

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

Date: 19th August 2019

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 2019/20 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 2018 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 in June 2019 is 39 weeks which is an increase compared to the 33 weeks average reported to the committee in September 2018. Performance is closely monitored and work continues to ensure any contribution that the Local Authority makes to delay is minimised.
- 4.3 Training has been provided to all staff by the legal team as an integral part of the induction plan for new staff. 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. Specialist training is offered as new case law is published.
- 4.4 The Legal Gateway Panel has now been operational for 16 months and a recent evaluation highlighted the strengths and impact of this panel on scrutiny and decision in

respect of all children coming into care and care proceedings. Timeliness of care proceedings issued since the inception of the panel is improved when compared to those issued before the panel began to oversee the care planning.

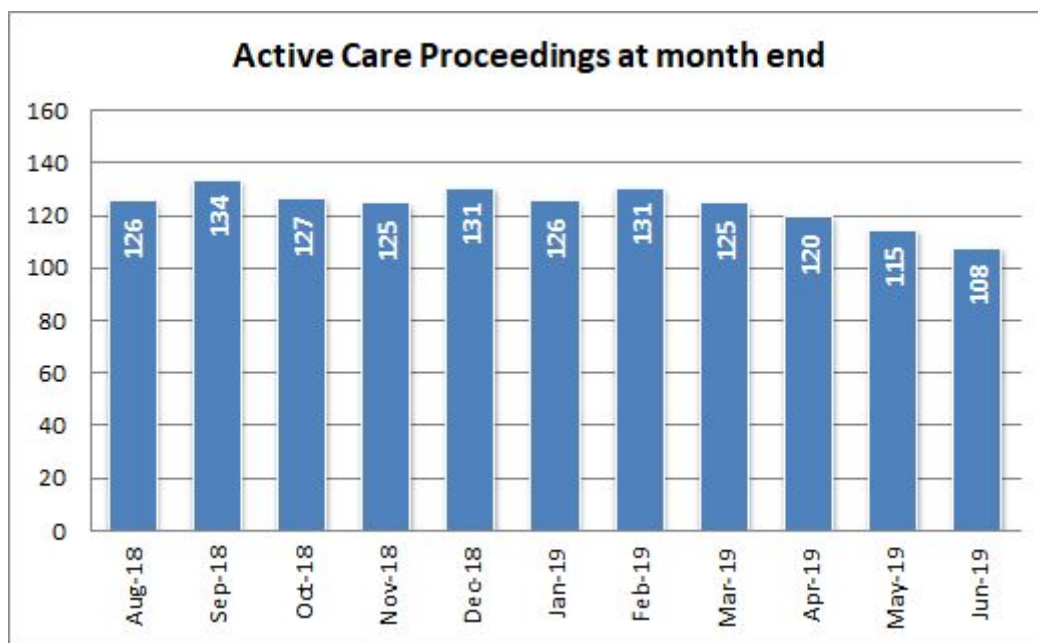
- 4.5 Communication between the Local Authority and the court has been strengthened with quarterly meetings between the Head of Service, Principal Solicitor and the lead Family Court Judge. Measures are also in place to ensure direct contact between legal services and the court on individual cases and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

5. BACKGROUND

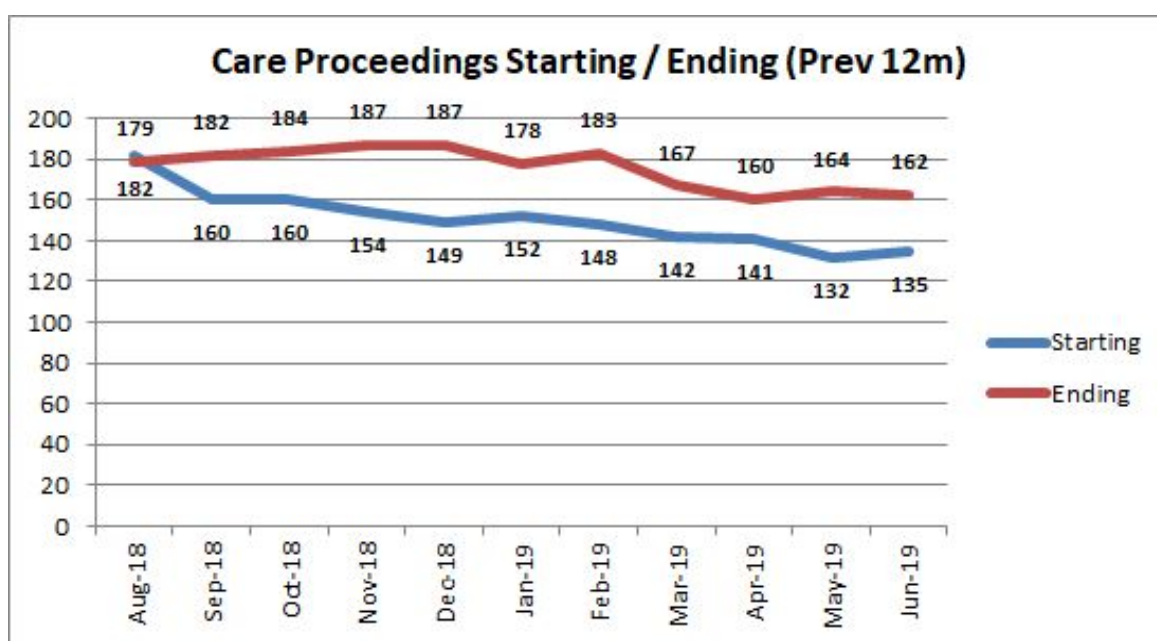
- 5.1 Progress in respect of public care proceedings has been reported to the Family and Children Overview and Scrutiny Committee over the last 3 years highlighting the national and local trends in the family justice system and specifically some of the challenges experienced by Northumberland County 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 led 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 exceeding 14,000 applications and the numbers of Looked after Children have risen simultaneously. In the North East region the rate of care proceedings per 10,000 population rose from 14.5% in 2014/15 to 24.7% in 2016/7.
- 5.4 The judiciary and stakeholders in the family justice system have responded with a series of reviews and proposals. Most recently The Chief Social Worker, Isabelle Trowler published a paper 'Care Proceedings in England: The Case for Clear Blue Water. She focused on cases that fell either side of a 'thin red line' where children and families could potentially have been supported without care proceedings. She makes a number of recommendations that we are referencing in the development of our training and practice.
- 5.5 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.
- 5.6 Currently the social care and legal teams are formulating a response to a consultation document produced by the public law group which proposes substantial changes to the

public and private family law process in an attempt to alleviate some of the pressures on the system.

5.7 In Northumberland during 2018/19 to date our numbers of children subject to care proceedings has remained fairly steady, between 120 and 130 at any given time. This did start to decline in April but July and August are indicating a return to the 120/130 level. 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.

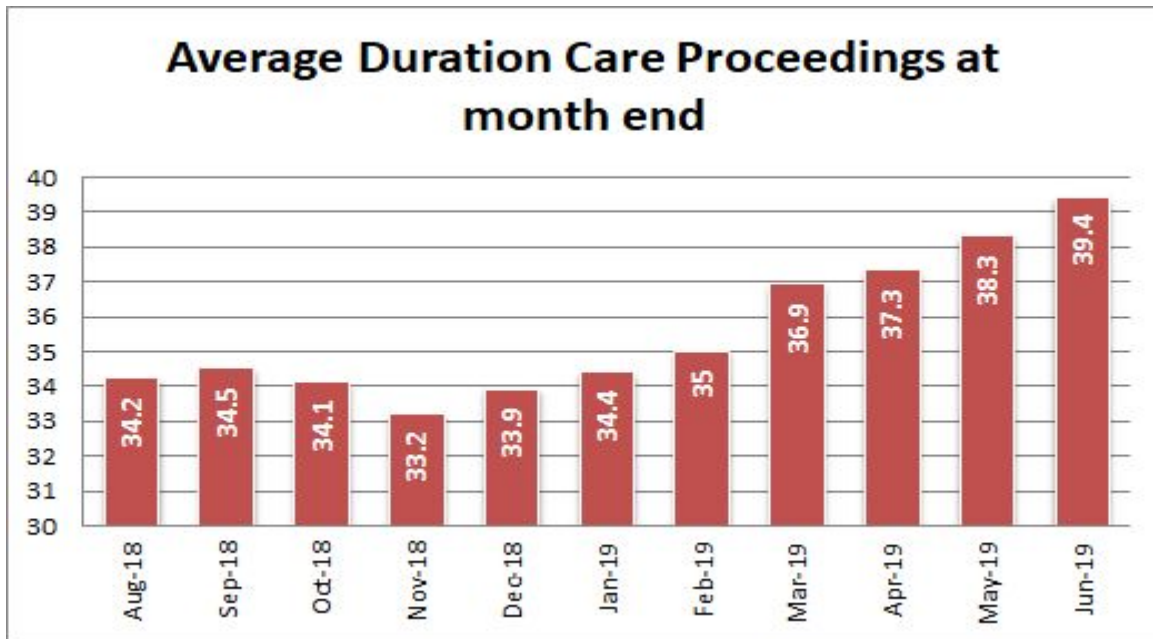


5.6 Obviously cases move through the system to conclusion and new cases are issued so the turnover is constant.



This graph illustrates on a rolling basis that around 180 cases are processed through the courts each 12 month period. Significantly each month the number of cases concluding is higher than the number being issued which underpins the overall reducing numbers of cases in proceedings during 2019/20.

- 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 is 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 and current consultation 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. There is variation amongst the Local Authorities in the region, but as the 6 northern authorities all feed into the Newcastle family court they are all subject to similar challenges with court timetabling and resulting delay. In Northumberland currently the average duration for care proceedings is 39 weeks. This has steadily increased over the year as illustrated below. Nationally, there are only four areas which meet the 26 week timescale.



- 5.11 This graph illustrates steady deterioration in performance. The range underneath this average is huge varying between 12 and 118 weeks. Some of the very long cases that have concluded recently have involved large families (which affects the average as each child is counted individually) or have been running simultaneously with criminal proceedings which have had to conclude before the care plans for the children could be determined.
- 5.12 A number of factors impact on the timescales; many 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 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. The exercise was to identify reasons for delay and common themes or barriers to proceedings progressing.
- 5.14 The findings of this exercise were that a number of improvements needed to be made by the judiciary around case management, continuity and the involvement of experts. There were lessons for social workers which we have incorporated into our practice. We are using the period before proceedings more effectively to complete assessments, identify and assess alternative family carers and be better prepared to present a final plan to the court at the point of making an application for an order.
- 5.15 A Legal Gateway Panel was established in April 2018 which has proven to be effective in overseeing the decision to issue care proceedings, supporting social workers to make necessary preparations for proceedings and screening out cases where further work could be completed to avoid a legal intervention or those that are not 'court ready'. This oversight 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 Since the Legal Gateway Panel has been operational the average number of weeks for cases that have been issued and concluded is 26.8 weeks which is significantly better than the overall average. The lengthy proceedings tend to be related to cases that were issued prior to the establishment of the panel so the expectation is that as these work through the system the overall average will reduce. Currently (August), there are 38 cases of the total 110 in proceedings that are over the 26 week threshold (3 prior to April 2018), the shortest being 31.6 weeks and the longest being 93.6 weeks which means that 35% of cases currently in proceedings are overdue.
- 5.17 The Local Authority has taken on board other recommendations from the Care Crisis Review and HRH Judge Hudson's Review which include the use of Family Group Conferences, extensive training for social workers and consideration of continuity in cases before the court. In addition 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.
- 5.18 Care proceedings are monitored by the Head of Service, Principal Solicitor and social work managers on a monthly basis through performance clinics to offer senior manager oversight and opportunities to address barriers and to ensure compliance with court directions. A new module within the children's social care recording system has been purchased which will streamline all the court related documents to assist analysis of the performance information.
- 5.19 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 significantly improved with the judiciary. Similarly, feedback from CAFCASS has indicated an overall improvement in the quality and timeliness of Northumberland's practice in court proceedings
- 5.20 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 Assessed and Supported Year in Employment (ASYE) academy is ensuring that all new workers to the authority will receive targeted and focussed input so they become confident and competent in court work.

CONCLUSION

- 5.21 Northumberland has made progress in the quality of evidence being presented to court over the last year and reputation and relationship with the court are improved.
- 5.22 The Legal Gateway Panel is beginning to have an impact on the duration of care proceedings which should be reflected in reducing timescales over the next 12 months.
- 5.23 Training of the social work workforce continues to further improve understanding of the legal processes and quality of evidence.

5.24 The 26 week target is not being met in Northumberland or elsewhere in the region . Reasons for this are complex and many of the challenges are within the wider public law system but within Northumberland measures are in place to address and improve timeliness and reduce delay for children.

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 be 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

Report Author: Adele Wright - Acting Head of Service
(01670) 623965, Adele.Wright@northumberland.gov.uk