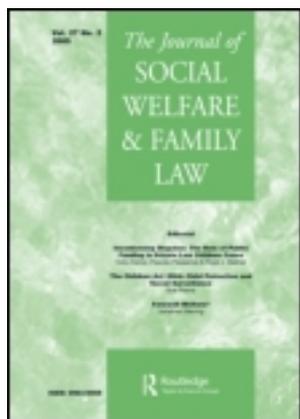


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Strengthening prospects for safe and lasting family reunification: can a Family Drug and Alcohol Court make a contribution?

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This article examines the contribution of the first Family Drug and Alcohol Court (FDAC) within care proceedings in England and Wales. It asks what FDAC can contribute to family reunification amid concerns about the safety and sustainability of return home and significant changes in care proceedings under the Children and Families Bill of 2013. Features of FDAC as a problem-solving court are outlined and findings of an independent evaluation are presented to consider FDAC's contribution to safe return home at the end of the care proceedings. The likely impact of the Children and Families Bill of 2013 on FDAC's reunification objectives and the rationale for an FDAC aftercare service are discussed. The article concludes that FDAC has the potential to play a useful role in promoting safe reunification at the end of care proceedings. The Children and Families Bill of 2013 creates both opportunities and challenges to the FDAC model in respect of its approach to enhance safe reunification prospects, and adaptations will be necessary. There is a strong case to develop an FDAC aftercare service to help promote lasting reunification and safe and committed parenting.

Keywords: FDAC; problem-solving courts; family reunification; substance misuse; care proceedings; Children and Families Bill 2013

Introduction

All children need loving and committed parenting to give them the best possible start in life. When children have experienced inadequate or harmful parenting, the State faces some of its most difficult responsibilities. It needs to decide if and when a child should be removed from home and whether safe and lasting permanency will be best achieved by placement away from the family, with relatives or through return home to parents who have been helped to overcome their problems.

Debates about the relative merits and drawbacks of family reunification and out-of-home care are long-standing. However, several factors give them immediacy. Recent research has exposed the fragility of family reunification, especially when parental substance misuse is involved (Davies & Ward, 2012; Farmer & Wijedasa, 2012; Ward et al., 2010, 2011, 2012). These findings come at a time when the number of care proceedings has risen substantially, creating significant pressure on children's services and on placement-finding. Care proceedings in the last 2 years have been at their highest level since 2008 (CAFCASS, 2013); 4500 young children approved for adoption are still awaiting adoptive parents and 9000 more foster carers are needed (The Fostering Network, 2013). The final catalyst is the Children and Families Bill of 2013, which seeks radical change in the scope of care proceedings to facilitate quicker decision making so as to achieve safe and lasting permanency for neglected and abused children coming before the courts.

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This article contributes to the debates about return home when parental substance misuse is a major issue in the case. It draws on findings from an evaluation of a specialist Family Drug and Alcohol Court (FDAC) within care proceedings (Harwin et al., 2011). FDAC is the only court-based approach that treats parents who misuse illicit drugs and alcohol as well as adjudicating on children's future living arrangements and parental involvement in the child's life. It aims to assess rigorously the appropriateness of return home and, where indications are promising, to provide extensive support for parents and children and plan carefully for the return to give it the best chance of success. If parents fail to engage, swift placement in an alternative permanent family is the other equally important goal of FDAC in recognition of the damaging effects of delay on placement finding and child development. In this article, we ask three questions:-

- (1) Can the FDAC model achieve higher rates of safe return home compared to ordinary court and services by helping parents address their substance misuse and related difficulties within the child's timescales?
- (2) What are the opportunities and constraints within the Children and Families Bill of 2013 for FDAC to play a role in relation to family reunification?
- (3) Is there a case for developing an FDAC aftercare service to help sustain safe and lasting family reunification?

It is timely to consider the future of FDAC as well as its contribution to date. A second FDAC has started in Gloucestershire and the government has recently funded a 2-year FDAC development programme. This will consider how FDAC can be adapted to fit with the proposed new timescales for care proceedings in the Children and Families Bill of 2013 and take forward the recommendation of the Family Justice Review in 2011 for limited roll-out of FDAC. It will also consider extending the FDAC remit to include domestic violence and mental health difficulties as triggers to hearing care proceedings within FDAC. The article begins with a discussion of family reunification, and is followed by a description of FDAC. The next three sections address consecutively the questions posed above. The article concludes with some priority areas for development.

1. Family reunification – risks and opportunities

Recent research shows that family reunification is associated with a high risk of breakdown and return to public care (Davies & Ward, 2012; Farmer & Wijedasa 2012; Farmer et al., 2011; Thoburn et al., 2012; Wade et al., 2011; Ward et al., 2010). Wade and colleagues compared maltreated children who returned home with those who were placed out of home: only a third of the children who went back home, remained there without any changes in their living arrangements over the next 4 years. Farmer and Lutman's (2010) study painted a similar picture (Farmer & Lutman, 2010). Sixty five per cent of the children who entered care because of neglect and emotional abuse and then returned home, had gone back into care in the 5-year follow-up; 59% of them had been abused or neglected in the 2-year period after return home. In both these research studies children placed in alternative permanent families had greater placement stability and better welfare outcomes.

It is important to disentangle the reasons for problems with reunification because there is a danger of over-simplifying the conclusions that can be drawn. Family reunification covers many different circumstances and it is used for young and older children, for return home on a voluntary basis and via the courts. Maltreatment itself is an umbrella term that covers risk of and actual neglect and abuse and psychological harm in varying degrees of

severity. A more nuanced understanding of the risks associated with return home when neglect and abuse are involved can be achieved if the reasons for poor outcomes are grouped into child and parent factors, professional decision making, organisational support for return home and service availability. Wade and colleagues (2011) found that older children absconded from local authority placements and returned home to parents whose difficulties had not been resolved. By contrast, placements for younger children were more stable, especially if underpinned by a care order. Key themes concerning professional decision making revolve around over-optimistic assessments about parental capacity to change, difficulties in engaging parents leading to case closure despite ongoing difficulties, and insufficient and too brief support from children's services and other agencies after return home. Variations between local authorities in their organisational arrangements for supporting reunification include whether a care order is used to support return home (Farmer et al., 2011; Wade et al., 2011; Ward et al., 2012). In order to tackle these difficulties, a Department for Education working group on Returning Home from Care has been set up. It is considering options for helping ensure that reunification is the most appropriate permanence plan, is well supported and reduces the number of children who re-enter care or stay at home in risky environments.

Family reunification is particularly fragile when parental substance misuse is involved. It is one of the main predictors of breakdown, return to public care and poor child outcomes if the home placement does not break down (Davies & Ward, 2012; Farmer et al., 2011; Wade et al., 2011). According to the study by Farmer and colleagues, children whose parents misused substances prior to entering care are more than twice as likely to be abused and neglected in the 2-year period after return home than children whose parents do not misuse substances, and the quality of their care is often poor even if the placement is stable (Farmer et al., 2011; Forrester & Harwin, 2008; Thoburn et al., 2012; Wade et al., 2011). In Wade et al.'s (2011) study, 81 per cent of children reunited with parents who were still misusing drugs subsequently went back into care or were accommodated. Ward et al.'s (2012) study of 57 infants, of whom 43 were followed up for 3 years, suggested that the birth of a new child can be a catalyst for positive change. However, mothers who did not become abstinent within 6 months of the child's birth were unlikely to make the changes without compromising the child's emotional and physical development and thus long-term prospects (Ward et al., 2012). Parental relapse, a lack of family support and adult treatment services for alcohol misuse, poor assessments, and variable knowledge and skills about parental substance misuse among children and family social workers help explain these results.

These findings are troubling because parental substance misuse is a major problem in children's services both in scale and its over-representation in child protection cases, child death reviews and care proceedings (Cleaver et al., 2011; Forrester & Harwin, 2011; Masson et al., 2008). It is a factor in up to 60–70% of care proceedings in inner London (Forrester & Harwin, 2006; Guy et al., 2012; Harwin & Ryan, 2008,). Moreover removal of one child does not necessarily break the cycle. Mothers who misuse substances contribute disproportionately to successive care proceedings involving removal of new babies (Worcel et al., 2007; Broadhurst & Harwin, 2013; Broadhurst & Mason, 2013). A major growth of interest in parental substance misuse and child protection over the last few years and an expanding evidence base is helping address the challenges outlined above. There are now a number of promising interventions to support parents who misuse drugs and alcohol so as to prevent the need for removal such as Parenting Under Pressure (www.pupprogram.net.au), which is also being trialled with the NSPCC in the UK (Rayns et al., 2011); Option 2 (Forrester et al., 2012); and the Strengthening Families

programme (<http://www.strengtheningfamiliesprogram.org>); Triple P Positive Parenting Programme (<http://www.triplep.net/glo-en/home>); and Family Intervention Projects (Lloyd et al., 2011).

There will, however, always be families for whom family support does not succeed when parental substance misuse is an issue. Here the research indicates a need for more effective decision making on whether it is safe and appropriate for a child to remain with or return to his or her parents, and, if so, to consider how reunification can be effectively sustained. In this regard, there are still many gaps in our information. We lack good prognostic data on whether there are particular parent, child or socio-demographic profiles that might predict the likelihood of safe return home when parental substance misuse is a key feature in the care proceedings. We do not know how far the substance misuse history and involvement with children's services might mediate outcomes. There is also a need for information on how to achieve long-term sustainability of good child and parent outcomes when parental substance misuse is involved. Finally, we do not know whether a specialist court-based approach such as FDAC can produce sustainable return home for children.

2. The FDAC model and how it works

FDAC was set up in 2008 as a government pilot programme at the Inner London Family Proceedings Court with co-funding from three London pilot authorities. It has been adapted from an American model of problem-solving family drug treatment courts, which are widely used to decide on the potential for family reunification or the need for swift decision making for alternative permanency. Problem-solving courts have a much wider remit than ordinary courts. As well as adjudication, they aim to promote behavioural change by treating the underlying problems of the individual within the court process. Key features of problem-solving courts include increased judicial oversight in a supportive environment and an integrated multi-disciplinary team to provide support and wraparound services. Their theoretical underpinning comes from therapeutic jurisprudence (TJ), which makes use of motivational approaches to promote treatment adherence. Its proponents argue that TJ goes beyond procedural justice to an ethic of care that gives 'voice, validation and respect' (King & Wager, 2005, p. 31) to the offender or parent. There are now over 300 Family Drug Treatment Courts in 43 states in America.

The decision to set up FDAC in England was influenced by the positive findings of a national evaluation of American family drug treatment courts (Worcel et al., 2007). It found that drug treatment courts had higher rates of family reunification, swifter permanency in alternative families when parents failed to engage and cost savings on foster care. Other catalysts to the development of FDAC were long-standing concerns over delay in care proceedings, their rising costs and poor outcomes for children and their parents (Harwin & Ryan, 2008). FDAC also chimed well with the DCSF initiative to improve outcomes for children by focusing more on whole family approaches (Social Exclusion Task Force, 2008) and the 2008 family-focused Drug Strategy (Home Office, 2008), which sought to bring together children and adult services to help plan for children and parents in a co-ordinated way.

FDAC has a number of distinguishing features that are not found in ordinary care proceedings. The judge adjudicates the care proceedings and also holds responsibility for running the specialist treatment court in which he plays a non-traditional role in order to motivate parents as well as to remind them of their responsibilities. This role includes practical problem solving as well as the deliberate use of praise and challenge to help keep parents on track. A specialist multi-disciplinary team attached to the court co-ordinates an

intervention plan for the parents, focused on addressing their substance misuse and other difficulties. The team provides an expert assessment but crucially also provides ongoing support and monitoring for the time the case remains in FDAC as well as advising the judge of progress. Parental progress is monitored and supported through regular fortnightly court reviews. These reviews are dealt with by the same judge throughout and take place without the presence of lawyers. They provide the forum in which the judge talks to parents directly and the court obtains feedback on parents' progress from their FDAC keyworker and social worker. This forum is the problem-solving and therapeutic element in the court process. The final feature of FDAC that is not found in ordinary care proceedings are the parent mentors. They advise and support parents by providing a non-professional role model. They may themselves have lost earlier children to the care system and been able to parent a new child at a later date. The longer term intention is for parent mentors to have come through FDAC successfully so that they can provide the closest possible role model to help motivate parents and support them practically and emotionally. A small number of parents who successfully completed FDAC are now trained as mentors.

The FDAC assessment and intervention process in the period when the first evaluation was conducted consisted of four stages, which could last up to a year or longer as there is currently discretion over the length of time the case remains within FDAC. The initial focus is on attaining abstinence and consolidating it through drug treatment. Parenting interventions are introduced only when the parent has demonstrated progress in the first two phases.

Participation in FDAC is voluntary. If parents do not wish to enter the programme, their case is heard in ordinary care proceedings. If parents do accept the offer of FDAC, the assessment process starts after the first hearing. A substance misuse and parenting assessment are carried out in the first week. In the second week, a team formulation takes place after the assessments, followed by an intervention planning meeting involving the parents and local authority, and a report is prepared for consideration by the court in the third week. If parents accept the intervention plan, they sign an FDAC court agreement at the second hearing in the presence of the judge and team. Thereafter, the parents meet regularly with a key worker whose role is to assess and treat the parents, link them into local services and co-ordinate closely with the local authority and other agencies. Fortnightly update reports are presented to the court by the FDAC key worker and intervention planning meetings are held as required. The treatment approach is eclectic and tailored to the individual. Cognitive approaches, social and behavioural network theory, motivational interviewing and psychological support are commonly used. Regular drug testing is routine in all cases. In addition, parents may receive extra services from FDAC for domestic violence and mental health problems or be referred to local services. FDAC also has a formal link to housing services and domestic violence services in all participating local authorities.

3. The FDAC Evaluation Project

An independent two-stage evaluation of the UK FDAC model was commissioned to see if the promising US results on reunification and other measures could be replicated. FDAC was compared with standard court and services in terms of the following measures:

- cessation of parental substance misuse
- family reunification rates

- rapidity of permanent placement when reunification was not possible
- costs of out-of-home care during the proceedings and costs of the court process (Stage 1 only)
- parental receipt of substance misuse and psychosocial services
- 1-year follow up after the final order of families living with their children (Stage 2 only).

The evaluation used both quantitative and qualitative methods. At the first stage, all cases entering FDAC over the first 18 months of operation were followed up and compared with similar cases from two comparison local authorities. Comparison cases were collected over the same time period and were also heard in the Inner London Family Proceedings Court. All cases were tracked for 6 months from the first hearing and followed up to the making of the final order whenever possible. FDAC and comparison cases were also reviewed over the first 6 months to compare parental receipt of substance misuse and psycho-social services and services provided to the child. At the second stage, in order to achieve a larger sample, the evaluation tracked all families entering FDAC in the first 3 years of operation on the same measures listed above and compared them with families from three local authorities (207 cases in all). In addition, all families living with their children at the end of the proceedings were followed up for 1 year to test the sustainability of reunification.¹ In this article, we present only the findings from the Stage 1 evaluation.

At the first stage, interviews were held with 37 FDAC parents (28 mothers and nine fathers) and with the FDAC judges, team and court staff and commissioners involved in the set-up and implementation of FDAC. Focus groups were held with parent mentors and with professionals who had cases in FDAC in the first 18 months (lawyers, guardians, social workers and staff from adult treatment services) to obtain their views on FDAC and recommendations for development and change. No interviews were held with comparison parents or service providers as funding did not extend to this. Court observations were held on each FDAC court day to examine fidelity to the model. At the second stage, interviews were held with the same professional groups and with parents whose children were returned home.

Information was collected in all cases from court files and children's guardians completed specially designed end of case questionnaires to maximise outcome data sources. At the first stage, information was also collected from parents' FDAC NHS file and their child's local authority file provided that parents gave written consent.

The total sample for the Stage 1 evaluation study comprised 86 cases (55 FDAC families with 55 mothers, 37 fathers and 77 children; 31 comparison families with 31 mothers, 23 fathers and 49 children). It was possible to track 60 cases to final order (41 FDAC families with 41 mothers, 29 fathers and 56 children; 19 comparison families with 19 mothers, 12 fathers and 26 children). These 60 cases had reached final order within our researcher timeframes.

The main point to emerge from the profiling of the families in the Stage 1 evaluation was the chronicity and range of the parental difficulties and problems they caused to themselves and others, the vulnerability of their children, and the impact on their children, on family life and society at large. These were 'hard' cases, which made the likelihood of achieving parental change very challenging in both samples, whose similarities outweighed differences on most measures. Single mother households predominated. Over two-thirds of the current proceedings involved only one child, who was most frequently at risk of or experiencing neglect, physical and emotional harm. All the proceedings were triggered by maternal substance misuse. Drug and alcohol misuse was

longstanding amongst all mothers and fathers and over three-quarters of all mothers and approximately two-thirds of all fathers had received previous substance misuse treatment. Substance misuse was never the only problem. Approximately two-thirds of all mothers had experienced domestic abuse, over a quarter had been in care, more than a third had mental health and physical health problems and three quarters had convictions prior to the proceedings. Most parents were unemployed and on income support. Housing problems were common. Many families had substantial histories of involvement with children's services prior to the current care proceedings of at least 5 years or longer (44% vs. 57%).

Key differences between the samples were in respect of the fathers and children. More FDAC fathers misused substances (86% vs. 57%) and more of them were living with the mother at the start of the proceedings. Over two-thirds of FDAC children compared to just over half the comparison children were aged under 5 and, of these, a slightly higher proportion of FDAC children were aged under 1. More than four times as many FDAC children were born withdrawing from drugs and they also had more health problems (66% vs. 47%). More FDAC children were White and Black children predominated in the comparison group. Two other features differentiated the samples. Although many families had substantial histories of involvement with children's services prior to the current care proceedings, twice as many FDAC families had been known for less than a year (34% vs. 16%).

The similarities between the two samples showed that local authorities operate a high threshold before starting proceedings. They also laid a sound basis for comparing outcomes because it indicated that possible differences were unlikely to be due to major differences in the profiles of the families.

4. Can FDAC achieve a higher rate of family reunification than ordinary court and services?

The rate of family reunification was 18% higher in FDAC cases at the end of the care proceedings compared to ordinary care proceedings. The children of 39% (16 of 41) of FDAC mothers and 21% of comparison mothers (four of 19) were living at home at final order. In four FDAC cases, but no comparison case, the child went home to two parents who had previously misused illegal drugs and alcohol. None of the comparison fathers stopped misusing.

The main reason for the higher FDAC reunification rate was that more FDAC mothers stopped misusing substances. This included all 16 mothers who had remained in FDAC throughout the proceedings and stopped substance misuse. Eight FDAC fathers also stopped misusing but only four were reunited with their children. No comparison father stopped misusing drugs or alcohol.

The local authorities had hoped that it would be possible to identify case profiles associated with the likelihood of return home at the end of the proceedings and those in which alternative family finding would be required. However, the evaluation found that cessation of maternal substance misuse was the only predictor of reunification in both samples. The length of substance misuse, the number and type of drugs, or whether alcohol alone was involved, had no predictive value in either sample. Nor did child factors (age, health and development problems, education, relationship difficulty, safety, or emotional and behavioural difficulties). Service histories, most notably the length of family contact with children's services, also failed to differentiate between return home and permanent placement elsewhere. The mother's age, household composition, number

of children in the current case and removed previously had no bearing on the likelihood of reunification.

Despite the fact that case characteristics failed to predict parental capacity to change, reunification in FDAC cases was associated with several specific features that were less frequent in the comparison sample. More FDAC families accessed substance misuse services than comparison families in the first 6 months of the care proceedings. These results were based on the 30 FDAC families who consented to researchers viewing their FDAC and local authority files and all 30 comparison families. The 6-month comparison found that, in addition to the services provided by FDAC, a slightly higher proportion of FDAC mothers (90% vs. 80%) accessed community-based substance misuse services. More FDAC mothers (57% vs. 30%) attended at least two agencies for help. In the majority of cases, FDAC linked parents with community treatment services and liaised with them during the case. Fewer FDAC parents received residential treatment. In addition, FDAC parents were assessed very rapidly. As FDAC assessments uncovered more substance misuse and mental health difficulties than documented in the care proceedings application, the resultant treatment plan could be better tailored to meet the full range of identified needs.

FDAC parents were also more likely to receive psycho-social services during the first 6 months. More FDAC parents accessed parenting programmes (12 mothers, four fathers vs. three comparison mothers and no fathers). They also received help more frequently for housing, finances and domestic violence. Taken together, parents received a more intensive service for a wider range of difficulties. However, no difference emerged in the services received by the children in the two samples.

The duration of care proceedings when reunification was the goal also differentiated the two samples. Reunification took longer in FDAC, with the proceedings lasting on average 8 weeks longer (50.81 weeks) than in the comparison sample (42.50 weeks). More FDAC mothers also stayed in treatment until final order and more had plans to continue in treatment after the proceedings concluded. Even though FDAC reunification cases stayed in care proceedings for longer, their costs reduced over time, as input from the specialist team lessened after the first 6 months, less was spent on assessments overall and there were fewer hearings with lawyers present. Overall, there were savings in FDAC cases: FDAC children spent fewer days in out-of-home placements (153 vs. 358 days) during the proceedings, producing a saving to the LA of on average £4193 per child. In addition, as a result of more children staying within their family at the end of the proceedings, there was an expected longer term saving too. These potential and actual savings helped offset the cost of the FDAC team, which averaged per family £8740 (at 2010 figures) over the life of the case.

It is important to be cautious about the quantitative results, given the small case numbers and unequal size of the two samples. No standardised measures were used by local authorities or FDAC to measure changes in child and adult well-being. Provided that these limitations are recognised, the quantitative results suggest that FDAC has the potential to help enable more parents to be reunited with their children at the end of the proceedings. As family reunification indicated cessation of chronic parental substance misuse and tackling related psycho-social problems, parental outcomes were likely to have been enhanced too. These results were achieved in some cases that seemed at the outset to have a very poor prognosis.

In addition to quantitative measuring of the relative success of FDAC compared with ordinary proceedings, the interviews and focus groups gave a clear picture of positive views of the FDAC specialist team and court process from parents and professionals alike.

All but two parents said they would recommend FDAC to others in a similar situation. They were particularly positive about their experiences of the FDAC team and judge. They valued the team for the practical and emotional support it offered, for its help in motivating them and building 'confidence', for 'listening to them' without judging them. The judges were described as being 'fair', 'sensitive' and 'treating you like a human being'. His praise made them feel 'hopeful' but they also appreciated honest feedback. 'It was horrible at the beginning. But now I know it was the truth.' Parents felt the judge was knowledgeable about their case and valued his problem-solving role. Two-thirds of the parents felt empowered by the non-lawyer review hearings, the opportunity to speak up and to receive feedback on their progress. Most thought the frequency of these hearings was useful because it helped 'hurry things up', 'keep everyone working' and it enabled professionals to see they were 'sober'.

Parents with previous experience of ordinary care proceedings contrasted them with FDAC. Removal was perceived to be a foregone conclusion: '[t]hey just took kids away from us without working with us.' Children's services were 'always trying to put the case against you instead of trying to help'. Participation was not possible because 'in other courts you can't speak and sometimes the point you want to make doesn't get made at all or it is not made in the right way'. By contrast, FDAC 'gives you a chance' and 'if you don't understand anything, they explain it to you' and you can communicate 'direct'.

The professionals endorsed many of the views of parents and helped shed light on other aspects of the process that may have contributed to reunification. The FDAC team was considered highly efficient and the quality of their assessments was highly rated as was their co-ordinating role and partnership work with other agencies. They also highlighted the ability of the judge to engage and motivate parents whilst being clear about the consequences of non-compliance. As well as reinforcing parents' views on the value of the non-lawyer review hearings, they also noted that they led to less conflict than in ordinary proceedings, kept the case on the move by tackling problems before they built up, and resolved difficulties that would normally fall outside of the court remit, such as housing, finances or service delivery. Overall, they considered that FDAC was a better use of the court process. They thought it gave reunification the best possible chance of success by enabling parents who were doing well to remain longer in proceedings so as to consolidate good progress, plan return home carefully and sort out practical obstacles. Their conclusion was that 'FDAC is how care proceedings ought to be'.

However, parents nearing the end of FDAC and professionals expressed some anxieties about the loss of FDAC support after the proceedings ended. Parents thought this was likely to be a testing time and the opportunity to be able to access continuing emotional and practical support from FDAC would be particularly useful, as would help with employment, education and practical support. The professionals endorsed this view and there was a consensus in favour of the development of a short-term aftercare FDAC service. The first stage report took forward this proposal as one of its main recommendations in order to strengthen the possibility of sustainable reunification providing good quality committed parenting.

What factors might enhance prospects of safe return?

The results showed that FDAC achieved higher reunification rates and that the results were unlikely to be attributable to differences in the case samples. Instead, it suggested that being a recipient of FDAC was more important than previous history or individual profile

of parent or child in influencing outcomes. The large-scale US national evaluation with over 2000 cases came to a similar conclusion (Worcel et al., 2007). It too found that no child, parent or service history characteristics predicted parental capacity to change. This may indicate that the FDAC evaluation, albeit small-scale, captured a genuine difference in the reasons for the results, but the premise needs testing in the English context. If correct, it suggests that FDAC may be beneficial to a wide tranche of parents who would normally be considered a 'bad bet'.

It is possible to identify some differences between FDAC and ordinary court and services that may help explain the higher reunification results and strategies to enhance prospects of safe return. Reunification in FDAC provided parents with quicker access to more intensive and holistic treatment for a wider range of problems and they received help over a longer period with tighter monitoring of progress. Intensive, tightly structured programmes delivered for a time limited period are well-established features of successful interventions (Forrester & Harwin, 2011).

This evaluation also suggests that the specialist court element itself may well be very important. This raises a crucial issue. Could FDAC operate with the team alone, and without the involvement of the judges and court process? The interviews sounded a note of caution in this regard. The personal authority of the judge, and his status and role, were all parts of the of the motivation and change process. American research (Rossman et al., 2011) into criminal drug problem-solving courts has found that re-offending is less likely when the judge is described as fair – this was one of the most frequent descriptors of FDAC judges. Second was the flexibility of the process. It enabled parents who were doing well to stay in the process longer and gave the local authorities, FDAC and the parents themselves an opportunity to plan carefully for the return, discuss its progress and try to iron out difficulties. Purposeful planning for reunification, including parents and all relevant agencies is associated with safer return home (Farmer et al., 2011; Wade et al., 2011). Third, treatment in FDAC included regular drug testing, motivational support and regular feedback on progress. This was not routinely the case in comparison cases. Fourth was the rapidity of access to treatment and its range. In the national American evaluation, a clear link was demonstrated between timely access to treatment, retention in treatment and its completion as a pre-requisite to reunification. Finally, the inclusive process based on 'voice, validation and respect' helped enhance confidence and encourage parents to problem-solve. Those parents who had previous experience of ordinary care proceedings described how much they felt disempowered by the process, a finding reinforced by other studies (Hunt, 2010; Pearce et al., 2011). This may help explain why more comparison mothers stopped attending court and, linked to this, stopped attending substance misuse services.

All these features may help explain both the higher reunification rates and processes to consolidate parental change without side-lining the child's development needs.

5. FDAC in a new legal environment – implications for reunification objectives and processes

Taken together, the evaluation results suggest that FDAC can make a positive contribution to enhancing reunification at the end of care proceedings. These results, together with the swifter alternative family finding when parents failed to engage with FDAC, the cost savings and widespread professional and parental support for the model, led to the recommendation by the Family Justice Review for limited roll-out in order to build a more substantial evidence base of the contribution of FDAC.

However, as the Children and Families Bill of 2013 will make significant changes to care proceedings, the encouraging evaluation outcomes cannot automatically be assumed to apply in future FDAC care proceedings. In this section, we explore opportunities and challenges for FDAC with regard to its reunification objectives under the Children and Families Bill.

The Children and Families Bill is a radical bill which will introduce a unified court. It aims to achieve a leaner and quicker process to reduce delay and thereby facilitate swifter permanency for children as a basis for helping secure better well-being outcomes, speed up case throughput and reduce the soaring costs of care proceedings seen in recent years. These goals are to be achieved by a range of measures. They include the introduction of judicial continuity from trained judges to facilitate effective case management, tighter restrictions on the use of experts and a smaller role for the judiciary in its scrutiny of the care plan. In future, it will only be required to review the placement plan rather than, as at present, to also consider the contact and service plan.

Amongst the most radical of the Bill's proposals is the specification that the majority of care proceedings should end within 26 weeks – less than half their present length. This is the first time that timescales for care proceedings have ever been set out in law. After the first 26 weeks, judges will need to apply for 8-week extensions in order to continue the proceedings. Crucially, the decision will rest not only on the welfare of the child, but also on the impact of the extension on the duration and conduct of proceedings (Children and Families Bill of 2013, Clause 14[6]). These extensions are 'not to be granted routinely and are to be seen as requiring specific justification' (Clause 14[7]).

Will tighter timescales affect the ability of FDAC to test for capacity to change and to support parents to achieve reunification once proceedings begin? The most striking difference between the original FDAC model and the approach in the draft legislation is seen on the principle of flexibility. In the latter, the approach is largely standardised and led by timescales rather than individual progress, as in FDAC. The NSPCC (2012) has voiced its concern that it may make it harder for evidence-based treatments that take longer than 26 weeks to be planned from the outset of the proceedings.

It is likely that parents will need to show good progress at an earlier stage of the proceedings than has been the case to date. Under the new legislation, the window for change will be much smaller and lapses may be harder to accommodate without moving on to alternative permanency placement planning. The challenges will be greatest when parental progress is uneven. It remains to be seen how far the tighter timetabling will act as a helpful parental motivator to change or create excessive pressure and stifle opportunities for testing out reunification appropriately. A risk is that it may increase the number of contested proceedings brought by parents, adding delay and costs to the process. The evaluation found the rate of contest was lower in FDAC than in ordinary court.

After 26 weeks, as already noted, the draft legislation still retains the necessary mechanisms to enable longer proceedings to test out parental progress and consolidate reunification efforts, although the process is less flexible and contains more hurdles than in current law. Indeed, FDAC may be better placed than ordinary court to deal with these changes. As an 'evidence based intervention' (Ryan et al., 2012), it has been cited by Mr Justice Ryder as an example of when these extensions would be appropriate and FDAC judges will not need to seek approval from another judge. Nor is there any upper limit on the number of extensions that can be applied for. As FDAC holds fortnightly hearings, it is easier for it to plan ahead than in ordinary proceedings, thereby reducing the risk of delay by seeking an extension. FDAC may also be better placed to review contact and service

plans as part of its efforts to support reunification, since they are an integral feature of non-lawyer review hearings. Judges will need to weigh these issues against the extra costs that extensions incur.

Pre-proceedings and prospects for reunification

The goals of the draft legislation suggest that the court is unlikely to be used as a locus of early intervention to enhance reunification prospects. This had been one of the aims of FDAC when it was first being planned. Under the new draft legislation, the pre-proceedings process will become a particularly important locus to test parental capacity to change and the appropriateness of children remaining with or being returned to their birth parents. Masson's recent research (Masson et al., 2013) suggests that the pre-proceedings process can help improve the quality of parenting and enable a small number of families to remain together without the need for starting proceedings. This is one of the main ways in which the legislators expect the 26-week target to be met and to reduce the need for extensions.

The pre-proceedings process will present both opportunities and challenges to FDAC in respect of its reunification objectives. With regard to opportunities, the FDAC team already provides a pre-birth assessment service for partner local authorities so there is a foundation on which this service can be extended to other substance-misusing families in which care proceedings are likely. The FDAC development project is proposing that, on the basis of this pre-court 'trial for change', cases could be diverted altogether from proceedings, given extra time or fast-tracked into court to enable alternative permanency planning to start as early as possible. The court would play no role in this stage.

A potential challenge is whether local authorities will be willing to commission FDAC as an 'expert' given the cost implications and the legislative aim of reducing the use of experts. The local authority will have the option of conducting the work itself and, in line with the intentions of the legislation and PLO, social workers are to be repositioned as 'experts' 'playing a central role in care proceedings'. If local authorities decide to commission FDAC, the timing of its involvement will also be important to enhance prospects for keeping families together safely. Third, and particularly important, it is not known whether an out-of-court trial can achieve the same results as one that involves the specialist court. The interviews with parents demonstrated the important motivational and problem-solving functions of the judge and non-lawyer review hearings. Evaluation will be important.

Despite these challenges, the indications are that FDAC can be adapted to fit with the processes within the draft legislation both before and within proceedings to help keep families together when appropriate and safe. A bigger challenge, and one that is not unique to FDAC, is whether the spirit of the legislation will retain a place for testing the appropriateness of return home. There have been concerns that the speed of proceedings and the emphasis on early adoption may make this difficult. Moreover, the growth of promising schemes that are reducing the length of proceedings, such as the Tri-Borough model (Tri-borough Care Proceedings Pilot, 2012) may make the reunification objective of FDAC its most distinctive contribution, but harder to achieve in the new legal landscape.

6. What is the potential of the FDAC model to help sustain lasting family reunification after children return home?

At present the FDAC model has no continuing input to help promote safe family reunification after children return home. After the court proceedings end, so does the

involvement of FDAC. In the first stage report, we recommended that FDAC should set up a short-term aftercare service for families to maximise the sustainability of good outcomes given the fragility of reunification outcomes. As noted earlier, parents favoured this new service to help manage this transitional period, which they regarded as high risk. However, this recommendation was not taken up at the time and is not part of the Government's recent specification in the 2013 FDAC Development Project tender. Yet, the likelihood of shorter proceedings as a result of the Children and Families Bill makes the case for an FDAC aftercare service stronger than ever and would tie in with the recommendations of the Family Justice Review Panel (2011). It noted that there is currently little support for parents after proceedings and they called for proposals to pilot new approaches to support parents though and after, noting that 'later distress, damage and expense could be mitigated with support from health professionals and others' (Family Justice Review Panel, 2011, para. 101). This would also tie in well with the Munro Child Protection Review, which endorses a continuum of care (Munro, 2011).

The arguments for a short-term FDAC aftercare service are compelling. The high rates of relapse and the evidence of the factors that can help sustain recovery both make a strong case for this service. Some studies have shown that, after 12 months, approximately 75% of men and women will have relapsed (Becker et al., 2012) and that the first year is particularly critical to longer term success. Factors that can help reduce risk of relapse include intensive treatments followed by continuing treatment from the same counsellors, provided that they are liked and trusted, and treatment services that are proactive in keeping in contact with clients (McKay, 2009). A short-term FDAC aftercare service lasting 6 to 12 months has the potential to fulfil these conditions and would provide crucial continuity at a time of transition and heightened vulnerability. The proposed timeframe takes into account not only the high rates of relapse in the first year following treatment, but also the duration of supervision orders that were usually made at the end of the care proceedings. An FDAC aftercare service would also help deal with the step-down from an intensive intervention where positive progress is regularly reinforced to one where parents have to become much more self-reliant. From a practical viewpoint, FDAC has already established the key links with relevant agencies and would be well-placed to keep these going and play a co-ordinating role, particularly with the local authority.

A short-term FDAC aftercare service could also play a valuable role in supporting supervision orders. These orders were made in the majority of FDAC family reunification cases and in all comparison cases at the end of the care proceedings. They place a duty on the local authority to 'advise, assist and befriend' the family and enable it to monitor the family's progress for a time-limited period. If problems reoccur whilst the supervision order is in place, the local authority can return to court to extend or vary the order, which is made normally for 6 or 12 months.

Although supervision orders provide a useful legal framework for continuing to work with the family on a time-limited basis, they do not guarantee that the criteria for success identified in Thoburn and colleagues' (2012) recent review of reunification can be met. These criteria were 'high-intensity, relationship-based social work and multidisciplinary team-around-the-family approaches, provided for as long as needed'. With a supervision order, the family may not see the same social worker who took the case through proceedings, the frequency of social work visiting is discretionary and the orders are time limited. The involvement of FDAC could help meet the first two criteria by helping provide the multi-disciplinary 'team around the child' focus and increasing the intensity of the treatment programme. As a short-term service, it would not however be able to help in the provision of long-term support. Different solutions would need to be found.

How would the proposed aftercare service be funded? There is a good case for arguing that funding needs to be shared across children's services and the health sector because the remit encompasses both child welfare and sustaining parental recovery. The new Public Health England offers a hook on which to make the case for health sector funding as the outcome criteria include sustaining parenting skills for substance misusing parents (Boyd, 2012).

The failure to prioritise the development of a short-term aftercare FDAC service is a missed opportunity. However, whether or not the FDAC aftercare service is developed, greater investment is needed in reunification practice and policy in children's services, and especially when parental substance misuse is at issue. Part of that investment should be to address gaps in our understanding of what works in effective reunification. Amongst the most important of these are the absence of good cost–benefit information on the impacts of reunification breakdowns and the savings that can be made long term to local authorities, health, courts and other agencies by successful and lasting reunification. This issue is now being looked at by the DfE Returning Home from Care working group. There would also be special benefit in considering costs in relation to reunification and parental substance misuse. In particular, good information is needed on the costs of running an FDAC aftercare service so that local authorities are able to make informed choices on its value. Another neglected area is the effectiveness of supervision orders to support the sustainability of return home. At the present time, the government does not collect figures on the relationship between supervision orders and the outcomes of reunification, so it is not possible to establish whether supervision orders are an effective mechanism to help sustain reunification. There is also a lack of research on this question. Children on supervision orders are not subject to statutory reviews and can easily become invisible.

Conclusion

FDAC was developed to increase family reunification and achieve higher rates of out-of-home permanency when return home would be unsafe. The small-scale evaluation found that both reunification rates and rapidity of out-of-home permanent placement were higher in FDAC than in the comparison cases. However, FDAC was developed under a very different legal landscape and professional culture and the Children and Families Bill of 2013 will undoubtedly create challenges for FDAC as well as opportunities. FDAC may be able to play a larger role in pre-proceedings, subject to local authority commissioning, and potentially enhance prospects for safe reunification at an earlier stage in parents' lives and those of their unborn child. This service would, however, need evaluation since the evidence on the impact of FDAC is limited to the court arena. A concern is that the court is less likely to be an arena for testing parental capacity to change, and it remains unknown whether shorter timescales and a less flexible process can generate positive results. What is clear is that there is a strong rationale for FDAC to develop an aftercare service and that the shorter court process in the future will make this particularly important. There is no evidence that FDAC can inoculate long term against relapse and a bridging service would build on the extensive evidence for supporting recovery. It is important to ensure that as much priority is given to investment in reunification at practice and policy level as to the development of out-of-home permanency. Both are important.

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Note

1. The Stage 2 report will be available early 2014.

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