Families on the Edge of Care Proceedings Study: The pre-proceedings process in practice

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Focus of this presentation

- The research
- Data on the pre-proceedings process
- The pre-proceedings process
- The aims of the process
- Understanding the pre-proceedings process
- How it is being used?
- What is achieved?
- Key issues for the future
Families on the Edge of Care Proceedings Study

• Mixed methods:
  – quantitative (case files) and qualitative (interviews etc)
  – retrospective (file study) and prospective (observations)
  – 6 LAs: 2 shire counties; 2 London Borough; 2 unitaries

• Data sources:
  – 207 LA solicitor’s files; court case papers/ bundles
  – 69 in-depth interviews with professionals
  – 36 observations of pre-proceedings meetings (+ follow up)
  – 25 in-depth interviews with parents

• ESRC Funded; 27 months April 2009- June 2012
The changes in use of the pre-proceedings process from 2009-10 to 2011-12.
The pre-proceedings process

• Introduced as part of PLO April 2008 (piloted Autumn 2007)
  – Not evidence based
  – Little/No consultation re development

• Set out in *The Children Act 1989 Guidance and Regulations, Vol 1 (2008)* paras 3.3-3.4; 3.24-3.33 and flowchart Annex
  – An expectation in all non emergency non immediate cases
  o *Not integrated into other LA processes eg CPP of LAC Reviews*

• Starting point: legal advice that s.31 threshold is met
  – Letter before proceedings *(LbP)*sent to parents
  – Parents qualify for legal aid non-means, non-merits (controlled) (L2)
  – Parents contact solicitor for representation/ advice at PPM
  – Pre-proceedings meeting *(PPM)* held
  o *Very little in Guidance about the meeting*
  – Written agreement between parents and LA.....
Figure 1: The process of deciding to bring care proceedings

- Service provision with parental co-operation
- s.47 inquiries = core assessment
- Child protection case conference
- Gateway Meeting
- Decision to bring care proceedings
- Letter before proceedings
- Pre-proceedings meeting
- s.31 application
- EPO
- Diversion from proceedings
- Improved parenting
- LAC Review
- s.20

The pre-proceedings process in practice:
FJC June 2012
Aims of the process

• Improving parents’ understanding and engagement

  – Improving care at home
  – Agreeing alternative care – s.20/ kin care
  – Private law proceedings

• **Planning intervention** *(para 3.32)*
  – Agreeing services/ service use
    (Service use may result in improvement of care)

• **Planning proceedings/ ensuring proceedings are better prepared**
  – ‘narrowing issues’ and obtaining evidence
  – Avoiding court door negotiation and unexpected disputes
Understanding the pre-proceedings process

• Rights and/ or utility?
  – The right thing to do
  – To be used only if it is likely to make a difference

• An event and/ or a process?
  – A framework
  – A way of managing cases over time
  – Time limits and reviews? Nothing included in the Guidance about this

• A threat and/ or an opportunity
  – Opportunity to negotiate or opportunity to impose?

• Procedural justice
  – A possible theoretical basis for thinking PPP could have a positive effect
  – Avoid magical thinking – limited processes will not to work miracles

• A single approach is not appropriate for all cases
How is the process being used?

• **Types of case**
  – Pre-birth 36/120 (30%); 10/33 (30%); injury (4/33); 2/33 (CSA)
  – Majority of children at home with services; Neglect (8/33); DV (7/33)
  – 47% of care proceedings only cases were crisis cases

• **Intent**
  – To alert parents to seriousness of concerns ‘*wake up call*’
  – To try to make CP plan work
  – To plan and agree services eg parenting, DVIP/ Freedom programme
  – To obtain co-operation over assessment
  – To agree alternative care (s.20 or relative care)
  – To notify that care proceedings **will be** started

• **Timing**
  – Linked to CPP process: 77% PPP cases CP plan when decision to use PPP made c/w
  46% of s.31 cases. PPP (1) at referral to CP (2) at ICPC (3) at review (4) at 18 months

• **A step up or another step?** – ie closer to proceedings or another hurdle
Operation and effectiveness of the process

• Not easy to arrange meeting with parents and their lawyers
  108 mothers in sample known to receive letter
  91 attended; 67 with lawyer; 24 without lawyer; 3 DNA; 10 DK
  Fathers harder to engage (for various reasons)
  1/4 PPMs were re-arranged so parents could attend with a lawyer

• Parents who went to PPM were generally positive about it

• In some cases proceedings are avoided
  No proceedings w. in 6mths+ in c 25% cases where PPP used
  But...Were diverted cases as concerning as others?
  And Is diversion from court right for the child?
  Also cannot divert if process used to notify application is being made

• Little or no impact on cases that went to court
  Parents were not more accepting to the LA’s intervention
  Court did not appear to view these cases differently
  cases not significantly shorter; repeat assessments; contests
Key issues for the future

• **26 weeks**
  – Only 12% cases completed in 26 weeks
  – 12% over 80 weeks and 5 incomplete but over 100 weeks

• **Sustainability**
  – Declining use of level 2
  – Varied support from lawyers in private practice
  – Varying support in LAs

  ‘....removing processes and reducing bureaucracy – if it doesn’t help, don’t do it.’

_Munro Review Progress Report Walsall case study (2012)_

• **Impact on proceedings**
  – LAs did not experience change in court’s approach
  – Cases with pre-proceedings not resolved more quickly
  – Courts appear not to take account of what has occurred during PPP
  – A factor in LA’s reluctance to use pre-proceedings for external assessments
A report and summary will be produced later in the year.
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