

# Liverpool

## Pre-Proceedings Pilot

Interim Research Report

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Project sponsored by Cafcass  
*with* Liverpool City Council Children's Services

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## **Notes**

This report is written at the time of publication of the final report from Coventry and Warwickshire and further documents the impact of the Cafcass Plus model. This report is designed to be read as a 'stand-alone' report for stakeholders in the Liverpool area, but in addition, forms part of a series of reports documenting the Cafcass Pre-Proceedings pilot. Inevitably there is some overlap in background material between the reports, however this is kept to a minimum as far as possible. Where appropriate, commentary here highlights learning from the first pilot and the effectiveness of the model is considered across the three sites.

In this report we use the term Family Court Advisor to refer to the involvement of the Children's Guardian in pre-proceedings work. We use the term Children's Guardian, when we refer to standard practice according to s.41 of the Children Act 1989. However, within interviews with professionals, often they did not make this distinction and hence we have stayed faithful to their terminology in our illustrative excerpts.

One Family Court Advisor participated in the study and is referred to as: FCA.

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## EXECUTIVE SUMMARY

1. This report documents the interim findings from the Cafcass Pre-Proceedings pilot focused specifically on the third pilot site, Liverpool. The Cafcass Pre-Proceedings pilot has examined the impact of the Family Court Advisor (FCA) in pre-proceedings work. Introducing the FCA into pre-proceedings work is a novel initiative and is referred to throughout the report as the Cafcass Plus model.
2. The Cafcass Plus model denotes attendance by the FCA at the pre-proceedings meeting (PPM), together with activities of visiting/observing parents and children, and case discussion with the social worker/s.
3. The pilot study commenced in Coventry and Warwickshire local authority children's services (May 2011 - May 2013). A decision was taken to introduce a third site to further test the Cafcass Plus model and which sought to carefully address implementation issues highlighted in the Coventry and Warwickshire sites.
4. Interim findings were reported with regard to the Coventry and Warwickshire Pre-Proceedings pilot in November 2011, a final report is due to be published in June 2013.
5. **Following a period of detailed planning for the Liverpool pilot from January 2012, the first cases were allocated to the project in Liverpool in August 2012.**
6. In Liverpool the project aimed to recruit 15 Cafcass Plus cases. This was purposive sampling and they are categorised as long-term neglect cases. We report here on 10 and a more limited analysis of 9 comparator ('control' group) cases is included.
7. The Designated Family Judge (DFJ) HHJ De Haas QC, prior to the commencement of the project, had raised concerns with local authorities in the Cheshire and Merseyside region regarding issues of delay for children. **HHJ De Haas developed a local protocol to address mixed compliance with**

**the Public Law Outline (PLO) within the Cheshire and Merseyside DFJ area (a detailed outline and context of the Protocol is discussed in 1.1 below).** A particular concern regarding delay in this court area was the lack of front-loading of assessments, which resulted in limited evidence being provided at the point of issuing care proceedings.

8. Consistent with the methodology used in Coventry and Warwickshire, a mixed methods study was undertaken combining qualitative interviews with case file analysis. As part of the study the following professionals were interviewed; case holding social workers, managers, local authority senior managers, a local authority solicitor, parents' legal representatives, the FCA; discussions were held with senior members of the judiciary. Data collection is on-going.
9. Initial planning meetings took place with key stakeholders between January and April 2012. **In order to build on the learning from the first two pilot sites it was important to engage in full and open discussions and to afford an opportunity for stakeholders in Liverpool to have contact with professional counterparts in Coventry and Warwickshire. Facilitating these discussions allowed professionals to discuss both operational and implementation issues for practitioners and resource allocation.**
10. The most significant barrier identified in Coventry and Warwickshire was obtaining parental consent for the pre-proceedings participation of the FCA. The often, short window between the legal planning meeting (LPM) and the pre-proceedings meeting (PPM) left busy social workers with very limited time to obtain this consent. Despite stringent efforts to address this in Liverpool, a number of parents have still refused consent.
11. **The Coventry and Warwickshire pilot has delivered mixed results. In Liverpool at this interim point, professional opinion is consistently more positive than in the original pilot sites.** The high levels of positive feedback on the project reflect the investment stakeholders have made to ensure effective 'set up' of the pilot. The contribution from the FCA has been very clear and a high level of consistent input has been possible pre-proceedings. The FCA was able in 9/10 cases to meet with the child/ren and family and

carers, and speak to the social worker prior to the PPM. **Significantly, the pilot together with the protocol and reconfiguration of social work teams, have stimulated far-reaching change in frontline practice.** A full contextual background to procedures in Liverpool is outlined in the section on *local context and background*, page 10 onwards.

12. To-date, there are 10 Cafcass Plus recruited to the study and **all stakeholders report positive impact consistently across all cases.** It will be necessary to follow these cases for a further period of **at least 6 months**, to establish the overall impact as more cases progress to court or are 'closed' (diverted) to pre-proceedings. At this stage only 2/10 cases have been issued, **one of these cases was resolved in 18 weeks from the first hearing; in the second case final hearing has been scheduled and the case is highly likely to be resolved well within 26 weeks.**
  
13. Following the Coventry and Warwickshire pilot, and through discussions with the designated family judge and the local authority it was agreed that purposive sampling be used and 'slow burn' neglect cases, and pre-birth cases be recruited. Cases join the pilot on a case-by-case basis and 12 cases were recruited; however one family subsequently moved out of the area and one father in a family did not give consent – both cases were removed from the sample. This leaves a total of 10 'slow burn' neglect cases upon which interim analysis is based. 9 comparator cases have been recruited concurrently, with a further case pending.
  
14. **From qualitative interviews with members of all stakeholder groups, it is possible to identify case-specific and broader developmental impact.** It is clear that the involvement of the FCA has stimulated a change in process within pre-proceedings. Practice within this local authority area has also been enhanced through the introduction of the protocol by HHJ De Haas. Prior to the implementation of the protocol in July 2012 and the recruitment of the first Cafcass Plus case in August 2012, practice under the Public Law Outline was variable. Liverpool has now embraced formally both the protocol and pilot project and they have established a robust system for pre-proceedings work. The Letter Before Proceedings and the nature and quality of the Pre-

Proceedings Meetings have all been enhanced and there are some excellent examples of social work practice.

15. Qualitative interview work drew on the analytic categories that framed analysis in the Coventry and Warwickshire sites to do with diversion, delay and the quality of social work assessments and decision-making. From qualitative interviews, and drawing on both actual impact and professional perceptions, **the strongest evidence pertaining to the added value of the FCA was the opportunity to gain an independent expert opinion and advice, support for social worker plans (instilling confidence in social workers SWs), and providing an independent voice for the child in respect of conduct of the pre-proceedings meeting (PPM).** 'Edge of care' cases present particular anxieties for professionals. Liverpool professionals welcomed the contribution of the FCA given these anxieties.
16. To-date, a small sample of parents' legal representatives have been interviewed, and they have endorsed the Cafcass Plus model because of their contribution to the PPM in respect of clarifying issues to parents from an independent perspective and ensuring the meeting is sufficiently focused on the child.
17. From social workers' accounts of the potential contribution to assessment and planning, the most valued support for the Cafcass Plus model was in regard to **having access to an independent professional expert to discuss and offer advice with regard to cases (this was not described as detracting from or overlapping with the social work manager's role).** Social workers consistently found the independence, expertise and experience of the FCA invaluable in supporting or challenging the local authority assessment and in bolstering the case for additional resources to support families.
18. The implementation of the protocol and development of pre-proceedings practice in Liverpool has resulted in the **'front-loading' of assessments prior to issuing of proceedings.** The FCA has been able to contribute to this change in practice. Cases that enter the pre-proceedings process and are issued, now evidence a more planned approach to care proceedings.



19. **The FCA participating in Liverpool is highly experienced and the study demonstrates the value of specialist expertise in effecting change.** The FCA was able to command respect within pre-proceedings and the court setting. **Duplication was not considered an issue by stakeholders,** on account of the FCA's specialist knowledge and independence. However, participants did query whether Cafcass could consistently offer this level of service.
20. The FCA in Liverpool had a clear remit to ensure that any plans for families were realistic, proportionate and achievable, and that outcomes in the pre-proceedings agreement were measurable: evidence suggests this aspiration is so far being attained. **In two out of ten cases, care proceedings have been issued and on a further case, legal proceedings are pending. In the other seven cases diversion plans appear to be progressing well.**
21. **The possibility of the Cafcass Plus model to provide a 'head start' for the FCA/Children's Guardian is a critical issue and is consistent with findings from the Coventry and Warwickshire sites.** The FCA in Liverpool argued that a 'head start' would enable him to be much more decisive in court and facilitate a more robust initial analysis. The 'head start' issue is of critical relevance given the direction of change now set in train by the Family Justice Review that demands an earlier steer from the FCA within care proceedings.
22. There was clear agreement between social workers and the FCA in regard to achieving earlier shared understandings of assessments of families. While the FCA and the LA might not agree, participants stated much benefit to having this awareness, pre-proceedings.
23. **The pilot study is operationalised by one of two court teams (in total 14 SWs) who take cases that are in both pre-proceedings and care proceedings.** The court teams are allocated cases following the Legal Advice and Planning Meeting (LPM) when it is decided the LA should send the Letter Before Proceedings to parents inviting them to attend a PPM. **In all pre-proceedings work the social worker undertakes a full parenting assessment and contact with each family is weekly.** Additionally, any specialist assessment is

instructed/commissioned pre-proceedings. Both the pre-proceedings pilot and the protocol, resulting in very positive outcomes, have stimulated these changes in practice. The social workers report being more confident and knowledgeable about the family and that this impacts on decision making and planning. For example, **social workers contrasted visiting patterns under the 'old arrangements' of 4/6weeks and the more frequent visiting that the new court teams undertook which enabled far closer knowledge of families and appear to impact positively on diversion.**

24. The results at this interim stage need to be considered in relation to the comparator cases. At this point two of the comparator cases have been issued which is in keeping with the trajectory of the Cafcass Plus cases. Cafcass Plus cases and comparator cases are similar in respect of presenting issues, which is discussed in the body of the report (page 42).
25. The issue of the FCA's 'independence' has been probed. Challenges in this regard are likely to arise in court, when the FCA/Children's Guardian has not sufficiently produced his/her own evidence and is overly reliant on local authority records. The FCA in this study has made an independent assessment based on knowledge, expertise and competence. Thus, it is possible to infer that the FCA's work during pre-proceedings does not necessarily compromise independence. This issue will be firmly held in mind, should further cases progress to proceedings.
26. Any consideration of an extension of the Cafcass Plus model, despite its evident merits, needs to factor in issues of workforce capacity within Cafcass. Demand on all services remains high, given the continued volume of care proceedings. Findings from Coventry and Warwickshire suggest it may be feasible to probe further the benefit of the FCA's involvement in *selected* rather than all cases. In Liverpool debate has raised issues about equity/human rights in respect of selective involvement. Professionals would prefer to endorse earlier involvement in *all* pre-proceedings cases. Any development from this pilot would require expert debate on this question.

## INTRODUCTION

This report documents the **interim findings** from a pilot study in a third site that has examined the impact of the Family Court Advisor<sup>1</sup> (FCA) on pre-proceedings work. This report concerns the impact of the Cafcass Plus model in pre-proceedings practice in Liverpool. This is a third site, chosen to further explore and build on work that has recently been completed in Coventry and Warwickshire. The final report on the Coventry and Warwickshire pre-proceedings pilot is to be published in tandem with this interim report in June 2013. Section 41 of the Children Act 1989 provides for the routine appointment of a Children's Guardian in public law proceedings to provide an *independent* analysis of the best interests of the child. The Cafcass Pre-Proceedings Pilot has examined whether there is merit in introducing the Children's Guardian - referred to throughout as the FCA - at an earlier point. Addressing concerns that are central to the Family Justice Review<sup>2</sup>, the study has examined the impact of the Cafcass Plus<sup>3</sup> model on:

- the quality of social workers' pre-proceedings assessment and decision-making;
- the possibilities for safe and effective diversion of 'edge of care' cases;
- the progression of cases should they progress to care proceedings;
- issues of inclusion and representation for children and their families.

At this interim point we report on detailed analysis of the implementation of the Cafcass Plus model in 10 'edge of care' cases in Liverpool<sup>4</sup>. We present a more limited analysis of 9 comparator (control<sup>5</sup> group) cases.

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<sup>1</sup> The term children's guardian is replaced by the Family Court Advisor, where we refer to pre-proceedings.

<sup>2</sup> Family Justice Review: <http://www.justice.gov.uk/publications/policy/moj/family-justice-review-final.htm>

<sup>3</sup> The 'CAFCASS PLUS model' refers to the early appointment of the Family Court Advisor within the pre-proceedings process.

<sup>4</sup> Given the interim nature of this report, data collection is on-going. We have 10/15 cases that have joined the pilot.

<sup>5</sup> The original documentation describing the West Midlands Pre-proceedings Pilot referred to a control group. Given problems of case complexity that make the 'control' of variables highly problematic, we use the language of a 'comparator' group in all documentation.

Liverpool was selected as the third pilot site to address implementation issues highlighted in the first pilot sites of Coventry and Warwickshire. Building upon the findings from Coventry and Warwickshire, the Liverpool pilot study has taken a 'whole system approach' to change in this local family justice system. The pilot study commenced in Coventry and Warwickshire in January 2011 and is recently concluded (May 2013). The Liverpool project commenced with the recruitment of the first Cafcass Plus case in August 2012 although the planning stage for the project commenced in January 2012. Given the implementation issues reported in the Coventry and Warwickshire pilot sites, it was important to clearly establish processes and stakeholder engagement within this third pilot site, prior to the recruitment of cases. The investment in project development and commitment of all stakeholders in consultation with colleagues in Coventry and Warwickshire, has led to development of what are, to date, robust and transparent pre-proceedings processes involving a range of agencies. The importance of this preparation time cannot be underestimated.

Although an essentially small-scale pilot, this study is in the tradition of in-depth qualitative research where there is an inevitable sacrifice of breadth in pursuit of depth. At the time of writing, this report documents findings in respect of the full sample of cases where the FCA has been involved pre-proceedings. This report is provided 9 months into a planned 12 months study. In order to determine the full impact of the Cafcass Plus model, it will be necessary to follow cases over a longer period to determine the direction they take and any impact on delay where cases enter the court arena. In addition, the target of 15 Cafcass Plus cases is not yet achieved. Recruitment of cases began in August 2012 and picked up momentum between September 2012 and January 2013. More recently obtaining parental consent has hampered the progress of the project and although the research team were initially optimistic in achieving the sample of cases, this needs further stimulation in order to achieve the target of 15/15 cases. Difficulties in gaining parental consent is thus a consistent message across the three sites, given there is no statutory footing for pre-proceedings involvement of the FCA.

### *Local context and background*

Professionals undertaking child protection work in Liverpool, operate within a challenging context in which problems of continued high care demand coalesce with deep public sector cuts. The Merseyside and Liverpool DFJ area evidences one of the highest national figures for volume of care applications, compounded by problems of delay in their resolution. Applications in Liverpool have increased from an annual figure of 61 in 2007-2008 to 118 in 2011-2012<sup>6</sup>. Further, more recent data from the local authority suggests that there has been a rise in the number of applications made over the period from Jan 2011 to March 2013 (see Table 1). In May 2013 CAFCASS presented statistics on the number of care applications per 10,000 of the child population and these reaffirm the consistent rise in number of care applications in Liverpool from 6.9 in 2008-9 to 15.3 in 2012-13. These changes were attributed to changes in thresholds or policy shifts rather than changes in the target population.

*Table 1: The number of care applications in Liverpool, indicating annual increase as indicated by monthly averages*

Period	Number of Applications	Average per Month
Jan-Dec 2011	311	<b>26</b>
Jan-Dec 2012	389	<b>32</b>
<b>Jan-Mar 2013</b>	126	<b>42</b>

Using information on dates for the receipt of care applications (section 31) and those for closure, as recorded in the Cafcass Case Management System, it was possible to measure and compare performance between DFJ areas. Between April – September 2011, the national average was 55 weeks, whilst for Cheshire and Merseyside it was 65 weeks.

In Liverpool concerted efforts have been made to examine factors contributing to delay. It was reported that the lack of ‘front-loading’ of assessments resulted in limited evidence being provided at the application stage. Incomplete assessments at the start of proceedings resulted in the instruction of a range of independent and specialist assessments and reports. As reported in Coventry and Warwickshire,

<sup>6</sup> Three Weeks in November... three years on... CAFCASS care application study 2012

problems that commence at a pre-proceedings point have a 'knock on' effect where cases progress to court, necessitating a higher number of directions hearings and increased input from independent experts. This limitation in pre-proceedings practice is now recognised by the Family Justice Review. In Liverpool the Designated Family Judge HHJ De Haas QC met with Directors of Children's Services from Cheshire and Merseyside to consider how proceedings could be expedited in a timely manner. It was agreed that a protocol would be developed to supplement the guidance within the Public Law Outline, to assist practitioners in improving pre-proceedings work, to ensure cases are robustly prepared prior to an application being made and to achieve the same quality of assessment and planning for cases in proceedings. Particular emphasis was placed on addressing practice within 'slow burn neglect' or multi issue cases. The protocol was developed in conjunction with colleagues in several local authorities including: Sefton, Wirral, Liverpool, St Helens, Knowsley, Cheshire East, Cheshire West, Halton, Lancashire and Warrington and the protocol was adopted from 1<sup>st</sup> July 2012 in the Cheshire and Merseyside DFJ area. The aim of the protocol was to improve the quality of social work assessments and plans submitted to court, and thus to facilitate the conclusion of court proceedings within 26 weeks of application.

Key elements of the protocol include:

- Enhanced quality assurance and management oversight of care applications;
- Key Principles for local authority effective practice;
- A detailed list of what social workers should include in an assessment document and plans;
- A specific focus on risk is included in the document;
- If proceedings are issued, local authorities should issue proceedings with a clear objective (Practice Direction 12 (A) and should outline the issues in the case together with options for the child:
  - A clear analysis of carer capacity for change and whether change is sustainable within the timetable for the child;
  - All specialist assessments including psychological assessments should be commissioned prior to proceedings to inform the social work assessment and planning to enable the local authority to complete a

full assessment, including assessments of extended family members/friends/carers prior to proceedings;

- 8. Consideration to be given to the use of Family Group Conferences as an important tool in identifying potential carers;
- A detailed chronology;
- The child's needs should be clearly identified and this should be evidenced in all assessments and plans.

*(Adapted from: Cheshire and Merseyside Local Authority Pre-Court Proceedings Protocol)*

Positive engagement with both the protocol and the Cafcass Plus project demonstrated a commitment by Liverpool to bolster pre-proceedings social work. Good practice initiatives have been stimulated by both the protocol and the pilot project and supported by social workers and their managers working closely with their local authority legal colleagues, as well as multi-agency partners. The protocol and pilot project support and facilitate the recommendations of the Family Justice Review and the ongoing changes ushered in with the Family Justice Modernisation Programme 2012. Mr Justice Ryder appointed by the President to take forward the recommendations of both the Family Justice Review 2011 and the Government Response, 2012, published his final report on the Modernisation of Family Justice 2012, which makes recommendations for the judicial oversight and management of family cases. There have been two further updates with the most recent published in February 2013<sup>7</sup>. The recommendations are intended to change the culture of the family courts and reduce delays by introducing better management practices, providing judicial continuity and oversight with the aim of resolving disputes in 26 weeks. Pivotal to achieving timely decisions when the local authority makes an application to court, is good pre-proceedings practice; including comprehensive assessments and clear planning for each child. The Crime and Courts Act 2013 paves the way for a single family court, which is expected to come into existence in April 2014.

Developments in Liverpool include a major investment in dedicated pre-proceedings social work teams. Assessments are now undertaken within two court teams (14 SWs dedicated to pre-proceedings cases and cases in proceedings). These include parenting assessments by the SW in every pre-proceedings case and

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<sup>7</sup> The Family Justice Modernisation Programme. Implementation Update Number 2, February 2013.

specialist assessments where deemed appropriate; for example drug and alcohol assessments, PAMS <sup>8</sup>assessments. This configuration of practice appears to be enabling more children to remain with their parents or within the family network with appropriate support during the formal pre-proceedings process. In addition, the legal department has allocated a dedicated member of staff to attend all Legal Planning Meetings and pre-proceedings meetings to ensure consistency for all families. The pre-proceedings meetings are formally noted and pre-proceedings meetings are scheduled to facilitate breaks for parents to consult with their legal advisors. Where necessary separate meetings are scheduled for mothers and fathers. The meetings are scheduled monthly, the FCA is advised of all meetings and is provided with all relevant documentation in each case. This facilitates the opportunity to undertake visits with family members and consult with professional colleagues prior to the attending the meeting.

Within Liverpool Children's Services, closer oversight via the Legal Advice and Planning Meeting (LPM) is reported as ensuring a higher level of pre-proceedings compliance on the part of social workers, with mechanisms in place to review cases in pre-proceedings to avert drift. In addition to oversight of cases where developments necessitate issuing care proceedings, Liverpool has been cognisant of the need for exit strategies for families where pre-proceedings work has resulted in successful diversion. Thus review meetings are scheduled regularly (to date this has resulted in one Cafcass Plus case being stepped down to a CP plan); and plans for further support for families where children are stepped down to 'children in need' or 'tier three' support are being anticipated. This further emphasises the planning and systemic approach being adopted in Liverpool.

Increased compliance with the PLO has produced important results. It appears that in regard to cases teetering on the threshold of care proceedings, the completion of full parenting assessments and any additional assessments during the pre-proceedings stage has resulted in a more thorough understanding of risk within families and a more confident approach to case planning. Social workers as part of this project report improved practice, demonstrate a confident approach in talking

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<sup>8</sup> A PAMS assessment (Parenting Assessment Manual developed by Dr Sue McGaw) is an evidence based parenting assessment covering key parenting skill areas. It is often used when parents display actual or potential learning difficulties as the elements of parenting are broken down into testable components and the assessments can be adapted to reflect the understanding and needs of parents for effective assessment. These are likely to be done independently as few LA SWs are trained in using the assessment.



about the families they work with and this in turn has stimulated a passion and energy for social work. Interestingly all social workers interviewed, as part of this project, reported a distinct change in practice for cases within pre-proceedings – families are seen weekly and the social worker *owns* the assessment. Comparisons were drawn between these cases and those where assessments had been instructed previously *within* care proceedings, where the case-holding social workers visited families on average between 4 and 6 weeks.

### *The Cafcass Plus model*

The Children’s Guardian plays a critical role in public law proceedings, offering an important *independent* analysis to the courts. Working in tandem with the legal representative for the child, the guardian ensures that the best interests of the child are a central focus of proceedings. The final report of the Family Justice Review has recommended that the ‘in tandem’ model continue. Despite the emphasis within the Public Law Outline (PLO) on pre-proceedings work as a precursor to effective diversion/court resolution of permanence solutions for children, prior to the present pilot, little consideration (prior to the Coventry and Warwickshire pilot sites) has been given to the potential role of the FCA in improving pre-proceedings work. In May 2013, HHJ Munby QC made a clear statement with regard to the preparations needed at the pre-proceedings stage if the 26-weeks limit for court resolution is to be achieved. In his press release he stated that the likely amendments to the PLO with regard to 26 weeks rely on the local authority and guardians presenting all evidence before the court at the first hearing. Again this is a timely rationale for further exploration of the potential of the Cafcass Plus model.

The Cafcass Plus model denotes early involvement of the FCA at a pre-proceedings point and affords a number of potentially positive actions. In regard to reducing the volume of cases coming before the courts, the Cafcass Plus model may:

- bolster safe and realistic diversion plans;
- contribute to the potential of the pre-proceedings meeting as a site for effective alternative dispute resolution;
- facilitate the engagement of parents;

- provide independent oversight of the child's best interest.

In regard to cases progressing to care proceedings, the Cafcass Plus model may:

- help identify necessary assessments at an early stage (narrow the issues brought before the court);
- contribute specialist practice knowledge regarding the courts and legal process;
- provide a 'head-start' for the guardian (leading to more robust Initial Analysis);

Of course, these potentially positive actions must be weighed against:

- any compromise in the guardian's independence;
- any duplication with regard to the role of the IRO or social work manager;
- the impact on Cafcass workforce capacity;
- the impact on the current 'in tandem' model.

As in Coventry and Warwickshire, in implementing the Cafcass Plus model, the pilot in Liverpool aimed to involve the FCA in a sample of 15 cases in which parents/relevant carers had received a Letter Before Proceedings (LBP) inviting them to attend a pre-proceedings meeting (PPM). The involvement of the FCA would comprise attendance at the formal PPM and where possible: i) visits to parents and children prior to the PPM; ii) case discussion with the case-holding social worker; iii) informal discussion/follow-up immediately after the PPM with parents/social workers. It was not envisaged that the FCA would remain involved during any lengthy assessment/review process following the PPM that might, for example, span a number of months. However, a clear intention within the pilot, and in keeping with the theme of judicial continuity within the Family Justice Review, was an

agreement that the same FCA would continue to represent the child, should the case progress to care proceedings. In keeping with the practice guidance issued by the Ministry of Justice (2009)<sup>9</sup>, the pilot was founded on an understanding that in every case brought to the PPM, this a) triggers legal aid funding for parents and hence their formal representation and b) provides an opportunity for parents to *respond* to concerns and for all parties to draw up a plan to agree a way forward. The planning and preparation phase of the Liverpool pilot project allowed for a closer examination of the role of the FCA in pre-proceedings, and resulted in a clearer remit than had been apparent in Coventry and Warwickshire (to be discussed below).

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<sup>9</sup> DCSF (2009) Preparing for Care and Supervision Proceedings, <http://www.justice.gov.uk/downloads/guidance/protecting-the-vulnerable/care-proceeding-reform/preparing-care-supervision-proceedings.pdf>

## METHODOLOGY

Consistent with the methodology utilised in the Coventry and Warwickshire pilot this is a largely qualitative study, based on interviews with a range of professionals (designated family judge, social workers, social work managers, local authority solicitor, parents' solicitors and legal executives, the children's guardian) and file analysis (Cafcass files, pre-proceedings notes, local authority core assessments and child protection conference minutes where available). This third pilot site was designed to complement and further explore the findings from Coventry and Warwickshire, so research parameters were designed to be consistent whilst at the same time allowing for the exploration of additional or emerging issues. Interview schedules and analytic categories were drawn upon from Coventry and Warwickshire and whilst it was important to further explore these deductively, the research team remained open to new learning and the development of additional understandings. This is consistent with good practice in this type of 'action research'<sup>10</sup>.

### *Sampling*

The pilot in Liverpool aimed to implement the Cafcass Plus model in a sample of 15 cases. As there is currently no legislative mandate for pre-proceedings involvement of the FCA, in each case full parental consent was required. To-date, 10 cases have been recruited to the study. Issues of implementation are discussed below. Following on from the Coventry and Warwickshire pilot, and after discussions with key stakeholders in Liverpool, it was agreed that a purposive sample of a total of 15 'slow burn' neglect, and pre-birth cases would be sought. Early meetings of the stakeholder group discussed the potential for 'early notification' of pre-birth cases with appropriate agencies agreeing to involvement and information sharing, however, to date these are not represented in the Liverpool Cafcass Plus sample. In Coventry and Warwickshire pre-birth cases formed a significant proportion of the Cafcass Plus sample, and the research team and local authority are considering this issue.

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<sup>10</sup> Huang, H.B. (2010) What is good Action Research? Why the resurgent interest? *Action Research*, 8 (1) 93-109

15 comparator cases were to be included in the study that would serve to provide important contextual detail about the progress of cases that did not involve the FCA at a pre-proceedings case. The Local Authority legal representative was asked to undertake the profiling of 15 comparator cases using a data capture sheet and to provide the research team with this data in fully anonymised format. 9 cases have currently been made available to the research team and have been subject to provisional profiling (see page 42 - *Overview of Cafcass Plus and Comparator cases*). The team are confident that a full sample of 15 comparator cases will be realised.

### *Data collection*

To-date, 8 court team social workers, working with families in all Cafcass Plus cases and 2 team managers have been interviewed (interviews have been subject to availability and staffing changes however professionals in all Cafcass Plus cases have been interviewed). The FCA has been formally interviewed at the start of the project, at 6 months into the project, and invaluable discussions with the FCA have been on-going throughout the duration to date. In addition, the LA legal representative, a senior social care local authority manager, and 3 parents' legal representatives involved with families in 5 cases have been interviewed. Discussions have also taken place with members of the judiciary. The 10 Cafcass case files have been scrutinised which has enabled the research team to examine local authority core assessments and minutes of child protection meetings where these were available. A profile of 9 comparator cases has been constructed.

Data collection is on-going and the research team are only able to progress at a rate that is responsive to the recruitment of Cafcass Plus cases. Although recruitment of cases has slowed the research team are hopeful that the target of 15 Cafcass Plus cases will be achieved.

### *Data analysis*

Profiling data for each case (10/15 Cafcass Plus and 9 comparator cases) was uploaded to an SPSS database for storage purposes and to enable the production of

descriptive statistics. Provisional profiles have been constructed (see page 42), although subject to some missing data at this interim point. These profiles demonstrate typicality of the Cafcass Plus cases and the comparator cases.

Analysis of the qualitative data sought to elucidate instances of actual positive impact and professional opinion concerning the role of the FCA and the formal implementation and development of the pre-proceedings process in Liverpool. In all cases the data was coded and triangulated across research team members to achieve inter-rater reliability. Analytic categories derived from analysis of data in the Coventry and Warwickshire sites provided a useful framework, but further categories were added where they were emerged consistently. A key finding in relation to the Liverpool site was that the FCA impacted at a case level, but also had a broader developmental impact.

In probing actual impact, the research team aggregated data across the interview transcripts and case files and sought to examine consensus between stakeholders (professionals). All stakeholders, in contrast to Coventry and Warwickshire, where a more mixed response was evident, identified a high level of consensus. Only in a single interview, did the participant appear to question rather more what was a consistent message across the participants interviewed.

### *Ethics*

The project has been managed at Lancaster University and has been subject to full ethical clearance by Lancaster University Central Ethics Committee (UREC). The project has also been subject to approval by agency research governance processes (Cafcass, County Councils of Coventry and Warwickshire and Liverpool). Following identification of individual cases, informed consent was sought from parents in regard to the involvement of the FCA and the sharing of personal information with the research team. Consents were sought for every interview with professionals. All data has been securely, electronically stored (encrypted and accessible only via password to the research team). Paper files have been kept in a locked cabinet and will be destroyed upon completion of the project.

## *Support*

The local Designated Family Judge and the President of the Family Division were consulted at an early point during the planning of the pilot project and have supported the project. The project has been kept under review by a reference group of senior stakeholders and by the Cafcass Board Practice Committee. Regular meetings have taken place between the reference group and the research team.

## THE CAFCASS PLUS MODEL: IMPLEMENTATION ISSUES

Although considerable feasibility work and preparation of stakeholders has reduced the number of implementation issues identified in the Coventry and Warwickshire pilot, this third site has continued to evidence some difficulties in implementing the Cafcass Plus model.

### *Obtaining consent*

As in the previous pilot sites because there is no legislative mandate for the involvement of a FCA within the Children Act 1989 at a pre-proceedings stage, in each potential Cafcass Plus case, informed consent needed to be obtained from parents. This consent could only be obtained in the short 'window' between the LPM and the PPM. Liverpool recognised this as a potential issue, having carefully considered the findings from the Coventry and Warwickshire sites. Stakeholders put into place from the outset, quite clear procedures for outlining to families who had been considered by a LPM under the pre-proceedings protocol, what could be available to them in terms of the early input of the FCA. Unlike Coventry and Warwickshire there were initially no particular difficulties in obtaining parental consent in Liverpool, however since January 2013 consent has been a factor in recruiting a full sample of cases. One difficulty in gaining consent that has been identified explicitly in Liverpool is obtaining the consent of fathers with parental responsibility, particularly when there are a number of children in a family with different fathers. Consent may be obtained from one father but not another and in such cases the FCA cannot get involved pre-proceedings. Whilst this is an issue of implementation of the Cafcass Plus model, it has had an impact on practice to be discussed in the findings section of the report.

### *Scope of the FCA's involvement*

The steering group in Liverpool devoted considerable time to considering implementation issues raised by the Coventry and Warwickshire sites. In particular this site sought to ensure consistency in the timing and level of involvement of the FCA and engagement with families and the local authority. Building on the learning



from Coventry and Warwickshire, Liverpool put in place a clear mechanism for alerting the FCA when cases were being discussed at the Legal Advice and Planning Meeting (LPM) and the FCA was consulted immediately following consent being obtained from the parents. As pre-proceedings work developed, there was further clarity and agreement about the scope of involvement of the FCA. The FCA and social workers reported prompt and helpful information exchange and through discussions with SWs and the LA legal representative, the FCA has the opportunity to input to the pre-proceedings agreement to be discussed at the PPM. In meetings with parents, children, foster carers and extended family where relevant, the FCA stressed to parents the importance of obtaining legal representation at the PPM and made clear the consequences in respect of issuing proceedings, if they failed to comply with any agreements reached. The FCA offered an independent perspective to the social worker, as to whether the draft pre-proceedings agreements were, proportionate, achievable and measurable in terms of desired outcomes. At this stage the FCA contacted the SW to raise any issues arising out of family meetings and to make suggestions for amendments to the draft agreement letter where appropriate. The SW would then discuss any suggested amendments with the LA legal representative prior to the PPM. As a critical element of this process, the FCA was able to ascertain the wishes of the children where they were old enough to give this, and form a view of the situation where younger children were concerned. At the PPM the FCA was given the opportunity to present his analysis and after the meeting he supplied a short analysis report to the LA legal representative. At this point the input of the FCA ceased, unless the case went into proceedings under which circumstances he would become the appointed Guardian. Should cases progress to court, the pre-proceedings actions of the FCA and associated documentation were made available to the court

In all but one case the FCA was able to meet with family members including the child/ren and any carers involved with the child/ren prior to the pre-proceedings meeting. The case where the FCA did not see the family prior to the PPM involved an unborn child, and the parents did not keep an arranged appointment. All social workers interviewed stated that they found the exchange of information and involvement of the FCA at the pre-proceedings stage helpful in supporting or suggesting alternative plans, stimulating parental and child involvement with the pre-proceedings process and providing an independent opinion. This is in contrast to some of the Coventry and Warwickshire cases where notification to the FCA was

so late that only minor preparatory work could be undertaken. Significantly in Coventry and Warwickshire, and as reported in Liverpool this opportunity to engage with families prior to the PPM is crucial in ensuring more consistent input from the FCA and in producing more robust analyses.

### *Implications of implementation issues*

In interview all professionals reported agreement on the actual positive impact of the FCA in specific Cafcass Plus cases, but also offered perspectives about the potential value of early involvement of the FCA in other pre-proceedings cases. All professionals acknowledged that if input could be continued in all these 'edge of care' cases it would serve to stimulate adherence to the protocol and good pre-proceedings practice, and provide additional scrutiny that may be fundamental to achieving quicker resolution in court proceedings.

## KEY FINDINGS AT THE INTERIM POINT IN THE THIRD PILOT SITE

We have defined actual impact as a contribution from the FCA that was described in interview or presented in case files as comprising combinations of: a) bolstering/supporting positively to social work assessment and planning; and b) providing a head start for the guardian where pilot cases progressed to proceedings. We also sought to ensure that this contribution could be substantiated by comparing and aggregating findings across datasets (interview and case records). As suggested previously (2.0) the analytic categories used in Coventry and Warwickshire were drawn upon here but additional categories were used in order to take account of the learning from the previous sites and the developmental aspect of the process of pre-proceedings work in Liverpool.

### *Overall Impact*

Positive impact of the FCA was evidenced in all 10 Cafcass Plus cases to date. In all cases all interviewees reported the actual or perceived value of having the FCA at the pre-proceedings stage, details reported below. Interviewees also reported potential impact of the FCA in cases where parental consent had not been given. In all cases described as 'high risk' SW practitioners stated that they would have welcomed the input and advice of the FCA and that was considered additional to, not in overlap with, advice from other colleagues or managers. One major impact of the FCA specific to Liverpool was the positive contribution to the implementation of the pre-proceedings protocol generally and to the pilot study more particularly. The FCA was able to make a significant contribution to the process of pre-proceedings as well as to specific cases, performing an important *developmental* role.

10 Cafcass Plus cases are the subject of this interim report. In all cases the FCA was given notice of cases where consent had been given in time to engage in relatively extensive preparatory work, the length of time between the LPMs and the PPMs was generally about 2 weeks and the FCA received the papers at least 7 days prior to the PPM, in some cases longer. This has been built into pre-proceedings practice following learning from Coventry and Warwickshire and clearly allows for the most effective input of the FCA.

In interviews with professionals (total number of formal interviews to date – 17; including the FCA, 8 SWs covering all on-going Cafcass Plus cases, 3 parent’s legal representatives covering 5 cases (two of these cases have been issued into care proceedings), 2 team leaders, the local authority legal representative and a senior local authority manager; the research team has been able to discern their professional opinion, not only on the actual impact of the pilot, but also its potential impact should implementation barriers be reduced. Hence, our detailed analysis over the course of the following two sections combines excerpts from professional opinion as well as instances of actual case impact. Excerpts from interviews illuminate general impressions of pre-proceedings practice, and instances where actual case impact can be demonstrated are signalled through stating the case number (e.g. case 1).

#### *Impact on pre-proceedings practice in Liverpool*

In the Liverpool site, the FCA played a key developmental role contributing to a broader, rather than just case specific, impact on process and practice. The timing of the pilot project – launched when the local authority was immersed in making key revisions to its pre-proceedings processes and structures, enabled the expertise of the FCA to feed into these broader developments. From the outset, the steering group recognised that the formal implementation of the pre-proceedings protocol in Liverpool (July 2012) and inclusion in the pilot study necessitated a learning process for all parties. As cases were recruited and, learning from Coventry and Warwickshire, it was clear that the FCA made significant contributions to what may now be considered robust and transparent pre-proceedings practice. The FCA commented on the overall structure of the PPMs that had developed as a result of embedding the pilot study and discussions between the FCA and LA legal:

The format is where the LA solicitor sets out in the clearest possible terms the legal status of the meeting and makes it very clear to the parties that the purpose of the meeting as far as the LA is concerned is threefold: 1) to see if parents will work with the LA on the issues identified as being of concern and agree to address them in the way the LA sets out in the agreement; 2) the LA is very clearly setting out what it will and will not do in order to assist parents; and 3) it is also made clear that this is an

evidence gathering process for the LA, it is clear to the family at the meeting that we are looking for evidence to take you to court if you fail to do this.

(FCA)

The FCA further commented on developments in running the PPMs:

Meetings have developed and structure has developed as meetings have gone ahead. In the first meetings we realised we weren't setting enough time between the meetings and we were trying to achieve four in a day without anticipating that we would need breaks and that parties may be arriving whilst a previous one was still going on, so we have reduced that to three meetings a day. This gives parties time to have discussions with legal reps on the day, just before the PPM and they can have however long they need in a private place to talk before the meeting starts.

(FCA)

These comments were endorsed by the LA legal representative who said:

Where we have structured the meetings and where we have put the break in for parents, all those things the FCA helped us with at an early stage.

(LA legal representative)

A further crucial impact related to the way in which the PPMs were chaired and recorded:

It was clear early on that the meetings needed to be minuted and now they are all minuted, they need to be effectively chaired and they are all now chaired by one of the court team managers, and there needed to be an agenda, and now there is a set agenda...the minutes are done by the court team manager, they are notes rather than formal minutes, but they are a good enough accurate record of what has taken place.

(FCA)

At the beginning of the process we had 100% take up so we learned lessons very quickly...Having the FCA at the beginning commenting on how he thought the meeting went, commenting on the agenda, how we took a record of the meeting, we have now built that into practice on all of the meetings

(LA legal representative)

Given the potential importance of the pre-proceedings agreement as case evidence, should care proceedings be issued, this was a significant positive change in formal practice in Liverpool.

It is also clear that the FCA continues to make suggestions that the LA are considering, for example the FCA has raised an issue around whether or not it would be useful to have two PPMs where issues pertaining to parents may be separate.

Change in pre-proceedings practice in Liverpool has been substantial including: the creation of two court teams (14 SWs) dealing with pre-proceedings cases; the allocation of one LA legal representative dedicated to pre-proceedings work; the creation of a new LPM dedicated to pre-proceedings cases (there was a meeting of the panel arranged for May 2013 to monitor the progress of current cases); and the formal composition and implementation of PPMs. One senior manager commented on the importance of the FCA in the development of these changes in relation to the PLO:

The presence of the FCA, it seemed like a good idea at the start. For us (LA) the key initially was who came and whether it was someone who was going to be able to work in and be keen on it...there is a lot of working together in these situations and the FCA works very well...a lot of negotiation takes place in pre-proceedings cases so this is important...it was key to select someone (an FCA) with a lot of experience...someone who would see it as working as an additionality...when you see them all together you see how the PLO works.

(LA senior manager)

The FCA is only one element in pre-proceedings social work, yet it is clear from interviews, meetings of the steering group, and informal discussions, that he has played a significant role in the development of process and practice. Interestingly both the FCA and the LA legal representative acknowledged his role in this respect and questioned whether or not he could continue to have impact in individual cases as he was '*almost in our heads at all PPMs now*'.

## *Diversion*

### *Bolstering/supporting safe and realistic diversion plans*

In keeping with the spirit of the Public Law Outline (PLO), an impetus to divert families from care proceedings, wherever safe and desirable, was evident in the Cafcass Plus cases in Liverpool. That said, and as reported in Coventry and Warwickshire, cases 'on the edge of care' clearly presented considerable anxieties for professionals as they teetered on the threshold for compulsory removal. In this context in Liverpool, social workers, managers and local authority legal representatives, demonstrated much interest in the potentially positive value of early involvement of the FCA.

When asked for an opinion on the Cafcass Plus model, interviewees offered that the FCA could suggest alternatives that would prevent the need to bring care proceedings, modify existing plans and provide *independent* reassurance where assessment and planning were deemed robust. The following excerpts highlight the potential and actual contribution of the FCA as participants describe the 'additionality' afforded by earlier involvement:

It is very beneficial to have the Guardian involved at this early point; it's another professional opinion, and an independent opinion in relation to families. His report and advice and his view is another professional opinion

(SW 2)

The pilot has been a real success, it has been a good thing having another pair of eyes, another pair of ears, somebody who understands entirely what everyone is doing, the FCA is a good new additional member of the team...it is about something additional which has been very good.

(LA senior manager)

I think the pre-proceedings stage has been really beneficial because the rules have changed and we now have the 26 week rule for care proceedings, by having Cafcass involved at an early stage, as they guide the court in their decision making when they do their report, to have them involved at an early stage is more beneficial to parents to hear what their concerns are and to start addressing the concerns.

(Parent's legal representative 1)

Having the guardian involved pre-proceedings has a number of aspects to it: he brings a conciliatory element to it, there's an element of neutrality; the opportunity to relay elder children's views wishes and feelings; and it helps the parents develop a sense of confidence in the guardian...When the concept (Cafcass Plus) was first introduced I was very suspicious and very wary of it thinking this is going to set the parents up to fail, but now having seen cases where it has been positive and it has worked I am convinced.

(Parent's legal representative 2)

In the following three excerpts, social workers provide examples of actual case impact:

### **Case 3**

He (FCA) influenced this, perhaps not as part of the pre-proceedings meeting, but definitely as part of the parenting assessment and definitely as part of looking at how we can support Mum in ways that we are not already doing. And it helped focus our discussions with Mum on different issues.

(SW2)



### **Case 7**

It has been really useful to have the (FCA) input particularly before the initial pre-proceedings meeting. He had gone out and done visits to the children and grandparents, mum and dad, he had met them before the initial meeting so I felt it wasn't just myself bringing my assessment. It was quite a collaborative pre-proceedings plan

(SW4)

### **Case 4**

Things have really moved forwards and I think that would have been one that would have gone on, and I think the pre-proceedings and (FCA) really helped with that one. Since that time (the PPM) because of the level of support you get from the pre-proceedings agreement things have really turned round for Mum.

(SW1)

One of the key themes that emerged across the interviews, and as evident at steering group meetings, was that local authority plans to divert cases from proceedings needed to be clear to parents, and timescales needed to be explicit. The FCA reported that part of his role was to ensure that plans are realistic, proportionate and achievable, and to ensure that parents are clear about what is required in terms of positive change. In Liverpool, there was a greater shared understanding of the role of the FCA, having noted some ambiguity or misunderstandings in Coventry and Warwickshire in this respect. We found a number of examples whereby the FCA contributed to plans and made very clear what was expected. The following excerpts illustrate this point:

### **Case 6**

The FCA made other suggestions, he raised issues that perhaps hadn't been thought of and I'm pretty sure it was him that enabled us to have conversations about exactly what was expected of Mum (re supervision

over contact with children outside the home), this was important as Mum had not raised the issue with me.

(SW 1)

In Case 4 the FCA made a significant contribution to amending the pre-proceedings agreement that the mother and her legal representative were contesting. This case involved a family where children were resident with grandparents in close proximity to their mother. The case had been on-going with children subject to child protection plans and the plans were to continue work to rehabilitate children with their mother. In interview the SW who had been allocated the case the day of the PPM (for resource and staffing reasons) reported:

This meeting was a bit of a mess, it looked like a case where no real work had been done, just gone on, and mum had done lots of work off her own back...mum and mum's solicitor were really annoyed about certain things that were written into the agreement where it outlines all the concerns and it was really good to have (FCA) there because although it does look a bit like social services have messed up a bit he (FCA) did say 'at the end of the day the child has had to move to maternal grandparents 4 times because of different issues, this cannot happen again, she cannot have instability...we can look into all these things and you may have been a bit unfairly treated but at the end of the day this is the situation with the child'...it was really helpful to have him there and we did all eventually agree to two things on the agreement and worked through it all.

(SW 1)

In discussion with the FCA he reported that at this PPM he had emphasised to the mother, in no uncertain terms, what would happen if she did not co-operate with the final agreement. In his view the pre-proceedings meeting and work that was done was pivotal in the continuing diversion from care proceedings in this case.

In terms of pre-proceedings generally, one parent's legal representative reported:

What I find good about it as well with pre-proceedings agreements, is that it gives everyone a very clearly defined timescale, in the past I have seen so many of what we call these slow burn cases, or situations where parents

were coming to see me say a year ago, and they were going through a crisis and said social workers came to see me and I agreed to the children going into foster care and now haven't a clue what's happening...in some of those cases I had to try and kick start the local authority to do something, "exactly when are you going to do these assessments, exactly what do you expect the client to do, please spell it out". The pre-proceedings meeting crystallises these things, it stops that element of drift and it stops parents feeling in limbo.

(Parents legal representative 2)

### *Facilitating the engagement of parents*

In Coventry and Warwickshire social workers, managers, local authority legal representatives and parents' legal representatives commented very favourably on the potential and actual impact of the FCA on parents. In the first pilot sites (Coventry and Warwickshire) there was evidence of the FCAs stimulating engagement from parents, and explaining processes and alleviating distress. In Liverpool the remit of the FCA was more clearly defined from the outset and fully explained to parents, to try and engage them in a supportive process to ensure that they and their children were best supported to remain together if at all possible. In only one case did a social worker comment on his role in explicitly facilitating engagement with a mother:

#### **Case 3**

Yes he was very positive in respect of Mum, she commits and engages and is happy for another professional insight...she was very welcoming of (FCA) and glad for him to be on board.

(SW2)

In all other interviews it was apparent that professionals considered that having an independent person stressing the seriousness of the situation to families was of benefit. As the FCA himself commented on his role, it is useful:

To reinforce with parents the seriousness of the situation they find themselves, one of the phrases that resonated from the first pilot was that parents get the message that this is not just another meeting with social services, they'll have been to dozens before, but this is completely different, this is serious, decisions taken at this meeting and things you agree to at this meeting are going to have massive implications for you and your children if you don't follow through.

(FCA)

This was echoed by the LA legal representative in relation to the FCA's presence at the PPM:

These parents have been to hundreds of meetings with children's services so having a lawyer there and the FCA there really does drum home that you (parents) need to take this seriously.

(LA legal representative)

The view of parent's legal representatives with respect to this issue was also positive, as one interviewee stated:

It's benefiting the parents having Cafcass there because they understand a lot more about the seriousness and concerns not only at the level of the local authority, but ultimately the person who is the voice of the child. And they all know they guide the court, so it's one thing having the concerns of the local authority but they also have the concerns of the voice of the child and they do listen a lot more...and will be guided by it.

(Parents legal representative 1)

### *The pre-proceedings meeting*

In considering the role of the FCA and diversion, the actual input of the FCA at the PPM requires careful analysis. In all cases to date the FCA has attended the PPM, again it is emphasised that this has been facilitated by careful planning by

the local authority informing Cafcass of cases where consent has been provided and scheduling appropriate timing of the PPMs.

It was widely reported across interviews that the PPM could promote positive change in families and provide a forum in some cases for alternative dispute resolution. As a previous quote from a parent's legal representative illustrates, the FCA provided a conciliatory element to a PPM. The same legal representative reported that in her view the pre-proceedings stage is a form of family mediation that is much less adversarial than when cases go into formal care proceedings. From information available, at least one parent was represented at all PPMs in the Cafcass Plus and comparator cases, in all Cafcass Plus cases a legal representative was present and in 6 out of 9 comparator cases a legal representative was present. As previous quotes demonstrate the legal representatives' view of the PPMs was entirely positive. Interviews with social workers, the FCA and the local authority legal representative indicate that the meeting was used to clarify in detail expectations of parents with agreed lists of actions provided. As the FCA commented:

None of the parents should be under any illusions when they come out of that meeting as to what the issues are and the timescales they are being asked to do things.

(FCA)

To date, we have interviewed 3 solicitors representing parents (in 5 cases), as well as the designated member of local authority legal services. Of the parents' solicitors, all were emphatic about the positive value of early involvement of the FCA at the PPM. In relation to actual impact in cases they stated:

#### **Case 9**

FCA was very proactive, in this case where mum was very concerned about what was happening to the elder children he was able to see them before the meeting, explain to them what was happening, and what the children told him he was able to feed back into the meeting...and that has helped mum think that things were much more balanced.

(Parent's legal representative 2)

In this case the FCA reported that he had visited the children who were in s.20 placements. The oldest child had said that several months ago he would not have said that he wanted to go back to mum, but now he shared with the FCA that he could see that his mother was making huge efforts to change her behaviour. At the PPM the FCA reported that when he fed the child's wishes into the meeting this feedback visibly 'moved' the mother and sent a powerful message to her about what changes were needed to sustain diversion plans.

### Case 8

Cafcass have a voice within the PPMs...when the parents were struggling to understand what was going on he (FCA) would pick up the lead and he would emphasise the concerns, we had the written agreement and you would take parents through that and all being well they would sign it.

(Parent's legal representative 1)

In conceptualising the PPM as a site for alternative dispute resolution, the independent voice of the FCA was seen as critical in ensuring the best interests of the child remained central to the meeting. The FCA was able to represent those interests in a way that the parents would accept because they were independent.

From the perspective of other professionals commenting on the PPM, social workers felt that it was particularly useful to have someone there to speak to parents, who parents would listen to and who could explain the process, and they valued his independence in being able to input his views to the meeting:

His (FCA) independent role is significant...His being there is really helpful because he brings it back to the child, obviously social workers and parents can be at loggerheads but he can bring it back round.

(SW 1)

Often social workers commented on how they would have welcomed the FCA in other cases not included in the pilot to aid negotiations. One SW commented in relation to a none Cafcass Plus case said: *"It got sorted but I really missed him on that one"*.

In two instances the value of an FCA at a PPM was considered in relation to the attendance of parent's legal representatives. A social work manager commented:

I'm not sure if the FCA makes as much impact as having the parent's solicitors there, they are much more able to stress the importance of the meeting and they have not had the opportunity to have that involvement at the pre-proceedings stage before, that's not to say the presence of the FCA isn't useful, but I think maybe the parent's solicitors is more important at this stage.

(Social work manager 1)

And the local authority legal representative considered that having parent's legal representatives as well as the FCA at the PPM was useful:

It's made it more serious, of course these parents have been to hundreds of meetings with children's services so having a lawyer there, and having the FCA there really does drum home that you (the parents) need to take this seriously.

(LA legal representative 1)

### *Providing essential oversight regarding the child's best interests*

It was clear from interview accounts, as illustrated by previous excerpts, that visiting the family home and seeing children was critical to how the FCA's involvement was perceived in pre-proceedings. This is consistent with the findings from the Coventry and Warwickshire sites. Professionals saw this particular role as important in terms of representing the voice of the child/ren and did not consider that it duplicated anything offered by parents' legal representatives or other professionals. As one social worker commented:

Support and discussion at that level, the backup of (FCA) when I go to my manager is a bit of additional support

(SW 2)

Although one social work team manager drew comparisons between the FCA and parents' lawyers in respect of relative importance, generally, participants did not see that presence of the parent's lawyer should serve to exclude the FCA (or visa versa). Another team manager said:

I didn't find it difficult at all in the process here, if anything I thought it was pulling together the agencies, I think particularly (the FCA) was very amenable...it was really a meeting of minds, that's what the focus is, there on a child in all this and (the FCA) and his personality...it suited the role because it wasn't Cafcass and Social Services it was professionals coming together to be able to look at what the needs of the child were and how you were going to address these needs. He provided something additional to; the Guardians role in this process focuses you more on the child.

(Team manager 2)

Interestingly the FCA reported that his perception was that he was perhaps the only person so far in pre-proceedings to **emphasise** the voice of the child/ren:

The messages I got from social workers were that pre-proceedings meetings were by adults, about adults, for adults and the involvement of a guardian there brought into the room very powerfully at times that we're talking about children here, and the impact on children (to parents and the local authority) if you don't do this.

(FCA)

In relation to his input to PPMs he reported that:

On evidence so far I think I am the only one who has thought to say this (emphasising the reality of situations for children)...but I am developing a lot of confidence in what the local authority is doing and whilst I am involved in only half of the pre-proceedings cases I believe the local authority is running the others in the same way as the ones I'm involved in, and whilst I can't guarantee that the voice of the child is given in those



direct terms I sense that the local authority is becoming better at picking up on some of the things I am saying.

(FCA)

Both parent's legal representatives offered the view that it was important and crucial that the FCA had the interests of the child/ren to the fore and brought this standpoint to pre-proceedings practice.

### *Narrowing the issues to be brought before the court/delay*

#### *Identify necessary assessments at an early stage*

The Public Law Outline underscores the importance of the pre-proceedings process in regard to having essential assessment work complete, wherever possible, before a case is brought before the courts. This is not just a matter of ticking a box to say that a core assessment is in place, rather it should be about presenting the court with evidence and analysis that supports the local authority's case and plan for the child. In the latest communication by HHJ Munby (9<sup>th</sup> May 2013) it is made clear that the likely amendments to the PLO rely on the local authority and guardians presenting all evidence before the court at the first hearing. The interim threshold can be contested once a case enters court, creating very demanding court circumstances for all, should assessment work be lacking. It was evident in Liverpool that the protocol and pilot study had changed practice in terms of frontloading assessment work. As the LA legal representative reported:

We are doing these parenting assessments, we are doing the drug and alcohol testing which is costing us a fortune, but they are crucial to our evidence and so I think that homing in on what our child protection concerns are, what does this parent need to address, it is much more open and honest when you are dealing with parents.

(LA legal representative)

In one instance where the local authority had identified the need for a PAMS assessment of parents (within specified timescales and with an ISW which was the

only instance of an ISW being used in this Cafcass Plus sample thus far) the FCA reported:

This is in itself a massive step forward for the local authority, to be funding those sorts of external assessments at this stage rather than waiting for the court to do it later on. There is now always clarity about assessments, by whom and when they will be done. Usually discussions around alcohol and drug testing take place and again I have been heartened to note that not once has the local authority argued against funding and paying for alcohol and drug testing of parents. That seems to be progressing really well.

(FCA)

And he was open about saying that in relation to these assessments:

Hand on heart I can't say furthering them was anything I have done, it was more around the planning that was done between all of us that has maybe alerted the local authority to the fact that if they don't do this they will find themselves liable to criticism.

(FCA)

Evidence from other interviews (a parent's legal representative and social worker) suggests that the FCA might well have been pivotal in suggesting a PAMS assessment as in case 8. Again this supports timely assessments of parenting capacity, such that undue delay in decision-making is avoided.

It does seem apparent that whilst the pre-proceedings protocol in Liverpool has stimulated the frontloading of assessments, as in Coventry and Warwickshire the FCA has had an important part to play in providing advice about court expectations in this respect.

### *Empowerment and better working relationships between professionals*

From the outset the FCA was enthusiastic about empowering social workers through the joint learning enabled by the pilot; as he commented:

Social workers have allowed themselves to be sold short, they have often not had the professional confidence to stand by their assessments and that often there are times they arrive in court with a good enough, if not better assessment on a family, yet they have allowed themselves to say OK there needs to be further assessments here, we agree there needs to be an ISW here, when actually the quality of evidence that was there at the time was probably enough to say, no we think that we can stand by what we have put before the court today...potentially this exercise could be used as an empowering tool so that social workers can see that as a result of going through pre-proceedings, as a result of having someone externally scrutinise what they are planning and validate that...maybe with a few amendments asking them to look at doing different things...they would be able to stand up in court and say we are clear that we have got this right and what we are presenting to the Judge is a clear, well argued, logical case which we can back up with evidence

(FCA)

And social workers welcomed the advice of the FCA in instilling confidence in their practice:

It has been really useful having the FCA's advice; it has been really useful even though I have a lot of experience it helped to know I was looking at it in the right way.

(SW3)

It is really useful to have another experienced professional to bounce ideas off

(SW 5)

Within the interviews there was further significant evidence of improved working relationships and confidence in other professionals as a result of the Cafcass Plus model.

There is a much better co-operation between legal, children's services and the FCA, and less suspicion. Cafcass seems to be providing a good critical

friend type role which is open, and my admiration for social workers has gone up because you don't really see them with parents, it's so adversarial, but here you see the relationship they have with parents...they come across as professional, courteous and they have a rapport and you don't see that in the court process

(LA legal representative)

### *Head start for the FCA*

A key theme that has been reinforced from this third pilot site is the potential for the Cafcass Plus model to provide a 'head-start' for the FCA, should the case go into court. Two cases to date have gone into care proceedings and despite the fact that the FCA suggested in one case that he did not have a head start, as he did not see the parents before the PPM, it is likely that his knowledge of the case from his experience, documents and discussions with social workers provide an analysis that will be positively regarded by the court and the case will be resolved well within 26 weeks.

Actual impact in terms of the first case that went into care proceedings was evident in the comments by the FCA that were endorsed by the social worker, and the Judge in proceedings.

#### **Case 1**

In one case that has gone in front of the courts so far the Judge was satisfied that the assessments done so far are enough...at the first hearing I was confident about my belief that the local authority solicitors should be able to go to court and confident in what they bring to court... and they were...the Judge was very happy with the local authority evidence and the final hearing was listed within 18 weeks, when I said that I might not be able to attend as I was in another case on that date but I could be on the end of a phone the Judge said..."that's absolutely fine Mr (FCA) you have done all your work in this case already"

(FCA)

(In this case the Judge gave the mother leave to apply for an application within two weeks for a further parenting assessment but requested a protocol compliant application, none was received)

The guardian made it very clear when we were in the courtroom of the work the local authority had put in, and his work and knowledge of the family, and the amount that had been done with this family already and the Judge was very much in agreement and thankful of the fact that that this came through the pilot.

(SW 2)

This case was resolved within 18 weeks.

The impact of the head-start for the guardian upon case duration needs further probing in relation to any other cases that go into care proceedings. However, evidence to-date is consistent with findings from the Coventry and Warwickshire pilot that the FCAs valued this earlier view of the case.

## OVERVIEW OF CAFCASS PLUS AND COMPARATOR CASES

The analysis we present so far needs to be considered in light of our provisional analysis of the comparator cases. In Liverpool, at the time of writing, there are two comparator cases, in which care proceedings have been issued. These were issued at the end of the interim report stage and are subject to further analysis, as full details were not available at this point. In both these comparator cases, the LPM made the decision to issue care proceedings following the receipt of negative assessments on families that had been undertaken pre-proceedings. As Table 2, below, illustrates the cases are typical of the Cafcass PLUS cases but will need tracking to consider the impact of the Cafcass PLUS project. (There is some missing data at this interim stage)

Purposive sampling in the Liverpool site has resulted in a sample of 'neglect' cases being recruited. However, in 3 Cafcass Plus cases there were also issues of physical abuse. As in the Coventry and Warwickshire sample the risk factors associated with families were multiple including: poor parenting skills, failure to protect, leaving children with inappropriate others, consistently engaging in violent relationships, alcohol and/or drug misuse, criminal histories, mental health issues, learning difficulties (in only a small number of cases), lack of engagement with social services and housing and financial difficulties.

In all cases, families had been involved with social services for some time and in most children were already subject to child protection plans. In many cases children were already accommodated in foster care or with extended family at the point of the pre-proceedings meeting.

At this interim stage it is possible to assert that the Cafcass Plus and comparator cases are typical in respect of presenting issues. There is some variation in other factors, for example ages of children, length of time involved with social services, parental engagement and use of s.20; these differences will be fully explored when the full sample size is realised.

*Table 2: A table describing the characteristics of the cases and of the children.*

		Cafcass Plus Group	Comparator Group
Number of cases		10	9
Number of children		16	11
Child Information	Ages of children		
	Unborn	1	2
	Under 5 years	6	4
	5-10 years	4	5
	10+ years	5	0
Case Information	Household composition		
	Lone mother	5	4
	Both parents	3	4
	Missing Information	2	1
	Range in length with social services	1-9 years	3-17 years
	Engagement of families with services		
	Maximum	3	5
	Limited	2	4
	Minimum	5	0
	Assessment required		
	On-going	7	7
	Complete	3	2
	No. cases where parents at PPM	10	9
No. cases where legal rep at PPM	10	6	
No. cases where previous S20 used	6	2	
No. cases where previous children removed	3	2	

## CASE STATUSES AND IMPACT

Case	Impact of FCA - Diversion	Impact of FCA- Court	Current Status
1.	Supporting SW plans and assessment	Reported head start. HHJ read FCA pre-proceedings analysis, agreed options already narrowed.	Care proceedings completed in 18 weeks from point of issue. 1 child subject to Care Order, 2 children subject to Residence Orders with paternal aunt.
2.	Supporting SW assessment and plans to place child with father	Reported head start should case be issued. Reported ability to give clear direction to case planning	Still in pre-proceedings but likely to be issued due to significant change in circumstances.
3.	Supporting SW assessment and plans. Supported parenting assessment by SW. Helpful in engaging Mum.		Still in pre-proceedings. Child subject to S20 with maternal grandparents. Aim to rehabilitate with Mum if progress OK.
4.	Supporting SW assessment and plans. Evidence of significant contribution at PPM to clarify requirements of Mum.		Still in pre-proceedings but stepped down to CP at LPM review. Child was subject to s20 agreement with maternal grandparents, rehabilitation with Mum on-going.
5.	Ensuring PP agreement realistic, achievable and proportionate at the PPM.	Reported clear support for LA plans in court.	In proceedings. Application hearing adjourned for one week with mother and baby in placement for that week. At second hearing baby removed uncontested by parents. IRH/Final hearing likely to be 15 weeks after first hearing.
6.	Bolstering and supporting SW assessment and plans. Clear additional contribution to requirements of Mum.		Still in pre-proceedings. Aim to keep child with Mum in Mum's foster home.
7.	Supporting SW assessment and plans. Evidence of additional input and advice.		Still in pre-proceedings. Children on S20 with maternal grandparents. Rehabilitation with Mum ongoing.



8. Bolstering and supporting SW assessment and plans, particularly in respect of PAMS assessment of both parents.	Still in pre-proceedings. Children in S20 foster care.
9. Supporting SW assessment and plans. Evidence of significant contribution at PPM re wishes of the child/ren, this seemed to have impact on Mum's realisation of situation.	Still in pre-proceedings. 2 children in S20 foster care, 1 child in S20 with maternal grandmother. Plans to rehabilitate with Mum ongoing.
10. Supporting SW assessment and plans.	Still in pre-proceedings, child currently resident with father and assessments are ongoing.