

Family and Children's Services Overview and Scrutiny Committee (OSC)

Date: 19th August 2018

CARE PROCEEDINGS AND PUBLIC LAW OUTLINE ANNUAL REPORT ON PROGRESSION

Report of the Executive Director of Children's Services Cath McEvoy

Lead Member for Children and Young People - Councillor Wayne Daley

1. PURPOSE OF THE REPORT

1.1 To present Children's Services' performance within legal proceedings in 2018/19 to date.

2. RECOMMENDATIONS

- 2.1 To note the contents of the report
- 2.2 To identify any issues for further scrutiny.

3. LINK TO CORPORATE PLAN

3.1 This report is relevant to the Living priority included in the Council's Corporate Plan 2018-2021.

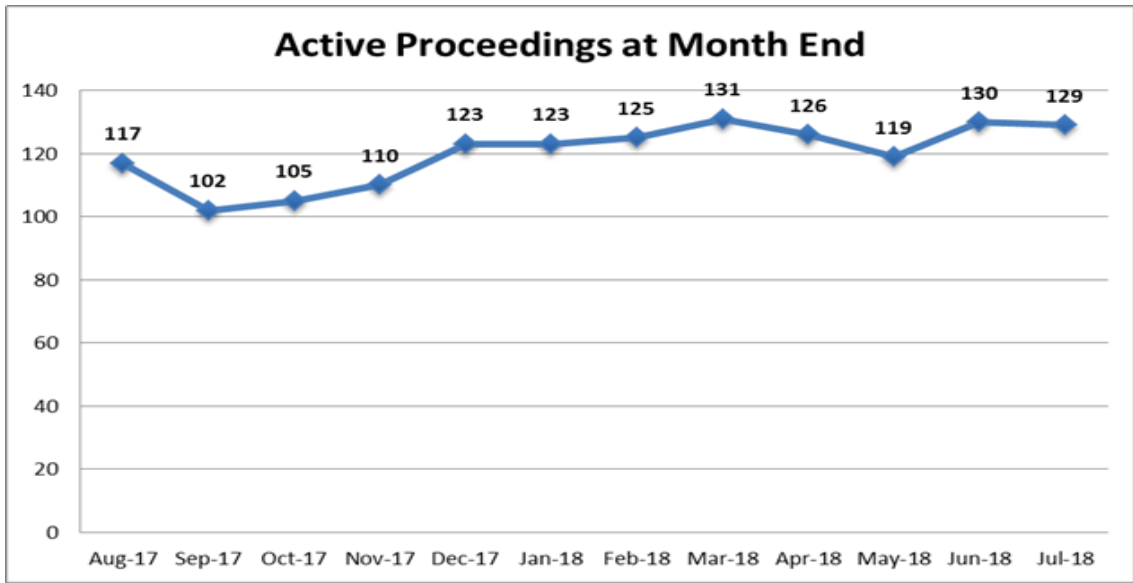
4. KEY ISSUES

- 4.1 The previous report presented to this committee in September 2017 highlighted some of the issues and proposed solutions to address areas for improvement within legal proceedings and care planning in line with the service improvement plan.
- 4.2 The activity in care proceedings turnover continues to be high and the 26 week target for completion of cases in court is not yet being achieved. The average time for a case in care proceedings to reach conclusion is for 2018 to date is 33 weeks which is an improvement on the 37.5 weeks average reported to the committee in September 2017. Performance is closely monitored and plans are in place to address challenges that are impacting on improvement.
- 4.3 Training has been completed by all staff and this provides the foundations for further in depth training in all aspects of assessment, care planning and use of the legal framework to secure permanence for children. This intensive training programme will continue throughout 2018/19.
- 4.4 A legal gateway Panel has now been established to scrutinise and make decisions in respect of all children coming into care and care proceedings .

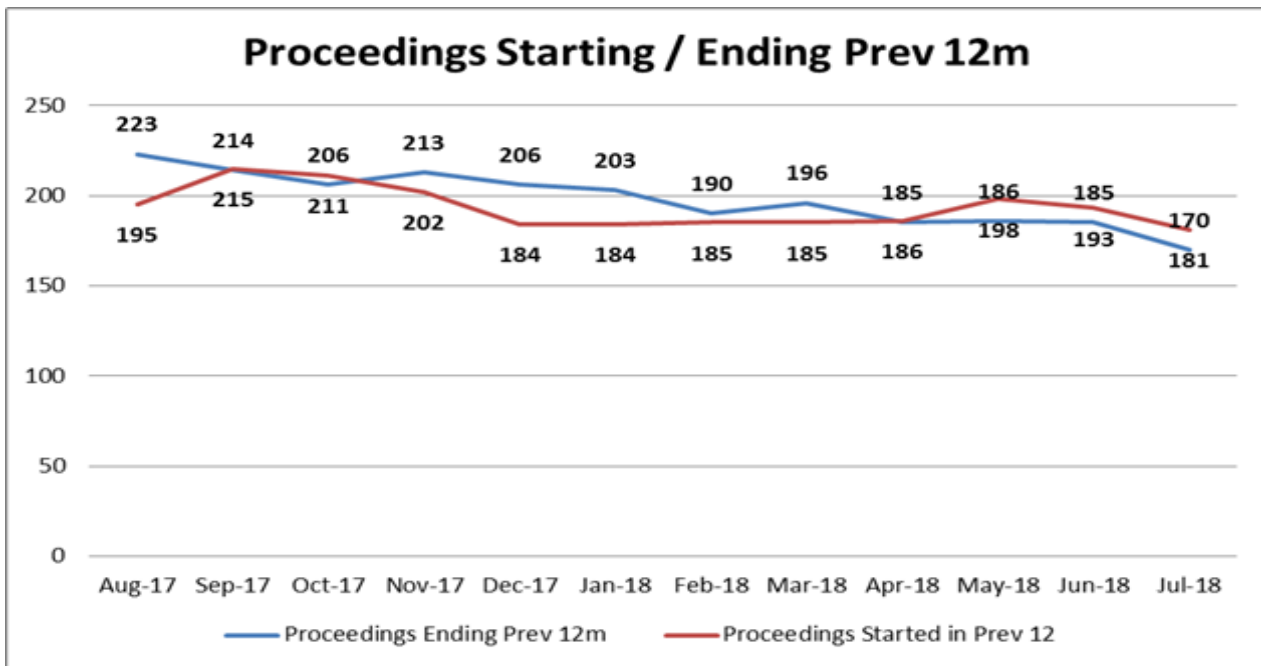
4.5 Communication between the Local Authority and the court has improved with quarterly meetings between the Service Director for Children's Social Care, Head of Service, Principal Solicitor and the lead Family Court Judge. Measures are also in place to ensure direct contact between legal services and the court on individual cases and this is being positively reflected in comments of the Lead Family Court Judge.

5. BACKGROUND

- 5.1 Progress in respect of public care proceedings has been reported to the Family and Children Overview and Scrutiny Committee over the last 2 years highlighting the national and local trends in the family justice system and specifically some of the challenges experienced by Northumberland County Council.
- 5.2 Care proceedings are the vehicle via which the Local Authority secure permanent plans and placements for children. The Local Authority issues care proceedings when the threshold criteria of significant harm is met to ensure Court oversight and scrutiny of the planning for the child. The threshold for issuing care proceedings is a legal test but usually follows intervention that has been offered on a Child in Need or Child Protection basis where this has not lead to the necessary improvements for the children or following a serious and significant incident that causes harm to the child.
- 5.3 Since 1990 nationally the number of care applications has risen incrementally, to record levels in 2017 and the numbers of Looked after Children have risen simultaneously. This prompted Sir James Munby, President of the Family Court Division to issue a call to action to consider the 'seemingly relentless rise in the number of care cases' adding 'We are facing a crisis and, truth be told , we have no clear strategy for meeting the crisis.'
- 5.4 The direct response to this challenge was the The Care Crisis Review published in June 2018 by The Nuffield Foundation and Family Rights Group. This review sets out 20 options for change, that range from immediate steps that could be taken by individual practitioners to strategic shifts in inter agency working and legislation. Northumberland have considered the recommended changes and how these will be absorbed into our practice and work with the local Family Court to manage the increasing demands on the system.
- 5.5 In Northumberland during 2018 to date our numbers of children subject to care proceedings has remained fairly steady, between 120 and 130 at any given time. This represents around 70- 80 families at any point who are having their children's plans overseen by the Family Court so that timely decisions about their children's futures can be made.



5.6 Obviously cases move through the system to conclusion and new cases are issued so the turnover is constant.



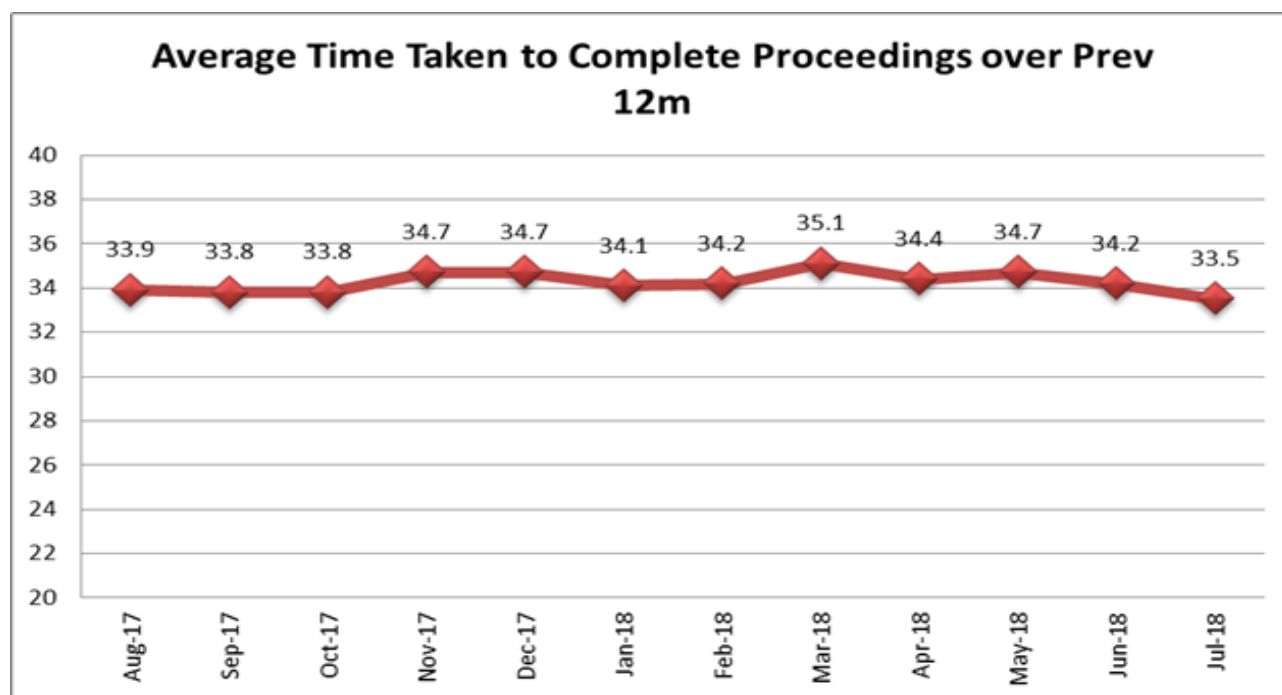
(Starting figures are below the red line and ending figures are above the blue line)

This graph illustrates on a rolling basis that around 200 cases are processed through the courts each 12 month period.

5.7 Each new set of care proceedings represents a huge amount of planning and preparation by the social worker and legal team. All assessments need to be completed, evidence gathered and statements and care plans drafted. This is often done under a legal framework referred to as pre proceedings which allows parents the opportunity to seek

legal advice and engage in work that could prevent the proceedings being issued. During this process, the family are offered support and interventions to make the necessary changes and if this is not possible to understand what steps the Local Authority will be taking and how they can challenge the plans. Throughout the course of the proceedings the social worker is required to ensure they understand and prioritise the children's wishes and views, manage the placement issues for the child, support the family and contact, undertake further assessments as directed by court and provide oral and written updates to the court. Once all the evidence is gathered the social work will be called upon to give oral evidence in the final hearing if the plans are contested by the family.

- 5.8 The final decisions are made by the Judge or Magistrate once all the evidence has been heard but it is the responsibility of the Local Authority who are the lead party in the proceedings to present a cogent and well argued plan for the court's consideration that will meet the needs of the child in the long term.
- 5.9 One of the key features of the Public Law Outline (PLO) which directs the management of cases through the family justice system is a 26 week target for the conclusion of all care proceedings. This is the standard against which Courts and Local Authorities are measured to ensure cases do not drift, causing unacceptable delay for children and their families. The Care Crisis Review suggests that this performance indicator should be reconsidered as this timescale is not always in the child's best interest, however currently this is the standard against which we are measured in our legal proceedings.
- 5.10 In the North East region all Local Authorities have struggled to meet this 26 week target. Some Local Authorities do achieve close to the target although none have met it in 2018. In Northumberland currently the average duration for care proceedings is 33 weeks .



- 5.11 This graph illustrates fairly steady performance in this respect with a slight improvement recently. The averages mask a huge variation in the length of time that proceedings take to conclude and the range is between 7 and 116 weeks. Some of the very lengthy proceedings are delayed as the care proceedings can not conclude until criminal trials have taken place or due to complexities of cross border issues.
- 5.12 A number of factors impact on the timescales; some are out of the Local Authority control , such as court availability or failure of the parents to engage in the process and where new relatives are identified late in the process who then have to be assessed . However there are key areas where the social work practice can impact on the timescales and therefore reduce delay.
- 5.13 In July 2018 HRH Judge Hudson who is the Chair of the North East Family Court undertook a review of the all the cases in the region that had exceeded 26 weeks. She sat for 2 weeks and heard 140 cases from across all the Local Authorities that feed into the Newcastle Combined Court. 23 of those cases were Northumberland's and they were heard on 24th and 25th July. The exercise was to identify reasons for delay and common themes or barriers to proceedings progressing.
- 5.14 We are currently analysing the feedback from the Northumberland case hearings and await Judge Hudson's findings in September. We have already identified themes that contribute to delay; such as lack of court availability, over reliance on expert assessments, late identification of family members who could be assessed to care for the children, lack of pre proceedings preparation and assessment and staff turnover.
- 5.15 A number of measures have been implemented to address these issues. A legal Gateway Panel has been established and has been operating for 2 months. The purpose of this panel is to scrutinise plans to issue care proceedings (where it is not an emergency or there is immediate risk) and receive children into care ensuring that all assessments have been completed and the case is 'court ready' before proceedings are issued. This reduces the likelihood that further assessment will be required during the proceedings and that expert assessments will be directed by the court which add delay to the process.
- 5.16 Extensive training has been offered to all social workers and is refreshed regularly to improve workers confidence and expertise in writing and orally presenting their evidence.
- 5.17 Family Group conferences which are a recommendation of the Care Crisis Review are being considered in appropriate cases so that families are provided with the opportunity to resolve issues and make safe plans that work for them prior to care proceedings being issued.
- 5.18 A tighter process has been introduced to monitor the use of experts within proceedings to ensure they are only agreed when they can add to the evidence available.
- 5.19 Care proceedings are tracked to by the Principal Solicitor and social work managers so that performance can be understood and to ensure compliance with court directions.
- 5.20 The Service Director, Head of Service and Principal Solicitor continue to meet with HRH Judge Hudson on a quarterly basis to feedback and address any issues of concern. This has proven to be effective over the last 2 years as Northumberland's reputation has improved with the judiciary.

5.21 The social work workforce is beginning to stabilise in most areas which is resulting in more consistency for children and their planning. New workers are trained and coached to take a more proactive view of care proceedings, preparing and presenting confidently to drive the plans through proceedings. The introduction of the Assisted and Supported Year in Employment (ASYE) academy will ensure that all new workers to the authority will receive targeted and focussed input so they are become confident and competent in court work.

CONCLUSION

5.22 Northumberland has made progress in the quality of evidence being presented to court over the last 2 years.

5.23 Initiatives such as Family Group Conferences are being piloted to focus on helping the family resolving issues outside the court arena.

5.24 Training of the social work workforce continues to further improve understanding of the legal processes and quality of evidence.

5.25 The 26 week target is not being met in Northumberland or elsewhere in the region and analysis of the underlying reasons for this is ongoing.

5.26 Good communication between the Local Authority and the Judiciary continues to raise the profile of Northumberland in a positive manner.

6. CONSULTATION

The following have been consulted: Service Director Children's Services.

7. BACKGROUND PAPERS

- NCC Ofsted report
- Care Planning Regulations 2010
- Public Law Outline (2014)
- Children and families Act 2014
- Care Crisis Review 2018

8. IMPLICATIONS OF THE REPORT

Policy	The PLO and other legislation governing legal proceedings in relation to children are translated into NCC policy and procedures.
Finance and value for money	PLO proceedings place a financial burden on the Authority in terms of application fees and staff resources.
Human Resources	Staff need to have the capacity, knowledge and skills to manage PLO cases effectively and efficiently to achieve the very best outcomes for each child.
Property	None
Equalities	Each child has to recognised as an individual and provided with a service that meets their specific and different needs.
Risk Assessment	Ofsted and reputational risk if performance around timescales and working practice is not improved.

Carbon Reduction	None.
Crime and Disorder	Criminal proceedings will often run alongside care cases and inform the outcome.
Customer Considerations	The child is the customer and the timescales imposed are intended to improve outcomes and allow the child to have a finalised secure plan at the earliest opportunity.
Consultation	Members and senior managers have been consulted.
Wards	Ward members will be involved as necessary.

9. REPORT SIGN OFF

Finance Officer	N/A
Monitoring Officer/Legal	N/A
Human Resources	N/A
Procurement	N/A
I.T.	N/A
Deputy Chief Executive/DCS	Daljit Lally
Portfolio Holder(s)	Wayne Daley

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