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Care Profiling Study

Judith Masson, Julia Pearce and Kay Bader with Olivia Joyner, Jillian Marsden and David Westlake
School of Law, University of Bristol

Context

The aim of the project was to provide baseline data on court proceedings for the protection of children brought under the Children Act 1989, s.31. The Protocol for Judicial Case Management in Public Law Children Act Cases applied to these proceedings. The DfES and DCA, Care Proceedings System Review (2006) had identified limitations in the existing data.

Approach

Data were collected through a detailed examination of a random sample of court files relating to applications made in 2004, in 15 Family Proceedings Courts (FPCs) and 8 county courts (Care Centres). The sample consisted of 386 cases involving 682 children, initiated by 15 local authorities. Data were recorded on: the family circumstances of the children and parents who were drawn into care proceedings; the work which the local authority had done with the family before proceedings were started, and subsequently; the legal processes through which cases were decided, including the representation of the parties, the work of the children's guardian, and the use of experts; and the outcome of cases in terms of orders made. Data were analysed using SPSS14.

Key Points

- There is no evidence that the local authorities brought care proceedings without good reason. Many families had lost the care of children in previous proceedings.
- Almost 60% of cases relate to one child. Over a quarter of care proceedings involve babies.
- Neglect was the basis for concern in three-quarters of cases; fewer than 10% involved major injuries to children but 40% of cases resulted from a crisis.
- Half the children were living with a lone parent; fathers were only involved in the care of a third of the children.
- Children's Services Departments were working with 85% of families but court applications included a Core Assessment for only a minority of children.
- Courts managed these cases very differently; the average duration in county courts ranged from 37 to 72 weeks.
- 60% of cases resulted in Care Orders and 23% in Residence Orders.
- The management information collected and published by the Ministry of Justice does not accurately reflect the work of the courts in care proceedings and is inadequate for monitoring policies relating to transfer between FPCs and county courts.

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Contact info:
research@justice.gsi.gov.uk

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Results

Children and families

Care proceedings focus on mothers and on young children -

- Mothers were caring for 86% of children, in nearly 60% of cases as lone parents.
- Just over a third of fathers had parental responsibility. Fathers cared for children in 36% of cases, mainly together with the mother, and in only 3% on their own or with a new partner.
- In 20% of cases fathers had no involvement with their children. Another 12% were unknown.

Nearly 60% of cases involved children under the age of five years and 25% of all applications involved new born babies.

Most cases involved only one child but 39% of cases concerned more than one child. In 18% of the whole sample (46% of cases involving more than one child) children in the proceedings had different fathers.

Many of the families had been involved in earlier care proceedings. In 60% of cases where children had siblings not involved in these proceedings these other children were already subject to Care Orders or had been adopted. Many other brothers and sisters were living with relatives or their other parent, because of concerns about their care.

The sample was mainly White and British born, but 28% of the children were from minority ethnic groups, many having British born parents. Only 8% of cases involved parents who were recent immigrants to the UK or who were asylum seekers or illegal immigrants. Many of these parents required interpreters. These cases involved additional difficulties tracing parents and relatives, and liaising with Border and Immigration Agency (BIA).

Nearly all the families had multiple difficulties leading to chaotic lifestyles and very inadequate care for children. The mothers' problems included domestic violence (51%), mental health problems (31.5%), drug abuse (39%), alcohol abuse (25%) and learning difficulties (12.5%). The parents' lack of co-operation with services (Children's Services, Adult Social Care and the Health Service) was a feature of 72% of cases.

Children's Social Services

Over 90% of the families in the sample had been known to children's services departments before the current proceedings – in 45% of cases for five years or more. In the majority of these cases there had been active social work leading up to the application, but in 15% this was not the case.

Even where families were 'known', Children's Services involvement was often limited until circumstances suddenly deteriorated to a point urgently requiring court proceedings. In such situations, Children's Services had not been able to complete full assessments and enquiries at the point of application.

A large proportion of cases – 42% – were unplanned crisis interventions, followed by 22% which were pre-planned applications concerning new born babies. The remaining cases involved the local authority seeking court orders to formalise arrangements and strengthen their power to plan for the child's future.

In 72% of cases families had been offered services of some kind. Accommodation (s.20) was offered most frequently – in 39% of cases. Some parents refused services. In 41% of cases, families were offered but refused support at some point. The forms of support least accepted were treatment for substance abuse and therapeutic services for adult mental health difficulties. Relatively few families made requests for services and these were usually granted.

Core Assessments had been completed, at some point, in less than half (approximately 43%) of the cases. In only 15% of cases had this assessment been carried out within three months **before** the date the court application was made. Practice regarding Core Assessments appeared to vary by local authority, but the size of sample precludes robust comparisons.

Most Care Plans provided by local authorities at application were contingent on assessments of possible carers, mainly parents, but in 27% of cases the plans for children were definite. In over three-quarters of cases it was planned that children live apart from their parents during the proceedings. During the proceedings, further Care Plans were filed as various options were tested and ruled out; plans for rehabilitation decreased and plans for adoption increased.

The social worker with responsibility for the case remained in place throughout the proceedings in just over half the sample – 58%. Most other cases involved only one change in social worker, but 9% of cases involved up to five different social workers.

Court proceedings

Almost all care proceedings commenced in the FPC but high proportions are transferred to the county court, which hears the majority of these cases. Accurate data for transfer rates is not currently collected and transfer policies and practices were found to differ between courts, with some FPCs retaining very few cases. The sample included 137 cases completed in the FPC, 243 transferred cases and 6 cases which commenced in a county court. The basis for transfer recorded by the court was ‘exceptional gravity’ in 90% of cases but most transfers occurred very early in the proceedings before the issues were clear.

Significant differences were identified between cases completing in the FPC and those which were transferred. Fewer experts were appointed to provide reports, there were fewer interim hearings and cases were shorter. The mean duration of cases completing in the FPC was 42 weeks compared with 50 weeks in the county court. There was little difference in the orders made in FPCs and county courts.

There were differences between county courts in the management of cases. This was most obvious in terms of the duration of cases – mean duration ranged from 37 to 72 weeks, but there were also differences in the proportions of cases with more than five experts and contested Final Hearings.

Neglect was a basis for the proceedings in 75% of cases and physical abuse in 45%. Cases of major injuries were rare, only 7% of cases. Most allegations were accepted at least in part. The threshold was disputed at the Final Hearing in only 12% of cases; in only one case did the local authority fail to prove a case for intervention.

The initial focus of the intervention was securing the child’s protection. Almost three-quarters of children were in a protective placement at application, and in over half the sample this was as a result of coercive powers (police protection, Emergency Protection Orders or injunctions) rather than agreements. Interim order applications were made in over 90% of cases and considered by the court in 86% of cases.

In 20% of cases interim order applications were contested.

In 2004, Legal Aid provided a non-means, non-merit tested support for parents and children, and means and merit tested support for other parties (e.g. relatives). Solicitors were paid on hourly rates. Almost all parents who were parties were legally represented, 75% of parents by specialists who were members of the Law Society Children Panel. Children were represented by a solicitor and a children’s guardian from CAFCASS. There were delays in children’s guardian appointments, almost 40% of cases had no guardian for the first hearing.

Care proceedings are dynamic and future oriented. Rather than determining a case on the basis of the evidence put forward by the local authority and the parent’s response to it, the court supervises the investigation of the family’s ability to meet the child’s needs and the assessment of alternative plans for the child. This leads to substantial reliance on expert evidence, particularly adult psychiatrists or psychologists who were appointed in two-thirds of cases. Overall 90% of cases involved expert evidence and half the sample had three or more experts.

Most cases result in orders, only 8% were withdrawn or resulted in no order. Care Orders were made in 60% of cases, including 19% where Placement Orders were also made. In 23% Residence Orders were made. In over three-quarters of cases the proceedings resulted in a change of placement for the child, but a permanent placement had not been found by the Final Hearing in a third of cases.

Implications

The research brief for this study sought baseline data not a policy-oriented analysis. However, it should be noted that the existence of a wide range of court practices has implications for reforms intended to reduce the time care proceedings take or their cost. Some courts adhered to the Protocol regime more closely than others and this has implications for the implementation of the new Public Law Outline from April 2008. The expectations of local authority practice in preparation for care proceedings under the PLO far exceed what was undertaken or could have been undertaken before action to protect the child in most of the sample cases.