you don't have appointments, and would like more contact then.*

*We do know how painful this is, and everyone feels for you.*

These strategies, in line with motivational interviewing principles, were to help build trust and promote engagement in the process. Reflecting the comments made by judges themselves, there was more variation between them when it came to addressing difficult issues with parents, with some taking a more robust approach than others, and some spelling out to parents more clearly than others what the consequences were likely to be if they were unable to make progress in controlling their substance misuse:

*You can't just sit back and say you don't know. You have to take responsibility. It's about working together for you and your baby. It requires you to do your bit. You've got to be positive. Don't blow it.*



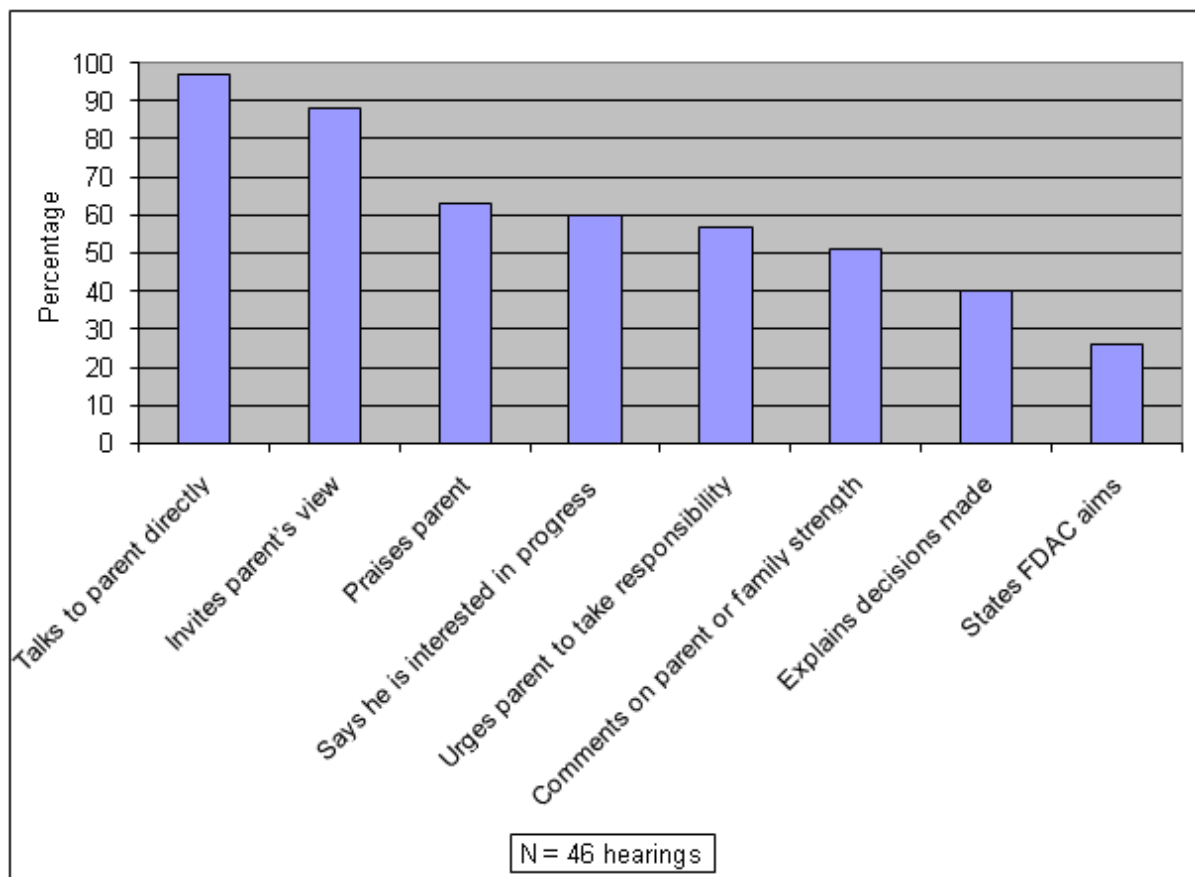
*If it carries on like this we are heading for disaster.*

On other occasions the comments made to parents could be more oblique and vague such as that their child's future depended on their engagement with the work. Sometimes probing questions were asked about what parents felt was hampering their progress, including – in one case – 11 such questions in a 15-minute hearing.

The quantitative data from the court observations demonstrates similar points. Using the section of the court observation tool that examines judicial behaviour, Figure 12 presents an aggregated analysis of the behaviour of the four judges in these seven cases. It shows that the judges were fulfilling one of the basic tenets of problem-solving courts by engaging directly and regularly with parents throughout the process. It also shows that the process was two-way – the judges both talked to parents and sought out their perspectives. In over half the cases, judges were using a variety of techniques to promote motivation and to emphasise parental responsibility.

This data also indicates that judges were less likely to restate the aims of FDAC or to explain reasons for decisions. The reasons for this are not clear but it is possible that in later hearings judges assumed parents understood why they were in FDAC and that they delegated the job of explaining decisions to the FDAC team or parent's representative. There will also have been reviews at which no decisions were made.

**Figure 12: Analysis of judicial behaviour over a six-month period (7 early cases)**



Note: this analysis is of observations from 42 hearings (6 for each of 7 cases). Besides 4 review hearings per case, it includes the first and second hearings (attended by lawyers, and in which judges do not always talk directly to parents).

### **The role of the judges – views of others**

The interviews with the 22 parents consistently made clear that the judges did play an extremely important role in the FDAC intervention and that their role to motivate and support was valued by parents.

*Yes, it's important what he says. I can see he knows I'm trying.*

*He says he's proud of what I'm doing. It is important what he says. I do take it on board.*

*He asked to see pictures of the children and that was helpful – to know that he did care.*

*He makes me feel positive about a lot of things. It is important what he says. He's given me an opportunity. If we'd have gone to another court maybe my children would have been taken away from me.*

Parents sometimes commented that praise from the judge was more important than from any other professional.

*The hearings make me feel good because I'm doing everything that I should be. The judge is full of praise ... My lawyer tells me I'm doing well but it's not the same ... My social worker also says I'm doing well. But it's just a little muttering under her breath. I don't feel it's so heartfelt.*

Few parents spoke directly about judges being robust with them when things were not going well but one mother said:

*The judge today was very definite ... I am back in court in two weeks and I could lose my child then. You know where you stand. It is upsetting to be told I might lose her, but I'd rather know – it means I've got a goal to work towards.*

Members of the FDAC team and guardians referred to judges having different styles. Guardians felt that the judges' more direct role was helpful. They appreciated 'enthusiastic but robust' approaches, and some felt that that judges were not always as clear as they might be with parents when things were not going well.

In conclusion, this preliminary analysis provides some clear indications that the judges did not just express a commitment to supporting, motivating and challenging parents, but that they were taking active steps to do so. This was especially clear in terms of direct interaction with parents and the use of their authority to therapeutic ends. The four judges did have different approaches. They received no special training before presiding over FDAC cases. Joint training for judges and members of the specialist team together is a feature of FTDCs in the USA and some other problem-solving courts, and the feasibility study had proposed similar joint training for this pilot. If the FDAC approach were to be rolled out more widely, training for both judges and the specialist team together on an evidence informed approach such as Motivational Interviewing would be helpful. As one of the judges commented:

*This is not everyone's cup of tea and working in this way is not a skill all the judiciary [would usually] need. Some sort of training would be useful. I think if this scheme is extended it would be useful for judges to learn from one another. Judges seldom see their colleagues in action.*

### **3. The review hearings**

The process through which the FDAC judges carry out their role of monitoring and motivating parents is through fortnightly reviews of the case attended by parents, their FDAC key worker, the social worker, and, if they are able to attend, the guardian. Legal representatives do not attend. This type of regular review,

without legal representatives, is a feature of other 'problem-solving' court pilots in England.

### **The review hearings – views of the judges**

All the judges saw regular reviews held in the absence of lawyers as a key part of the process:

*I think reviews without lawyers are the most valuable part of the process ... parents can speak more frankly with fewer people there and without a lawyer there.*

*They [parents] are quite frightened at the beginning but by the time they have signed up to the FDAC and have had their first non-lawyer review – I can't think of any mother yet, and it usually is mothers, who has not opened up.*

Judges also made the point that regular reviews, following the provision of an assessment by FDAC at an early stage, helped promote better and faster decision making:

*An initial fear was that FDAC would slow down care proceedings. In my experience so far what it does is shine a powerful searchlight on the family and applies the resources of FDAC on them, and if anything, care proceedings will ultimately be speeded up ... The FDAC team is very good at identifying parents who cannot cope.*

*We are finding out much sooner rather than later people's engagement and commitment because this system shows up parents who can't make changes, or can't make them quickly enough ... This does mean you can make decisions about children early.*

Judicial continuity was recognised as a key ingredient of the system of regular reviews with parents. The judges felt that judicial continuity was important for two main reasons, firstly so that judges were well informed about the cases they were dealing with and secondly so that parents became familiar with them and could also have confidence that the judge was familiar with their case and their progress. Although in the first few months of the pilot it had not been possible to achieve the hoped for continuity due to the illness of one of the judges, they felt that they had all been giving a consistent message to parents. Towards the end of the first year of the pilot it was proving possible to achieve judicial continuity in most cases and the judges had no doubt that this was achievable and essential:

*Even though this [judicial continuity] has not happened as planned, there is a team of judges who are taking a specific interest in each case. Previously in this country that has always been difficult to achieve. I think the FDAC judges taking more control is a key feature.*

*There is a staggering lack of judicial continuity in the family court system throughout the country at every level, but it is possible to achieve – we have done it here!*

## **The review hearings – views of others**

All parents had started going to court on a fortnightly basis and most were continuing to do so at the time they were interviewed. Occasionally hearings took place after three weeks or a month if there was a specific task to be completed, but this was rare. Parents divided into two clear-cut groups on their views of the value of frequent review hearings. One set of parents, and the larger one, reported that attending court for frequent reviews was useful because:

- it stops problems from building up
- it keeps up the momentum
- it provides opportunities for parents to receive positive feedback
- it keeps everyone up to date with things, and
- parents could speak for themselves.

*It is quite useful ... just to hurry things up, I guess. It keeps people working*

*It is positive for us to see how we are progressing and have progressed and we like everyone else to see how well we are doing too*

*The process has gone a lot quicker.*

*You get to speak for yourself. In the other court you wouldn't get that – your solicitor would do all the talking for you.*

However, even when parents found frequent reviews useful, they still could find it a strain. This is how one mother put it:

*Every fortnight gets to be tiresome. I was hoping to put it back to being monthly. Even three weekly would have been better. It is useful [being fortnightly] because if something has happened, you can always address the problem without leaving it too long. So I know why it's done like that. It's all about my son's safety and I wouldn't want it any other way. It's all being done for him.*

For the other smaller group of parents, the frequency of reviews was described as 'a waste of time' because nothing new ever happens' or because they 'didn't see the point'.

One reason parents might find frequent court hearings less useful would be if they felt unable to speak up in court. This theme was explored in the parent interviews. Most parents commented that they could say what they needed to. But several reported that they would have liked to say more but were held back for many reasons. 'Feeling shy' and 'lacking in confidence' were mentioned by a few parents. So was 'not finding the right words' or forgetting the point to be

made in the heat of the moment. But parents also held back when they thought that openly expressing disagreement with the plan or criticizing the local authority might prejudice their case. Reluctance to speak openly for fear of disappointing the judge was also mentioned:

*I feel like I can't say that I've been having a couple of bad days [although doing well overall] because he's a judge and he's so powerful ... All he wants to hear is about successful cases.*

Parents attached the same importance to judicial continuity as the judges and for the same reasons. Some of the parents who were interviewed earlier on in the pilot had experienced two judges and, exceptionally, four. The two contrasting quotations affirm the importance of judicial continuity as a cornerstone to FDAC:

*I've had the same judge all the way through. I think he is a very fair man. He encourages you. I don't expect in a normal court they would do that. He encourages me to do better. He gets the ball rolling when everything [plans] are up in the air, so he makes things happen. He rules.*

*We don't want to see lots of different judges. We want one person directing things all the way. Otherwise they don't know what is going on. That is important because the judge makes the decision at the end of the day so it is really important he gets all the information.*

The FDAC team saw review hearings, and the progress reports the team provide for these, as an important way of monitoring how well the intervention plan was going, keeping the court and the other parties to the proceedings updated, and resolving problems quickly as they arose:

*It's a way of ... celebrating the strengths of the family, challenging them on the difficulties they have been having.*

*Without solicitors there it is much better for families – they can speak their minds and be heard. I think it makes social workers more accountable ... I think decisions are made more quickly, the judges are more confident, they have better continuity and as a result better understanding of the case.*

Guardians were also positive about reviews:

*I like the idea of the parent coming back every two weeks – that is good.*

*It is good not to have lawyers there – you can just speak – it is less adversarial and more a feeling of everyone working together.*

*There is something about using the authority of the court to do social work that has been really helpful.*

At the first two meetings with lawyers and social workers, at five and eight months into the pilot respectively, lawyers raised concerns about reviews taking

place without them. The main concern was over parents attending review hearings unrepresented when the case was not progressing well. One guardian also raised this as an issue that needed further consideration.

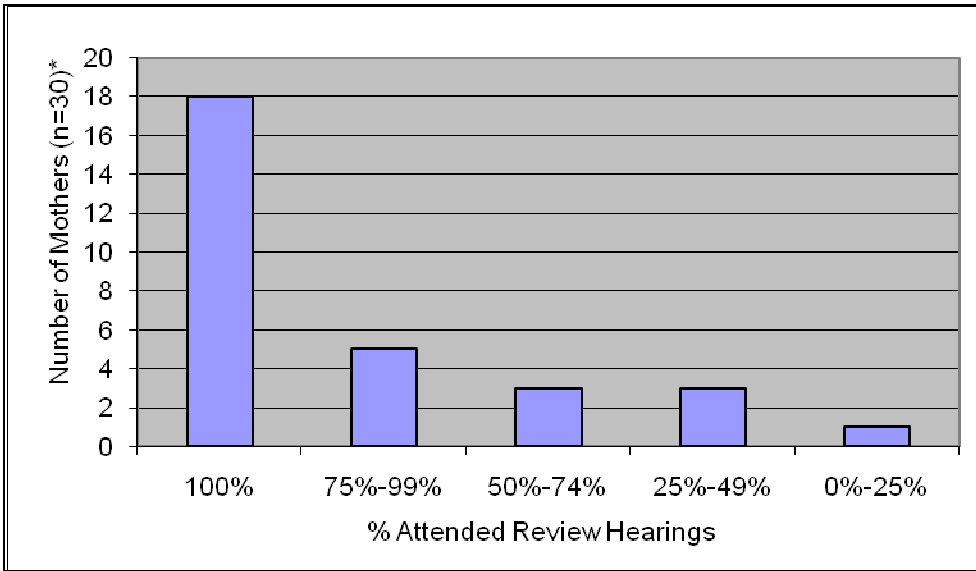
Questions were also raised about how legal representatives could obtain detailed information about what had been said at reviews. Following discussion of these concerns, it was agreed, and this is reflected in the agreement signed by parents, their solicitors, the judge and the FDAC team, that where problems arise the judge will direct that solicitors should attend the review. Legal representatives will get copies of the report from the FDAC team filed at the review, but plans to have a contemporaneous record of the discussion during the review itself do not appear to have been put into practice.

Judges, the specialist team and guardians all raised as an issue for consideration the number of review hearings that should take place in one day. As the pilot has progressed there can often be up to twelve review hearings in one day, following on from any initial or second hearings taking place as well. Guardians noted that on very full days it was noticeable that judges were less good at engaging with parents than they had been at the beginning of the day, some members of the specialist team queried whether it was appropriate to deal with so many cases in one day, and one judge also felt that the optimum number of review hearings was closer to eight than twelve.

### **The review hearings – findings from tracking cases**

A main function of frequent reviews is to keep parents engaged and motivated. Tracking attendance at reviews is a useful proxy for examining engagement with the FDAC process. Figure 13 shows that of the 30 mothers who had review hearings in the period up to 31 January 2009, 23 (77 per cent) attended 75 per cent or more of their review hearings and within that group 18 (60 per cent) attended all their reviews.

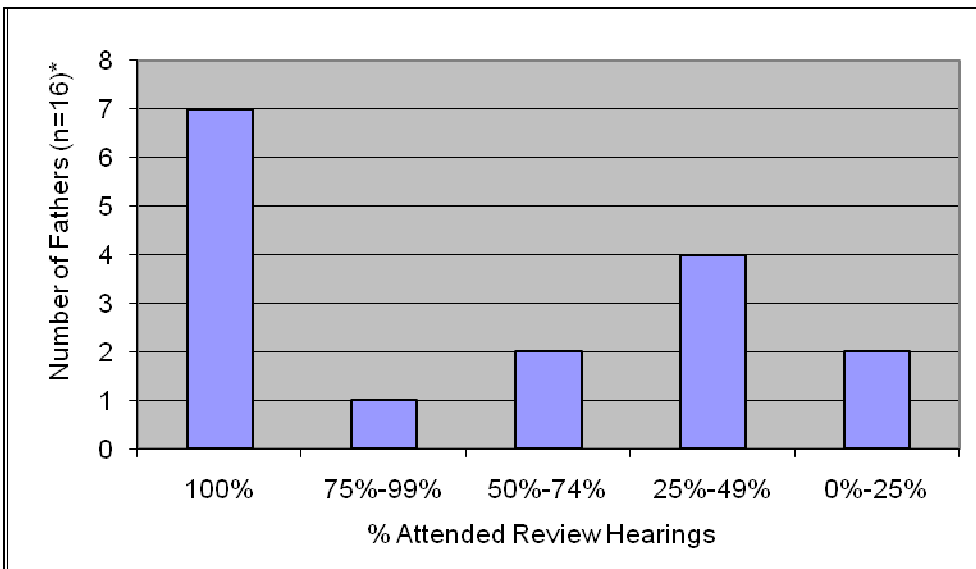
**Figure 13: Mothers' attendance at reviews**



\* Notes: N=30 (not 37) because 4 mothers exited FDAC after the first or second hearing and so did not have a review and 3 mothers had only reached first or second hearing stage by the end of January 2009 so had not yet attended a review. This figure shows attendance by mothers at reviews up to 31 January 2009. It was calculated by dividing the total number of review hearings attended by the mother by the number of listed review hearings she had up to the time she exited or graduated (or, for continuing cases, to 31 January). Time frame for the calculation is from the first hearing to the day of exit/graduation (or, for continuing cases, from first hearing to 31 January).

A similar exercise on 16 fathers indicates that half of them attended 75 per cent or more of their reviews, with seven attending all reviews.

**Figure 14: Fathers' attendance at reviews**



\* Note: n=16 (not 23) because 5 fathers have been in FDAC for three weeks or less so have not had a review hearings, and information is not available on the attendance pattern of 2 other fathers.



It is also important to look at the period of time parents spend in FDAC and the number of reviews they attend in that time. There are 17 mothers and 9 fathers who have spent longer than 20 weeks in FDAC since the first hearing (between 20 and 46 weeks). The maximum number of review hearings they could have attended in that time was 15 (2 mothers) and the minimum 7. Ten of the mothers attended all their review hearings, 15 attended 75 per cent or more and only two attended less than 75 per cent. Four of the fathers attended all reviews, one attended between 50 and 74 per cent, three between 25 and 49 per cent, and one less than 25 per cent.

In conclusion, the interview material suggests that the model of frequent non-lawyer review hearings was broadly endorsed by parents as well as by the judges, the FDAC team and guardians and that these hearings are seen as an important and distinctive feature of FDAC. The analysis of parental attendance at reviews, albeit only a preliminary picture, shows that a majority of parents are regularly attending court for these hearings. Research findings from evaluations of problem-solving courts suggest that the relationship between the judge and the defendant and the regular monitoring by the judge of progress is one of the important elements in improving outcomes in relation to compliance and engagement with treatment and services. This would suggest that the review hearings are an important mechanism in engaging parents to address their difficulties in the first year of the service. It is something we are exploring further.

#### **4. Problem solving within the court**

Identifying, and helping to overcome, barriers to accessing or engaging with services is another important feature of the problem-solving court approach.

##### **Problem solving – views from the judges**

All of the judges felt the court could and should have a role in assisting in resolving issues impacting on the parents or the progress of the case.

They all referred to housing having been a problem issue in a number of cases. Their responses included: making it clear to the local authority that they expected the problem to be sorted by the time of the next review hearing; requiring senior officers from the housing department to come to court; writing letters on behalf of parents; getting either social workers or the members of the FDAC team to agree to accompany people to meetings with housing officials. One judge noted that one of the FTDCs in the USA had developed links with local housing associations and said that the FDAC would be interested in doing that here.

Other examples of problem solving included asking local authorities to reconsider arrangements for contact; requesting, successfully, that a kinship assessment should be carried out quickly, to enable a child to move to live with relatives, making applications to a charitable fund available for judges to help parents returning to new housing in the community from residential placements with fittings and furniture; and helping parents clear debts incurred through unpaid court fines.

They also commented favourably on the FDAC team's efforts to sort out problems whether this was with the social services, housing, benefits or the court. They commented on how a member of the FDAC team would accompany parents to a service, help negotiate the complexities of housing and benefit entitlement and liaise with children's services.

### **Problem solving – views from others**

The FDAC team also identified housing as a particular problem area. Although the housing link workers in the three boroughs were helpful and there was good communication with them, they did not have the power, for example, to ensure a transfer away from drug using neighbours.

Sometimes the broker/advocate role of FDAC helped parents move out of hostile relationships with the local authority:

*Being involved with FDAC has made me see social services in a positive light. I see now that they are not just there to pick on me. They are there for the safety of the children. They have social workers in FDAC and I have been able to speak to them a lot and see what their perspective is.*

### **Problem solving – findings from observations**

The court observations in the seven early cases confirmed that all but one of the seven cases involved some degree of problem solving by the judge:

*Who has the key to solving this problem?*

*Why not invite someone from housing next time? I need them to think outside their box. They are part of something exciting here and we need them to be part of its success, not slowing us down.*

The attempts produced mixed results. Some problems over contact by fathers were resolved, and judges' encouragement to mothers to stick with placements worked in the sense that the mothers did stay put. In one of these cases the judge persuaded a mother to agree to a care worker being invited to a hearing, to discuss the mother's unhappiness with her placement. In another there was no easing of the personality clash between the mother and the foster carer, despite discussion about how to resolve this issue. When the actions of a housing

authority led to the collapse of a re-housing plan there were continued efforts to resolve the situation, but in other cases housing difficulties remained unresolved. Problems caused by lack of money for travel and child care costs also continued unabated.

The efforts made by the judges to actively problem solve are another indication of the non-traditional role that the judges were assuming in these cases. In line with the FDAC objectives, they were adopting a pro-active approach to problem solving in an effort to speed up service delivery and support parents' efforts to change. But the information also suggests that some problems are not within the power of the judiciary to solve. We return to this theme in the final part of the report.

Observations also recorded the FDAC team taking a problem-solving approach, making practical suggestions for how difficulties might be addressed, in relation to ensuring parents had more time to attend all the various appointments they had to keep each week, in relation to transport difficulties, contact or housing. In one case they succeeded in persuading the community mental health team to keep in contact with a parent, when they were about to close the case. They were resolute, too, in challenging professionals. They explained the adverse impact on a parent of a residential centre's failure to be explicit enough in describing their rules to her. They urged a local authority to be more creative in trying to help a parent sort out her debts. They advised a social worker that she needed more support in pressing the housing department to act quickly. They pressed another to be pro-active in paying childcare fees.

*The staff need to be more upfront with mother about what is expected of her.*

*We need decisions today from the local authority about all these points.*

## **5. The role of guardians, lawyers and social workers**

In this section we draw on the interviews with judges and the FDAC team, the focus group with guardians, notes from meetings for lawyers and social workers and court observations. Focus groups with lawyers and social workers will be held during the next year.

### **Views about the role of lawyers**

The judges were aware that initially lawyers had been concerned at the suggestions that they should not attend reviews and were unwilling to stay away. Some judges were more sympathetic to the concerns of lawyers about this than others. As time progressed the judges commented that lawyers seemed much more at ease with the process:

*I have been surprised at how well lawyers have adapted. I went to that meeting for lawyers and guardians early on and it was typical of meetings with lawyers – deep suspicion and anxiety because they have a job to do in terms of preserving the rights of their clients and handing the initiative over to FDAC is quite a big thing.*

*I think all the lawyers are on board.*

The FDAC team thought that lawyers had probably had the most difficulty adjusting to the new process, in particular not attending review hearings and being concerned about direct communication between their clients and the judges. It was felt that the meetings with lawyers had been very helpful in making it clear that the majority of lawyers were positive about the pilot even though they might have concerns about particular issues.

Court observations also highlight lawyers' uncertainty about expert evidence in the early months of FDAC. Solicitors were seeking clarity about who was to conduct assessments on parents, and about the purpose, methodology and timing involved. They also confirm the concerns, particularly from parents' solicitors, about their exclusion from reviews. They worried that their clients would go unsupported, that perceived inaccuracies in reports would remain on the record, that statements would go unchallenged, and that contact arrangements would remain unsatisfactory and care plans too vague, and that they would not get enough information about what had happened during reviews.

These issues, and others, were raised in an enquiring and positive way. Legal representatives for local authorities were warm in their comments about parental strengths and they were helpful in their advice to other family members about, for instance, seeking independent legal advice. They were responsive to the judges' attempts to problem solve, offering to tackle housing difficulties and troubled placements, albeit with mixed success.

Lawyers for parents were robust in making representations for their client. These were about the lack of a care plan or lack of clarity in plans, insufficient contact or unworkable arrangements, too little time to reflect on reports with parents before hearings, parents being overwhelmed by the number and frequency of meetings and appointments, and problems over lack of money for the travel and childcare costs involved. On the other hand, they were positive about the progress made by clients, and generous in their praise for what FDAC and the local authority were achieving in some cases.

### **Views about the role of guardians**

One judge was very positive about FDAC having a pool of dedicated guardians. All the judges noted that there was a possibility that guardians could feel threatened by the prospect of the specialist team taking over their role:

*Their traditional role is to keep the local authority on its toes and that still continues but now the FDAC team also has quite a strident voice about what should happen. I think the relationship between the FDAC team and the guardian is important.*

*I suspect some guardians think that their role as independent arbitrator has been taken over by FDAC and that they are being slightly sidelined.*

But there was general agreement that the role of the guardian was distinct and important – to keep an eye on the child's interests and to ensure that this remained the focus of the care proceedings.

The FDAC team as a whole felt that the guardians' role in FDAC was very similar to their role in standard care proceedings, and they valued their focus on the child or children:

*Their role is good. They are totally focused on the child. That brings us back to that focus as well.*

Guardians all felt that initially there had been a lack of clarity about what their role was going to be within FDAC which they attributed to the fact that there is no equivalent role to that of guardian within the US system. Some felt, particularly at the start of the pilot, that they 'were on the periphery' and 'FDAC were taking over'. Some felt that the guardian's role was not a comfortable fit within FDAC and a few felt this was still the case. Others, in contrast, felt they now had a prominent role. A number felt that it was becoming clearer that the guardian still had a lead role to play on issues relating to parenting and the interests of the children:

*I think my role is to ask questions from a different angle.*

*We've discovered we're assertive and it's working well. At the beginning there was definitely a feeling that we were less in control and the 'experts' were determining what was going on. Now it's much more collaborative.*

There was general agreement that communication between guardians and the specialist team had improved considerably since the start of the pilot and that the meetings organised by FDAC were helpful:

*It's much easier to talk about problems now – in phone calls, outside court, at intervention planning meetings. Communication is good.*

*I've been to 3 multi-dip meetings where we have had good discussions – lawyers came too. I think communication is excellent. The parents are there as well. There is the option for any of us to convene a multi-dip meeting if we want to.*

*Those meetings have been really useful.*

Guardians also noted that although there were more meetings and court hearings in FDAC cases, they were advantages because 'there is a whole team of people involved' which meant fewer administrative tasks for guardians:

*... fewer phone calls to other agencies, less working just to keep in touch, fewer lengthy reports - FDAC has often said it all.*

Court observations confirmed that some guardians were concerned about their role within FDAC. Both inside and outside court there were comments about their role having been marginalised: they felt excluded from the process and lacking access to expert opinion. These views tended to cease as cases progressed.

Most guardians were observed to be clear and confident in their comments to judges. When plans were going well, they said so, and they congratulated FDAC on their achievements. They raised specific concerns about slow action by local authorities or lack of clarity about plans. They were robust in expressing and explaining their worries if a parent was not working well enough with services. This happened in only two of the seven cases, but highlighted the value of their involvement in review meetings when, in the absence of the child's solicitor, they had greater input in discussion.

### **Views about the role of social workers**

The FDAC team noted that local authority representatives came regularly to intervention meetings and some members of the team described the working relationships as very good, with everyone being clear about their different responsibilities:

*There is a distribution of tasks which is formalised at the intervention planning meetings ... I've had no difficulties ... most people are clear what is their responsibility ... I interact well with the social workers.*

*Liaison with children's social care has been good and is working well.*

The team commented that in a number of cases involvement in FDAC had helped to improve relations between parents and the local authority:

*The social worker has found us very supportive and feels that our involvement has improved her relationship with her client.*

*The mother has a chance to be heard ... there is a blame game going on but FDAC is a more neutral place and has helped reduce animosity between the local authority and parents.*

Other team members had had positive experiences too but also more problematic ones. There were concerns about cases where the local authority care plan had not been prepared in writing and where it remained unclear, making it difficult to develop an appropriate intervention plan. There was also

concern about cases where there were disagreements with the local authority about, for example, whether the parent should attend a residential rehabilitation placement, whether the plan should be abstinence, and lack of clarity about how such disagreements should be resolved.

The lack of clarity about how to resolve disagreements between the FDAC team and the local authority was also an issue raised by guardians and in the meetings with social workers.

Guardians felt that the local authorities had also been struggling, like guardians, to understand their role within FDAC. Some guardians felt that there was a tendency for the local authority to 'take a back seat' and rely too much on the FDAC team, while others thought that on occasions the FDAC team did not sufficiently challenge the local authority point of view.

Observations showed that social workers and managers had very little input in the court hearings where lawyers were present. It was limited to responding to questions from the judge and they were not always able to respond helpfully because, for instance, they were new to the case and not yet familiar with the background.

In contrast, one or two social workers played an active and valued part in some review hearings. They spoke directly to parents about their successes, and they engaged in discussion about practical ideas for moving things forward. These social workers were generous and warm when praise was due. They responded to pleas from judges and the FDAC team to be creative about resolving difficulties over contact and housing problems. And they were open with parents if they felt their statements needed to be challenged, urging them to be realistic, to accept where they were failing to make sufficient progress, and warning them about the consequences of not doing things differently.

In conclusion, this section has raised a number of operational and policy issues faced by the FDAC service. These are discussed in the following section of the report.



## **PART C: EARLY LEARNING AND NEXT STEPS**

### **EARLY LEARNING FROM THE PILOT**

A project as new and innovative as FDAC presents many early learning points. In this final section we concentrate on a number of key issues which arise from the preliminary findings from the evaluation. They are:

1. parent mentors
2. training and information dissemination
3. identification and selection of cases
4. early intervention through court proceedings
5. helping the children by helping their parents
6. capacity of the FDAC team and court
7. expert assessment
8. co-ordinating services for parents and providing regular updates to court
9. partnership working, and
10. research issues.

We start with a brief summary of what has been achieved so far. The ethos of FDAC, as set out in the service specification, is that it will adopt a 'positive, proactive approach to addressing parental substance misuse', provide 'support and encouragement to parents' and 'timely and coordinated services', and 'at the same time have a clear focus on the welfare of the child'.

As we point out in the conclusion to section B3, the indications are that FDAC has developed a specialist, problem-solving court approach to care proceedings where parental substance misuse is a key factor which is distinctively different from standard care proceedings. Some aspects of the model need further clarification or development and we discuss these further in this section.

The evidence presented in section B3 suggests that there is a clear emerging FDAC service operating pro-actively and supporting parents within limits that emphasise their autonomy and responsibility for their actions. The judges were taking a non-traditional approach to parents and professionals alike and performing tasks that are in line with problem-solving courts. A non-adversarial court ethos developed quickly and judicial continuity is now being achieved. The FDAC team provides rapid assessments, in-depth knowledge of parents, speedier access to substance misuse services and drug and alcohol testing and they are respected by professionals and parents. Parental engagement, judged by regular attendance at review hearings and FDAC appointments, appears promising. Given the severity of the parents' substance misuse and their other difficulties (section B1) this early picture is encouraging. The model, although continually developing, is widely perceived to be relevant, viable and dependent



not on personality but on role in that all four judges have adapted to this model. This is a new system which parents and professionals value.

Parents who are still in the FDAC process have made broadly favourable comments in interviews. They recognise that FDAC is their last chance, see it as a fair and supportive system and find that the authority/problem-solving role of the judge and the independence of the team help motivate them to try to change. All parents said they would recommend FDAC to other parents in care proceedings.

## **The definition of ‘success’**

The current focus on reunification as one of the two main purposes of the FDAC pilot leaves little place for recognising the achievements of those parents who overcome their substance misuse but are unable to retain or regain care of their child. Yet it is progress, sometimes remarkable progress, if parents have engaged with treatment services and recognise that they are still not ready to provide stable care for their child.

The question is – how can FDAC give this due recognition, especially since parents in this situation will have achieved some of the objectives that they signed up to, and since their achievement in this regard may stand them in good stead if they have another child in the future? As things stand at present, leaving FDAC without keeping or regaining the child tends to be seen as ‘failure’. The ‘graduation ceremony’, the pilot’s symbol of success, is restricted to parents who control their substance misuse and are allowed to care for their child. In the consultation on the draft version of this report, there was support for reviewing this system, for the reasons outlined above.

We think there is also value in broadening the goal of success to include explicit reference to children remaining with their parents throughout their time with FDAC. At present the service specification refers to reunification only, despite that fact some children in the pilot have not been removed from their parents during the care proceedings. An explicit reference to the objective of remaining as a family unit might also help broaden the perceptions of referrers about who might benefit from FDAC, including families with less entrenched parental substance misuse.

We will continue to explore all these issues in the next stage of work, with the various participants not yet interviewed, as well as with parents. It is an added reason for persisting in our attempts to interview parents who have exited FDAC and for canvassing the views of ‘successful’ parents about the graduation certificate and ceremony.

## **1. Parent mentors**

The parent mentor programme is potentially one of the most distinctive features of the FDAC model. It is the only component where support and assistance to parents is provided by non-professionals who are intended to provide a positive role model based on their own life experiences. In the feasibility study the plan was that parent mentors would be parents who themselves had lost their children to the care system as a result of parental substance misuse but gone on to rebuild their lives and parent successfully.

However, the mentoring component is still in a very early stage of development. It is estimated that there need to be between 15 to 20 active parent mentors to ensure that each parent has an opportunity to meet a parent mentor at the first hearing and to enable specific pieces of work to be carried out as part of the intervention plan based on careful matching of parent and mentor. So far, the number of parent mentors (six at 30 April 2009) falls well short of the target figure. The parent mentor coordinator was not appointed until spring 2008 and recruitment could not begin until the infrastructure to support parent mentors was in place and agreement over their main roles and functions. There are now very full materials on the mentoring component of the programme. There is a detailed handbook for mentors, articulating the aims and approach to mentoring. There is a well-defined selection system, training and support mechanisms are in place, and recruitment is ongoing.

One of the set-up lessons is that this component of the specialist team's work has required a particularly lengthy lead in time. First, choosing the right recruits; training, supporting and retaining them; and ensuring they are CRB checked are all lengthy processes. Second, more funding has been needed for the mentor programme than has been available and this has restricted the development of the programme. Third, the goal of recruiting parent mentors from those with experience of the child protection system as well as substance misuse, as set out in the feasibility study, has needed some rethinking because it has narrowed the potential recruitment field. The criteria have been broadened to maximise the pool of mentors at this point of FDAC's development. Finally, the parent mentoring programme is potentially important in helping to address capacity issues. It will be important to keep tracking the development of the mentoring scheme.

## **2. Training and information dissemination**

The FDAC pilot would have benefited from a longer period between the appointment of the specialist team and the opening of the court. As already noted, the contract with the Tavistock Portman NHS Trust Foundation and Coram Family was finalised only in November 2007, the team was not complete when

the court opened and those team members who were in post had only started work two weeks beforehand. As a result, preparatory multidisciplinary training on the FDAC aims, ethos and procedure proved difficult to achieve in line with the recommendations of the feasibility study. It had been envisaged that there would be training for the specialist team and, in addition, joint sessions with the team, specialist judges, court staff and guardians. The feasibility study had also proposed awareness raising and dissemination about the ethos of FDAC and proposed procedures for the court for lawyers and social work staff and managers. These proposals took account of research into problem-solving courts which had identified training as a key ingredient in making problem-solving courts work.

In January 2008, shortly before the court opened, an Away Day was held for the specialist team, judges, court staff, some guardians and key personnel from the three local authorities, which helped to pull together the work that had already been done to prepare for the start of the pilot. Nine months into the pilot the team and the judges had a half-day session together on Motivational Interviewing, which followed earlier training on MI for the team alone. FDAC team members have been able to access a range of training during the first year of the pilot and have also benefited from skill sharing within the team. The team has welcomed all these training opportunities. It would appear sensible to plan for some additional training for judges if the FDAC approach is adopted more widely.

Information and training for social workers and team managers had been recognised by the Cross Borough Operational Group as a major issue to be tackled. A half-day training programme was developed for use in all three Boroughs in the autumn of 2007. Delivery of the training was more thorough in two of the boroughs than in the third. An added complication was that extensive training for social workers on the implementation of the Public Law Outline was being delivered at the same time. This created some confusion among staff. There had been a number of presentations to lawyers about the pilot but, inevitably, the information had not reached all those likely to be involved in proceedings.

More opportunities for training prior to the opening of the court might have helped avoid some of the early confusions about role voiced by guardians and social workers and some of the uncertainties about process which concerned lawyers (section B3).

A longer lead-in period would have also allowed more time to prepare information materials on FDAC. Whilst it would not have been possible to prepare detailed documents in the early days when the process was still so new, the early learning indicated that the professionals involved in the programme needed to feel prepared and have a basic level of knowledge about the scheme and brief written materials would have helped. In their absence, extra pressure was put on the FDAC team in the very early days to help fill the gap. They spent considerable

amounts of time before and after FDAC hearings in the early months of 2008 explaining the process and what might be expected as the process developed. An information leaflet targeted at professionals involved in the FDAC process was subsequently developed for dissemination. As the pilot has progressed many of the issues of detail which were unclear at the start have been clarified, which enables clearer dissemination of information from the start. Quarterly meetings for professionals involved in FDAC cases also provide an important forum for dissemination of information and discussion of any issues arising.

### **3. Identification and selection of cases**

The trigger for considering taking a case to FDAC is any case where parental drug and/or alcohol misuse is leading to actual or likely significant harm for the children. At the time of the feasibility study there had been considerable discussion among all stakeholders about whether there should be any criteria for excluding cases. It had been agreed that keeping exclusion criteria to a minimum would help ensure that the contribution of the FDAC pilot could be assessed on as wide a spectrum of cases as possible. It was agreed that the specialist team could consider excluding parents where:

- there is a history of severe physical or sexual abuse of the children, or
- there is a history of severe domestic or other violence, where help has been offered in the past and not accepted, or
- the parent is experiencing florid psychosis.

Interviews with the FDAC team, judges and guardians indicated that in some cases it is difficult to establish whether substance misuse is the key issue to be addressed or whether in fact the main problem is domestic violence or, for example, learning disability and such cases create particular challenges. This is an issue that will need further consideration as the pilot progresses, as will the possibility of the development of additional exclusion criteria.

Prior to the court starting it was thought that numbers of cases coming to FDAC might exceed the target of 60 cases. To deal with this possibility and with issues of team capacity at the beginning of the pilot, a system of random selection of cases by the court listing office was agreed. In the event the number of cases coming to court was lower than anticipated and random selection was never needed.

It has been difficult to establish the reasons for the lower than anticipated case numbers coming to FDAC in the first months of the project. The issue has been a subject of regular discussion at the Steering Group and the Cross Borough Operational Group. One possibility was that suitable cases were somehow slipping through the net and not being brought to FDAC. Two reviews of non-FDAC care applications to the court from the pilot authorities, carried out in early

and late 2008 came to the overall conclusion that cases were not slipping through the net to any significant degree.

A second possibility was that the projection of likely case numbers for FDAC, based on care proceedings brought in 2004-05, was out of date by 2008. The *Hidden Harm* agenda had had an impact on the approach to parental substance misuse in three boroughs, leading to better co-ordination between adult and children's services and earlier intervention and these changes may have reduced the need for care proceedings. It is beyond the remit of the researchers to follow up this point but it is unlikely to be the full explanation.

A third possibility was that the Public Law Outline (PLO)<sup>47</sup>, which came into force in April 2008, had reduced the number of applications for care orders. Nationally, there was a drop in applications for care proceedings between April-September 2008, when the monthly numbers were well below those for the same six-month period in each of the previous three years<sup>48</sup>. One explanation of this national trend is that applications were taking longer to process whilst local authorities took steps to ensure they had undertaken all possible preparations in line with PLO guidance. Another possibility is that cases were being diverted altogether through use of pre-proceedings processes in line with revised Children Act guidance<sup>49</sup>. An early process evaluation of the PLO did not look at whether the number of cases coming to court fell as a result of the introduction of the PLO. It did comment that there were concerns that the expectations in relation to pre-proceedings work were causing delays in bringing cases to court<sup>50</sup>.

Finally, the rise in the court fees paid by local authorities for making an application for a care order has been viewed by many as a possible contributor to the low rates of care proceedings in 2008. Court fees are now being reviewed following recommendations in the Laming Progress Report<sup>51</sup>.

In the early months of the project complications arose when cases which had started as standard care proceedings were then identified as suitable for FDAC and transferred over after a number of hearings. This problem has been resolved with the new listing system – an FDAC case may now start in another court if an early hearing is needed but it will transfer into FDAC immediately afterwards, with

---

<sup>47</sup> The Public Law Outline – Guide to Case Management in Public Law Proceedings. Practice Direction. April 2008.

<sup>48</sup> Cafcass Care Demand Statistics: Figures derived from Cafcass national case management system. Note: A case can 'involve multiple children and multiple application types'. <http://www.cafcass.gov.uk/PDF/0910%20Q1%20care%20demand%20update%202009%2007%2016.pdf>

<sup>49</sup> DCSF (2008) The Children Act 1989 Guidance and Regulations – Volume 1 – Court Orders. London. TSO.

<sup>50</sup> Jessiman P, Keogh P, and Brophy J (2009) An early process evaluation of the Public Law Outline in family courts. Ministry of Justice Research series 10/09.

<sup>51</sup> Lord Laming (2009) The Protection of Children in England: A Progress Report; DCSF (2009) The Protection of Children in England: Action Plan (the Government response to Lord Laming).

clear information conveyed to all parties, to the FDAC team and to the designated guardian.

#### **4. Early intervention through court proceedings**

An aim of the FDAC pilot set out in the feasibility report was that 'court action should not be seen as a last resort and that the ethos of FDAC is one of early intervention'<sup>52</sup>. To that end the boroughs were to be encouraged to bring cases to court sooner rather than later.

The encouragement to bring cases to court at an early stage was also based on earlier research findings. These had shown that while cases concerning new babies born to mothers misusing illegal drugs were brought to court quickly, there was a tendency in cases involving alcohol misuse, and in cases involving misuse of illegal drugs where children were older, for there to be repeated assessments, with cases being closed after a period of intervention and then re-opened. Care proceedings in these cases were frequently started only when a crisis arose rather than being part of a clear plan. This often had damaging consequences to child welfare and the possibilities for future placement stability<sup>53</sup>.

Preliminary findings (section B1) show that in the first year of the pilot the majority of cases have involved parents with long histories of substance misuse and involvement with children's services. Only a very small number of the cases involve parental alcohol misuse alone. A consequence of the case profiles is that the potential of the court to play a role in cases with less entrenched histories of harm remains as yet untested, as does its potential to address the needs of children whose parents misuse alcohol.

An important issue for further consideration as the FDAC pilot progresses will be whether more cases are brought to court at an earlier stage and what the wider policy implications of this might be. Guidance on the Children Act emphasises the importance of 'fully exploring' the possibilities of working on a voluntary basis with families prior to making an application to the court, but also adds 'provided this does not jeopardise the child's safety and welfare'<sup>54</sup>. The guidance requires that local authorities considering taking care proceedings should send parents a pre-proceedings letter 'before action' indicating that court proceedings are being

---

<sup>52</sup> Ryan M et al (2006) Report on the Feasibility of establishing a Family Drug and Alcohol Court at Wells Street Family Proceedings Court (p38).

<sup>53</sup> Forrester D and Harwin J (2007) Parental substance misuse and child welfare: outcomes for children two years after referral. *British Journal of Social Work*, Vol. 38, No. 8, pp 1518-1535 (18); Hayden C (2004) Parental Substance Misuse and Child Care Social Work: Research in a city social work department in England. *Child Abuse Review* (13) pp18-30; Hart D and Powell J (2006) *Adult Drug Problems, Children's Needs: Assessing the impact of parental drug use. A toolkit for practitioners*. London. NCB.

<sup>54</sup> DCSF (2008) *The Children Act 1989 Guidance and Regulations – Volume 1 – Court Orders*. London: TSO (para 3.7).



considered. At this point parents are entitled to apply for legal aid for legal representation. The implementation of the Human Rights Act 1998 has focused attention on the importance of ensuring the response of a local authority is proportionate if it is taking action to interfere with family life.

The PLO is primarily focused on the management of care proceedings once an application to the court has been made. The overall aim is to ensure that, through active case management, cases will be dealt with expeditiously, fairly and consistently and will be less costly. This is in response to ongoing concerns since the implementation of the Children Act 1989 about costs and delays in care proceedings. The PLO does state that the 'applicant should prepare the case before proceedings are issued' and includes a pre-proceedings checklist setting out the documents a local authority is expected to file with the application. It is clear that proceedings can be started without such documents if this would be necessary for the safety and welfare of the child.

None of the above developments have amended the threshold for the making of a care or supervision order, which remains that the child is suffering or likely to suffer significant harm as a result of parental action or inaction.<sup>55</sup> It would seem from research, however, that although this threshold may be established in cases concerning parental substance misuse, care proceedings will not necessarily be brought if it is considered that work can be done with the family on a voluntary basis. The recent and tragic case of Baby Peter has, among many other issues raised, brought to the fore the question of the threshold for applying for a care order. It will be important to explore further how well policies which appear to discourage the bringing of proceedings until all avenues have been explored fit with the development of problem-solving courts which may have a role to play in early intervention.

## **5. Helping the children by helping their parents**

The approach of FDAC may seem unusual to some commentators, in that it focuses on resolving parental difficulties in order to help the children in the family. Yet the approach is entirely consistent with the government's emphasis on a Think Family, holistic approach, as mentioned earlier. The logic in this policy arena is that parents need help from many different types of service and that providing this intensive help is a pre-requisite to addressing their parenting capacity and thus meeting their child's needs. The approach is one that distinguishes FDAC from standard care proceedings, also covered earlier.

In the early days of FDAC there were some tensions amongst the professionals as to whether the right balance was being achieved between parents' needs and children's needs. With time and discussion, the respective roles of the FDAC team, the guardians and the social workers have become clearer although the

---

<sup>55</sup> Section 31, Children Act 1989

division of roles and responsibilities between these different participants is still evolving. It will be important to follow up this issue in the final report – it has resource implications as well as shedding light on a different approach to supporting families.

## **6. Capacity of the FDAC team and court**

The feasibility study identified that over one year (2004-05) the three boroughs between them issued care proceedings in 83 cases where parental substance misuse was a key issue. It was anticipated that it might not be feasible for the pilot to deal with this number of cases annually and so it was agreed that the aim should be 60 cases per year. In fact the number of cases in the first year was 37 and issues in relation to the capacity of both the team and the court have already arisen (section B3).

In relation to the court, there is difficulty in finding time to deal with contested matters, although it was originally envisaged that in accordance with the principle of judicial continuity contested issues would, if possible, be heard by the FDAC judge dealing with the case. It will be important to review the implications of contested matters being dealt with by non-FDAC judges or magistrates. For both the court and the FDAC team there is also the issue of how many reviews should take place in one day and this will need to be kept under consideration.

The nature of the cases coming to FDAC, where parents have long histories of substance misuse and other psychosocial difficulties, has created particular challenges for the FDAC team in engaging and motivating parents. The early indications are that despite these difficulties they are having success in helping parents to engage and sustain their engagement in treatment services, and are increasingly able to make timely decisions that cases should exit FDAC when engagement is poor. This may help with capacity issues in future.

The development of the staged assessment process, ongoing issues about the extent to which the team should carry out parenting assessments and assessments of children, and the commitment to produce a second report at the end of the FDAC process, will inevitably impact on the team's capacity to deal with higher numbers of cases. These are all issues under regular review.

One final issue relating to capacity is the range of disciplines represented within the team, and their ability to draw on different expertise when it is needed. Interviews with the team and with guardians suggest that the team could benefit from the input of a clinical psychologist for adults and a family therapist. This would help reduce the need for additional expert assessments in FDAC proceedings.



## **7. Expert assessment**

The FDAC team approach to assessments, the timing of the assessment, and developments during the first year have been described in section B3.

Particular issues that have arisen include:

- the possible need for additional expert assessments within FDAC because a particular discipline is not available within the team
- the ability of parents to seek additional expert evidence within FDAC
- whether the team should be engaging in more detailed assessments of parenting and of children, and
- whether additional expert evidence will be ordered in cases which exit FDAC or whether other courts will rely on the FDAC assessment.

Systems are in place to ensure that data is collected on whether or not additional expert assessments are ordered while cases remain in FDAC or if they exit from it. This information will be particularly important for the costs element of the final report but is also relevant for discussion of the role of the specialist team.

Both the feasibility study and service specification state that the assessment by the team should include assessment of the child's needs, wishes and feelings, and this is now clearly set out as part of the staged assessment process. The feasibility study, however, states that where a parenting assessment is needed then the presumption should be that this is provided by existing services within the three boroughs, which has, largely, been the practice so far. Although the FDAC team and local authority liaise closely over the parenting assessment, the decision as to which agency undertakes the work is made on a case-by-case basis. It may be important to establish a guiding principle for future work. Developments in relation to the focus of the team, including whether there is a further shift towards parenting assessments, will have an important impact on the role of the team and the number of cases they might be expected to deal with.

## **8. Co-ordinating services for parents and providing regular updates to court**

The service specification states that the FDAC team 'ensure effective services are provided in a timely and co-ordinated way for parents'. The team is also expected to report regularly to the court, through review hearings, on how parents are progressing.

Supporting parents to stay engaged with treatment services is a key desired outcome of the pilot and thus good communication between the team and adult treatment services in the three boroughs is important, as is the ability to access services quickly. Initially there were some problems in communication between

adult treatment services and the team which affected the team's ability to report in detail on parents' progress. Policies and procedures for communication have now been set up and have, in the main, resolved issues in relation to communication. There can be delays in accessing some residential services, and there remain a lack of services to respond to alcohol misuse in all three boroughs in particular, but, as noted in section B3, the team will provide ongoing support to parents while they are waiting to access services.

Given the range of other problems impacting on parents (section B1) links with other services available locally are also important. Unlike many of the FTDCs in the US, FDAC does not have its own services into which parents can be referred immediately. As noted in section B3, housing has been identified as a particularly problematic area, despite the team having housing link workers in each area. Domestic violence is also a problem in a high number of cases, the team has domestic violence link workers in the three boroughs, and there is evidence of families accessing local domestic violence services. File information on access to other relevant services remains patchy and this is an area that will need further exploration as the pilot progresses.

## **9. Partnership working**

The feasibility study had identified that the FDAC pilot would provide opportunities for joint commissioning across the three pilot boroughs. The commissioning of the specialist team and the development of the governance structures to support the pilot are examples of effective partnership working and joint commissioning.

The funding for the three-year pilot is complex and has created particular challenges for the three local authorities who are contributing to the funding as well as participating in the work.

The three boroughs were the first to commit to providing funding for three years, on condition that matched funding could be obtained. This type of joint commissioning is relatively new and was made more complex by the need to secure additional funding from other sources. Camden took the lead in the commissioning process, with a senior commissioning manager taking responsibility for co-ordinating the partnership arrangement between the three local authorities, the negotiations with government departments for additional funding, and the tendering process for the specialist team.

Achieving the partnership agreement between the three boroughs was time consuming, requiring negotiations over 12 months. Legal representatives for each borough needed to be assured that all risks had been identified and provided for. In addition, the project had to pass through a range of checks and procedures before the commissioning process could be approved. As this was a

pilot of a new approach, and requiring evaluation, it was difficult to reconcile the process with normal local authority commissioning where the expectation is that evidence will be provided of effectiveness, value for money and year-on-year savings. Also unusual was the need to specify the exact amount of money available for the specialist team rather than inviting a budget proposing from those bidding for the tender. A final difficulty was that most people involved in all these different processes lacked a clear understanding of the project as a whole.

Further complications arose from the fact that the funding eventually agreed was for a three-year project which, because of delays in securing complete funding, did not begin until the last quarter of a financial year, and thus would be spread over a four-year period. Government departments and local authorities normally expect money to be spent in the financial year in which it is allocated and it was extremely difficult to achieve the flexibility needed. Of key importance here was the commitment and knowledge of the senior commissioning manager in Camden who had been closely involved with the project from 2005.

The partnership between the Tavistock Portman NHS Trust Foundation and Coram Family is another interesting element of the pilot and created challenges for both the providers and the commissioning local authorities. Negotiations about the contract and the respective roles of the partners took several months. There is a service level agreement (SLA) between Camden (as the lead borough in the partnership) and the Tavistock Portman NHS Trust Foundation for the delivery of the specialist team service, with a separate SLA between the Foundation and Coram Family.

The operational sub-groups of the FDAC Steering Group are further examples of partnership working. The Cross Borough Operational Group (CBOG) meets once every six weeks while the commissioning group and contract monitoring sub-group meet quarterly.

CBOG has representatives from the three boroughs, the specialist team, the court and CAF/CASS (and in recent months a member of the research team). It has provided a helpful forum for the discussion and resolution of issues and problems that have arisen over the first year of the pilot.

On the whole, this governance structure has worked well during the first year. It requires ongoing commitment from borough representatives and dedicated time for servicing meetings to ensure that minutes and relevant papers are prepared and circulated. At times there has been uncertainty about which governance group is best placed to deal with concerns and about where responsibility for action lies.

There have also been difficulties in sustaining the involvement of adult treatment services in these meetings and in engaging adult mental health services. These

are issues which will merit further attention during the 18 months remaining for the pilot.

## **10. Research**

Seeking ethical approval to carry out the research was unusually complex. Approval was needed from the local authorities, from the NHS Research Ethics Committee, from the courts and CAFCASS. Each of these systems had their own criteria for gaining ethical approval to review files and/or interview parents and staff (section A3). A number of important points emerged from this experience.

First, it was a very lengthy process which delayed the start of data collection.

Second, the NHS ethical governance framework, devised for different circumstances, is not parent-friendly for the particular group of parents in this research and resulted in very lengthy and rather complex documents for parents that could adversely affect parents' readiness to participate in the programme.

Third, because a Children's Social Care research governance framework was still under preparation, decision-making was devolved to the local authorities and it took a long time to reach a consensus. The DCSF has recently commissioned work to draw up a children's social care research governance framework and there may be special merit in reviewing consistency across different research governance ethics frameworks and examining ways of maximising participation by vulnerable groups such as those in the FDAC sample.

Finally, and of most immediate relevance to the study, as well as delay, the arrangements for file access and parent interview will lead to some sample attrition as parents exercise their right to consent or refuse to participate in the research.

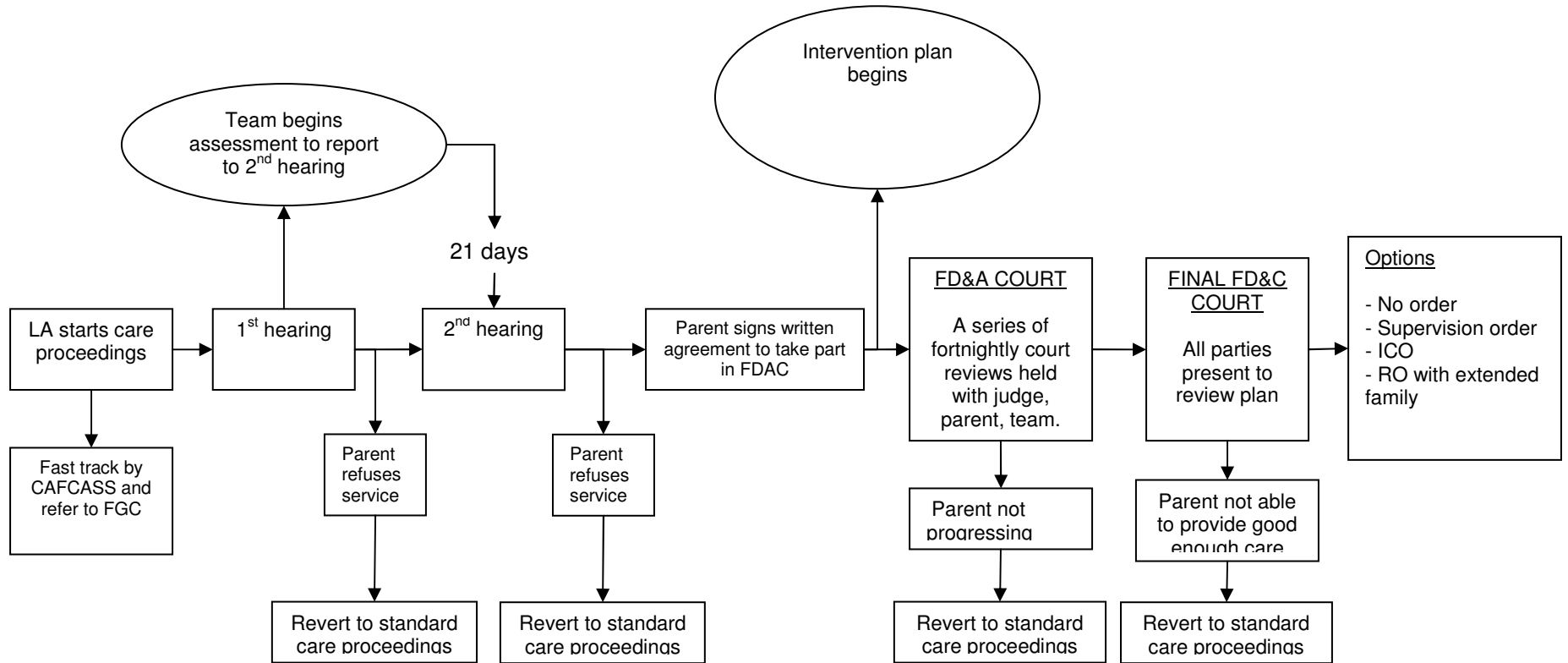
## **CONCLUSION**

The FDAC pilot is a specialist court for a problem that is anything but special or uncommon. Research has shown that parental substance misuse is more common than any other parental difficulty in children's services and outcomes are often poor. Parental substance misuse is substantially over-represented in all cases of child protection and care proceedings. The FDAC pilot is developing a proactive approach in line with the ethos in the service specification. When fully operational it will be well placed to help shed light on which children, in which circumstances, can remain at home or should be removed from their parents who misuse drugs and alcohol.

So far, it has been seen that the FDAC court and service is developing distinctive differences from normal care proceedings and services. The next step is to review how far these differences produce better outcomes, whether by keeping families together, reunification, or by new and swifter arrangements for alternative permanency options for children. Other important objectives, and which may lead to improved outcomes in the longer term, include sustaining more parents in substance misuse treatment services so that they are able to control their substance misuse even if they are not able to retain or regain care of their child and supporting parents to come to terms with difficult decisions. Through all these means FDAC seeks to break the destructive inter-generational cycle of harm that is associated with parental substance misuse.

# ANNEX 1 - FDAC COURT PROCESS

.....month 1.....month 2.....months 3 -12....



**ANNEX 2 - FORMAL AGREEMENT SIGNED BY PARENTS**

**FAMILY DRUG AND ALCOHOL COURT AGREEMENT**

CHILD/REN'S NAME(s):

CASE NUMBER:

DATE:

NAME OF PARENT:

I agree to participate fully in the Family Drug and Alcohol Court (FDAC), and participate fully in the Intervention Plan that has been prepared by the FDAC team. I agree to be open and honest with the Court and the Professionals working with me and my child(ren).

I understand that the FDAC team is recognised by the Court as an independent expert team, authorised and appointed to carry out an assessment of me and my family, and I accept that the FDAC team is independent.

I will attend all appointments fixed for me by the FDAC team and FDAC court hearings on time.

I understand that the FDAC team will liaise and share information with all Professionals involved with my family, and that all the Professionals involved will receive a copy of the Intervention Plan.

I will report to the FDAC as directed by the Judge or as otherwise required in my Intervention Plan, and I will engage in discussions in open court with the Judge as to my progress with the Intervention Plan.

I understand that if any issues arise at my Review Hearings which the Court considers requires me having legal advice my case will be adjourned to another date for me to see my Lawyer.

In the event that the Court decides that I should not continue in the FDAC scheme, or in the event that I end my participation in the FDAC process, I accept that I will be excluded from the FDAC scheme.

Signatures

Parent: .....

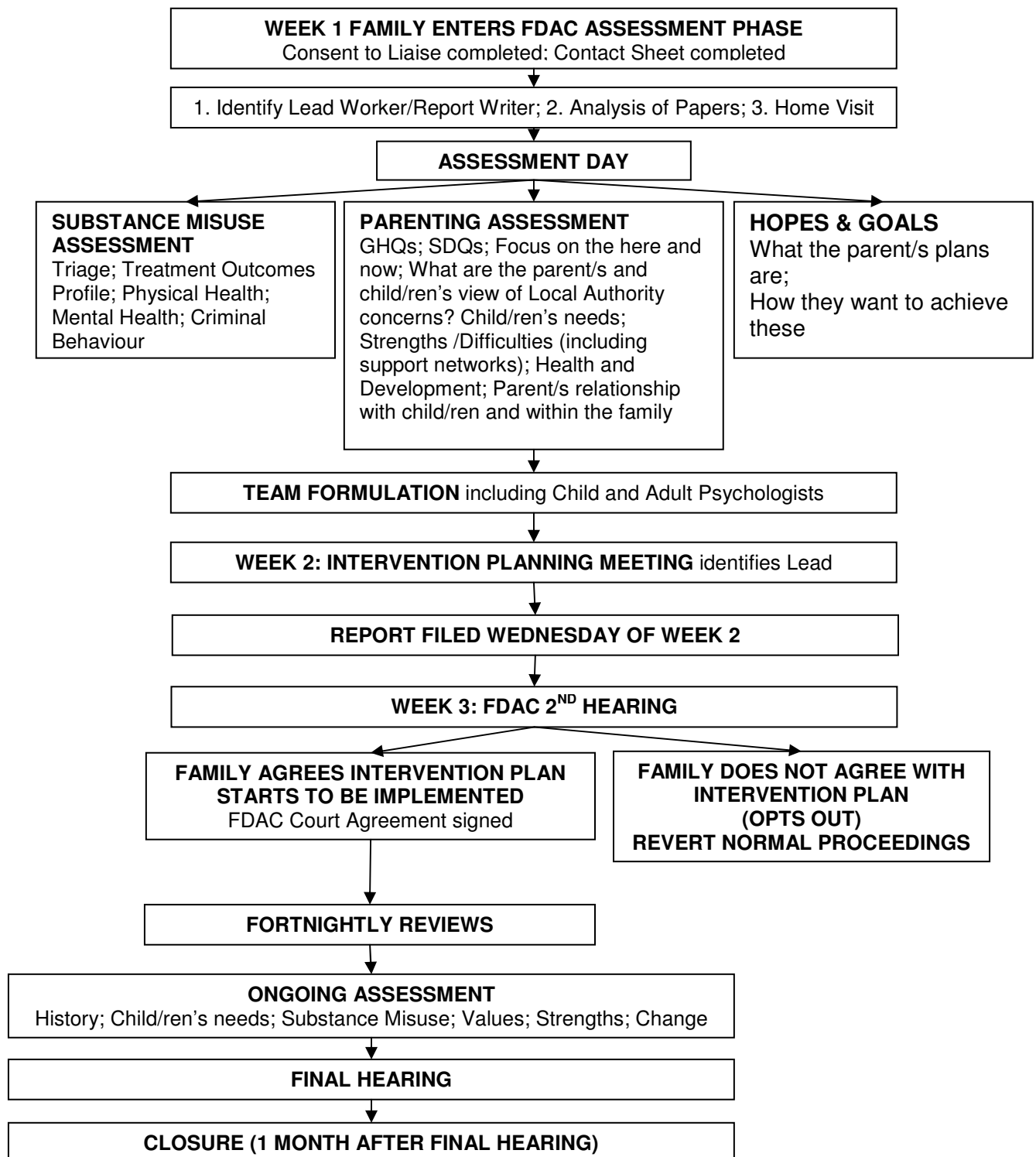
Parent's Solicitors .....

Approved

Judge: .....

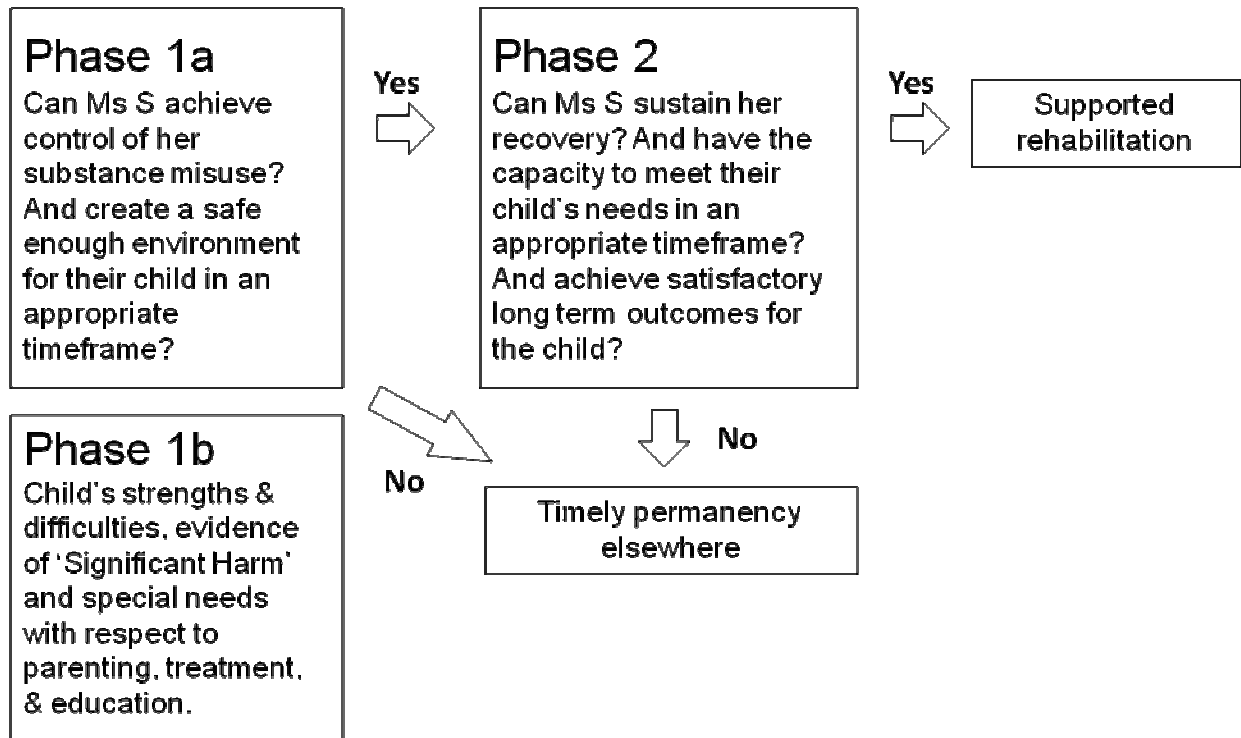
FDAC team: .....

## ANNEX 3 - FDAC TEAM PROCESS





## ANNEX 4 - THE FDAC TEAM ASSESSMENT ALGORITHM



Copyright FDAC team

## ANNEX 5 - KEY FACTS ABOUT CHILDREN, CARE PROCEEDINGS AND CARE

- 2 to 3 per cent (200-300,000)<sup>56</sup> of all children in England and Wales under the age of 16 are estimated to have one or both parents who misuse illegal drugs.
- Estimates for children living with parents with alcohol problems vary from 780,000 to 1.3 million<sup>57</sup>. The upper figure is equivalent to 1 in 11 children.
- National figures are not collected on the numbers of care proceedings under section 31 of the Children Act 1989 that involve parental substance misuse. Rates from research studies vary from 20-30 per cent<sup>58</sup> to 60-70 per cent<sup>59</sup>.
- The number of Section 31 Children Act care applications in the first quarter of 2009-10 increased by 80 per cent over the same period in the previous year (from 1,148 to 2,071)<sup>60</sup>. The figures for April-June 2009 were also at their highest since 2005-06. However, annual figures between 2005-06 and 2008-09 show only modest fluctuations (ranging from 6,240 to 6,613).
- At any one time approximately 60,000 children are looked after by local authorities in England. This represents approximately 0.5 per cent of all children<sup>61</sup>. At 31 March 2008 the figure was 59,500<sup>62</sup>.
- In the year ending 31 March 2008, 23,000 children had begun to be looked after. Of these, 19 per cent were subject to a care order (see footnote 14).
- 63 per cent of all children who were being looked after by the local authority at 31 March 2008 were on a care order (see footnote 14).
- 55 per cent of children subject to statutory intervention are aged under 5 years (and 27 per cent under 1)<sup>63</sup>.
- Total gross expenditure on children in care in 2007-08 was £2.19 billion. Of this 51 per cent was spent on foster care and 41 per cent on children's homes (see footnote 13).

---

<sup>56</sup> Advisory Council on the Misuse of Drugs (ACMD) (2003) *Hidden Harm: responding to the needs of children of problem drug users*. Report of an inquiry by the Advisory Council on the Misuse of Drugs. Home Office. London.

<sup>57</sup> Cabinet Office (2004) *Alcohol Harm Reduction Strategy for England*, Prime Minister's Strategy Unit, London. Turning Point (2006) *Bottling it up: the effects of alcohol misuse on children, parents and families*. London.

<sup>58</sup> Brophy J (2006) *Research review: Child care proceedings under the Children Act 1989*. Department for Constitutional Affairs, Research Series 5/06.

<sup>59</sup> Ryan M, Harwin J and Chamberlain C (2006) *Report on the feasibility of establishing a family drug and alcohol court at Wells St Family Proceedings Court*. Prepared for LB Camden, LB Islington, LB Westminster, CAF/CASS, Wells St Inner London FPC, and Brunel University.

<sup>60</sup> Cafcass Care Demand Statistics: Figures derived from Cafcass national case management system. Note: A case can 'involve multiple children and multiple application types'. <http://www.cafcass.gov.uk/PDF/0910%20Q1%20care%20demand%20update%202009%2007%2016.pdf>

<sup>61</sup> House of Commons Children, Schools and Families Committee (2009) *Looked-after Children, Third Report of Session 2008-09, Vol. 1, HC111-1*

<sup>62</sup> DCSF (2008) *Children looked after in England (including adoption and care leavers) year ending 31 March 2008*. Statistical First Release SFR/23-2008, DCSF.

<sup>63</sup> DCA and DfES (2006) *Review of the Child Care Proceedings System in England and Wales*.