



# Northumberland County Council

## **Families and Children's Services Scrutiny Committee**

Date: 3<sup>rd</sup> December 2020

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### **Care Proceedings and Public Law Outline Annual Report on Progression**

Report of the Executive Director of Adult Social Care and Children's Services, Cath McEvoy-Carr

Cabinet Member for Children's Services: Guy Renner-Thompson

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#### **Purpose of report**

To present Children's Services' performance within legal proceedings in 2020/21 to date with particular focus on the impact of the Covid-19 pandemic.

#### **Recommendations**

It is recommended that:

1. The committee notes the content of the report.
2. Identifies any areas for further scrutiny.

#### **Link to Corporate Plan**

This report is relevant to the Living priority included in the Council's Corporate Plan 2020 - 21.

#### **Key Issues**

1. Covid restrictions have impacted on the public law system which considers care planning and makes decisions for children. The court have moved to a hybrid model of hearings however this took time to evolve and remote working continues in many cases.
2. Northumberland entered the lockdown period with a high number of cases before the court and although some cases have concluded others have been significantly delayed. The restrictions in place as a result of Covid have

compounded the already overstretched Court capacity and this has been particularly prevalent in the north of the county.

3. The most significant impact has been for children not able to move onto adoptive placements or move into family placements as the court have not been able to facilitate contested hearings to finalise plans.
4. Analysis of the Northumberland picture illustrates that we are in a very similar position to neighbouring Local Authorities, unsurprisingly, as 7 of the Local Authorities feed into the same Combined Court.
5. A regional steering group is being established to lead on the recovery and reform of the Family Justice system, Northumberland will actively participate in this group.

## BACKGROUND

1. Progress in respect of public care proceedings has been reported to the Family and Children Overview and Scrutiny Committee over the last 4 years highlighting the national and local trends in the family justice system and some of the challenges experienced by Northumberland County Council. This report will focus specifically on the impact of Covid restrictions on the court system and implications for Northumberland children subject to care proceedings.
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 and 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.
3. When the national lockdown restrictions were announced in March 2020 the President of the Family Division, Sir Anthony McFarlane issued national guidance for the family court to manage care cases. Effectively during April and May the court closed and any hearings that were able to take place were held remotely. It did take some time for the court to set up effective virtual platforms and many complex cases were adjourned, on the assumption that they could take place when things returned to 'normal'. Some cases were able to progress, but these tended to be less complex, where resolution was agreed or urgent new cases where the Local Authority were seeking to remove a child from a harmful situation.
4. The Nuffield Family Justice Observatory undertook a rapid consultation during May to understand the immediate impact of the introduction of remote hearings in the family justice system. They reported that significant concerns were raised about the fairness of remote hearings in certain cases and circumstances, and there were some worrying descriptions of the way some cases had been conducted to date. These concerns chiefly related to cases where not having face-to-face contact made it difficult to read reactions and communicate in a humane and sensitive way, the difficulty of ensuring a party's full participation in a remote hearing, and issues of confidentiality and privacy. The recommendation was that clearer guidance was required with the introduction of some face-to-face hearings in certain circumstances.
5. In June 2020 the President issued updated guidance 'The road ahead'. His document acknowledged that alternative delivery models needed to be considered given the likely duration of the impact of Covid. In response to this guidance the Newcastle Combined Court commenced some hybrid hearings. Some Northumberland cases were able to conclude using this format, where parents and the advocates attended court but other parties such as social

workers and other witnesses joined the hearing remotely. This position continues to date with a combination of remote and hybrid hearings.

6. As a result of the initial adjournments and ongoing limitations of hybrid hearings some children have experienced delay in the finalisation of their care plans. For some this has had limited impact as they may be already be living in their preferred placement but for others it has caused delay in progressing to the next stage in their journey. This has been particularly felt for children who have plans to return home or be adopted or move to a family member where there is disagreement amongst the parties about the plan.
7. Our current performance data reflects that currently we have 202 Northumberland children subject to public law proceedings. The vast majority of these children originate from the South East and Central areas of the county. During the first 6 months of 2019 the figures were lower (around 120 – 130) and reducing however from the middle of 2019 they began to increase to in excess of 200. This point was reached in March 2020 just prior to lockdown and has only reduced slightly since then. The pattern of these cases being in proceedings is also reflected in the trends of our Looked After Children as the 2 data sets are interlinked.
8. This pattern meant that Northumberland went into lockdown with a high number of cases already before the court, many of them at the point where final hearings to secure the long-term plans were imminent. Many of these cases have been able to conclude, between March and September 2020, 102 children have had their final care plan agreed by the court. This is actually more than during the same period in 2019 when only 67 cases were finalised.
9. Comparing the period between March and September 2019 and 2020 the data reflects that fewer cases have been issued in 2020 (82 in 2020 and 103 in 2019). The fact that the current live cases remains so high even while the number concluded in the last 6 months has increased and the number issued has comparatively dropped, indicates the high level of active cases that there were in the spring 2020 prior to lockdown.
10. This means that although relatively high number of cases have been concluded there are still a significant number of children waiting for the court to determine their care plan.
11. In relation to the duration of care proceedings the current average time for a case to conclude is 37.6 weeks. This is significantly higher than the Public Law Outline target of 26 weeks. Covid has had some impact on these extended timescales but other issues that predate the coronavirus restrictions also underlie this performance.
12. In August 2020 Cafcass (Child and family court advisory support service) analysed information drawn from Local Authorities across the country to consolidate and improve understanding of the impact of Covid 19 on open public law cases. Their findings were shared with Local Authorities drawing

comparisons with regional neighbors and national collated results.

13. Northumberland's position was analysed in respect of 74 cases (in this work each family was considered as a case rather than individual children, which is how our performance is usually reported). 40% (30) of these cases reported a delay that was assessed as having an impact on the child. 28.4% (21) cases had an impacted that was assessed as being one that could be mitigated and 12.2% had a delay with a severe impact on the child. These findings closely mirrored those of regional neighbors and also the national picture.
14. The reason for the delays were categorised and the typical reasons included court or Local Authority delay and expert evidence which occur in non Covid situations, however the largest cause of delay was attributed to 'other' (18.9%) which in Northumberland's experience was Covid related restrictions that made hearings difficult to hold.
15. Reassuringly the analysis highlighted that 90.5% of Northumberland cases had at least one hearing during the lockdown restrictions which is line with regional and national comparators. For some children the Covid restrictions continue to cause delay and social workers and the legal team are working as creatively as possible to move plans forward within Government guidelines. There are robust monitoring and tracking systems in place to ensure that management oversight of delay is clear and where possible remedial actions can be identified.
16. The difficulties surrounding court hearings have been exacerbated by other Covid related challenges. Face to face family contact was suspended between March and July and families were only able to see each other using virtual platforms or talk on the phone. This was very challenging for some children and parents and face to face contact was reintroduced as soon as it was possible for some families, subject to robust risk assessments. However, it did impact on rehabilitation plans and plans to introduce children to new carers and build relationships.
17. Regionally a Family Justice Steering Group is being established to identify priorities to enable recovery and progress for children and to lead on reform and develop an outcomes framework to monitor and inform effectiveness of future areas of improvement. Northumberland will be actively represented on this group to ensure that the outcomes for the children, most at risk of harm, will have their cases progressed through the public law system as effectively as possible in the future.

## **CONCLUSION**

18. Some children have experienced delay as a result of Covid 19 restrictions. The impact on Northumberland children is very similar to that experienced regionally and nationally.

19. The restrictions were imposed at a time when Northumberland had higher than usual cases in care proceedings and the court was already experiencing challenges around capacity and timescales.
20. Social workers have worked closely with other parties in proceedings to progress plans wherever possible using creative ways to conduct assessments and move plans forward for children. There are robust monitoring systems in place so managers are aware of any delays and can consider measures to mitigate for them.
21. Northumberland will continue to work closely with the court, Cafcass and neighboring Local Authorities to reform the family justice system and recover from the Covid impact in the future.

## **BACKGROUND PAPERS**

- Public Law Outline (2014)
- Children and families Act 2014
- Cafcass public Law –Impact of Covid 19
- The-Road-Ahead Sir Anthony McFarlane
- Nuffield Family Justice Observatory Rapid consultation

## IMPLICATIONS OF THE REPORT

<b>Policy</b>	The PLO and other legislation governing legal proceedings in relation to children are translated into NCC policy and procedures.
<b>Finance and value for money</b>	PLO proceedings place a financial burden on the Authority in terms of application fees and staff resources.
<b>Legal</b>	
<b>Procurement</b>	
<b>Human Resources</b>	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.
<b>Property</b>	None
<b>Equalities</b>	Each child must be recognised as an individual and provided with a service that meets their specific and different needs.
<b>Risk Assessment</b>	Ofsted and reputational risk if performance around timescales and working practice is not improved.
<b>Carbon Reduction</b>	None.
<b>Crime and Disorder</b>	Criminal proceedings will often run alongside care cases and inform the outcome.
<b>Customer Considerations</b>	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.
<b>Consultation</b>	Members and senior managers have been consulted.
<b>Wards</b>	Ward members will be involved as necessary.

## REPORT SIGN OFF

Finance Officer	N/A
Monitoring Officer/Legal	N/A
Human Resources	N/A
Procurement	N/A
I.T.	N/A
DCS	Cath McEvoy-Carr
Portfolio Holder(s)	

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