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CENTRE FOR JUSTICE INNOVATION

Building Better Courts:
Lessons from London's Family Drug and Alcohol Court

By Stephen Whitehead

Summary

Opening its doors in 2008, FDAC covers 6 London boroughs and supports around 50 families each year. The project is rooted in the idea of problem-solving justice, where courts use their authority to address the complex social issues that bring people before them. It is run by specially trained and dedicated judges who provide direct, ongoing supervision and support to parents in recovery. They work closely with a multi-disciplinary team who offer personalised care and treatment to families at risk. A recent evaluation report concluded that families going through FDAC are more likely to stay together, that parents are more likely to reduced their drug use, and that the children going through FDAC are less likely to experience further neglect and abuse than similar families passing through mainstream family courts.

Based on the considerable evidence behind problem solving and justice and procedural fairness, FDAC harnesses the motivating power of direct and ongoing supervision of parents in recovery by a specially trained and dedicated judge who has access to a multi-disciplinary team offering personalised care and treatment to families at risk. FDAC is rooted in the idea of problem-solving justice, where courts use their authority to address the complex social issues that bring people people them. The court is run by specially trained and dedicated judges who provide direct, ongoing supervision and support to parents in recovery. They work closely with a multi-disciplinary team who offer personalised care and treatment to families at risk.

FDAC is one of the most successful examples of problem-solving court innovation in England and Wales in recent years. It has cleared four major hurdles at which many other well-designed and well-executed pilots fall. First, FDAC has successfully adapted an American problem-solving court model, carefully tailoring it to fit in with its specific London environment. Second, through an independent evaluation, it has generated clear and robust evidence of positive impact. Third, it has successfully transitioned from being a pilot underwritten by central government into a sustainable innovative part of local service delivery. Last, recognition of its value is leading to its replication: acknowledgement of its successes in the 2011 Family Justice Review which has led to further funding being offered to test its approach in other parts of England and Wales.

This paper explores the implementation history of FDAC in order to identify strategies which laid the foundation for the success of the project. Our research has identified a number of key strategies adopted during this period which contributed to success:

- **Targeting a clearly defined and well-evidenced problem, relevant to policymakers and local commissioners:** The high incidence of parental substance misuse in care proceedings in inner London (64% of cases), and the poor outcomes for children were well-documented. At a policy level, the issue of parental substance misuse was highly salient following the Advisory Council on the Misuse of Drugs' *Hidden Harm* report and remains a government focus.

- **Bringing together a coalition with a diverse range expertise and authority:** The foundation of FDAC was driven by a steering group which included judges, courts service managers, senior local authority staff, and government officials who shared a common goal.

- **Drawing on evidence to identify promising models:** FDAC was inspired by California's Family Drug Treatment Courts, which are a well-evidenced and successful intervention.

- **Developing a locally tailored solution:** A significant investment was made in a feasibility study which significantly adapted the US model to meet the specific context.

- **Building evaluation into the project from the start:** An academic evaluator was part of the project steering group from the start and an independently funded evaluation was launched with the project.

- **Making new use of existing resources:** The court element of the FDAC service was delivered by creatively redeploying the court's existing resources, reducing the cost of the pilot.

- **Identifying immediate cost savings:** Demonstrating that FDAC delivered immediate savings for local authorities in terms of averted spending was a key factor in securing long-term funding.

We believe that other practitioners seeking to develop innovative projects both in the problem-solving courts arena and more broadly would be well advised to consider whether these strategies are applicable to their own projects.

This paper is part of the Better Courts programme, a partnership between the New Economics Foundation (NEF) and the Centre for Justice Innovation which seeks to support and promote innovative practice in the criminal courts of England and Wales.

1. Overview of care proceedings

Care proceedings are the court process for considering the removal of children from their parents or families. They are normally initiated by the local authority when it is concerned about harm to a child or children being caused by their current carers.

At the beginning of proceedings, the local authority may apply for:

- an interim residence order which temporarily places children with a family member or friend;
- an interim care order for local authority care; or
- an interim supervision order which puts a temporary monitoring plan in place.

During care proceedings, a child will be represented by a guardian appointed by the Children and Family Court Advisory and Support Service (Cafcass) who will seek to represent their interests. The local authority, the guardian, and the family will have their own legal representation. Where family members have differing interests, they will be represented separately. In contested cases, it is often also informed by testimony of expert witnesses, who are hired by parties to assess the family situation. Family members can receive legal aid to cover the cost of representation, expert witnesses, and drug testing. The cost of the local authority's representation and expert witnesses are borne by the local authority and can be significant.

All care proceedings are expected to be concluded within 26 weeks of the initial application by the local authority.[1] A Final Hearing will agree a permanent placement for the child via a care order, supervision order or residence order if a decision could not be made at the Issues Resolution Hearing (IRH).

2. Drugs and families

The 2003 publication of *Hidden Harm*[2] by the Advisory Council on the Misuse of Drugs raised the profile across government of the harms experienced by the children of problem drug users. It noted that at that time there were between 250,000 and 350,000 children of problem drug users in the UK who were at risk of harm, from conception through to adulthood. It recommended that reducing the harm of parental drug use should be prioritised in policy and practice.

This problem was particularly salient in inner London where there was increasing awareness of the significant proportion of care proceedings in which parental substance misuse was a contributing factor. A 2006 study of four London Boroughs[3] found that concerns around parental substance misuse were present in 34% of the social work caseload and 62% of children subject to care proceedings. A 2008 follow-up[4] highlighted the poor outcomes of children in cases where parental substance misuse was identified as a problem, including high levels of removal from the primary carer and ongoing or escalating problems in the areas of education, health and emotional/behavioural needs.

3. Setting up FDAC

Recognising that the issue of parental substance misuse was not unique to his own jurisdiction, Circuit Judge Nicholas Crichton, who sat in the Inner London Family Proceedings Court, was keen to see what effective and evidence-led practices could be identified to tackle it. It was at this point in 2004 that Judge Crichton came across from the American Family Drug Treatment Court model.

Family Drug Treatment Courts are one aspect of a broader problem-solving court movement,[5] which started in the late 1980s with drug courts,[6] and rapidly expanded into other court innovations such as community courts, domestic violence courts, and mental health courts. The USA's first Family Drug Treatment Court was developed in Nevada in the mid-1990s. By the late 1990s, the Family Drug Treatment Court had been adopted by a number of other states. Family Drug Treatment Courts operate as a special sessions which provide a non-adversarial setting where courts and parties can come together to determine the individual treatment needs of substance misusing parents and work with them to improve their capacity to care for their children.[7] Substance misusing parents have legal proceedings suspended while they engage with the Family Drug Treatment Court and attend regular court reviews where they discuss their progress with the judge.

Judge Crichton brought together a working group of people with an interest in the issue of parental substance misuse in care proceedings. The intention was to adapt and pilot the Family Drug Treatment Court model in England and Wales. The steering group included stakeholders from a range of backgrounds, including:

- **Judge Crichton**

- **Professor Judith Harwin**, Centre for Child and Youth Research, Brunel University, who had experience in researching the service response to parental substance misuse in Inner London

- **Catherine Doran**, the Deputy Director of Children and Families in Camden Council with particular responsibility for safeguarding

- **Audrey Damazer**, the Justice's Clerk with responsibility for the Inner London Family Proceedings Court (ILFPC)

- **Sally Heath**, a commissioning manager with Camden Council based in Children's Services with responsibility for substance misuse and the *Hidden Harm* agenda.[8]

Members of the group shared a belief that the Family Drug Treatment Court model had the potential to improve outcomes for children and families in England and Wales and were personally committed to piloting the approach in London.

The steering group identified that implementing the Family Drug Treatment Court model in England and Wales would require significant adaptations. To be successful in England and Wales, the model would need to respond to differences in a range of areas including legislation, court practices, the structure of social service agencies, and patterns of substance misuse.

In order to identify the adaptations required, the three partner local authorities, together with Cafcass, ILFPC, and Brunel University jointly funded a feasibility study to examine whether the US model could fit into existing practice in England and Wales.

The feasibility study was conducted by a consultant, Mary Ryan, who has extensive experience of practicing law in the family courts, and conducting policy work in the field of vulnerable families. She collaborated on the review with Judith Harwin. Ryan looked at the evidence around the US model, and conducted extensive sets of interviews with practitioners and policymakers in England and Wales.

The report of the feasibility study was published in May 2006[9] and fulfilled two roles. First, it made the case for the model by presenting details of the US model and exploring evidence of the need for a similar court in England.

Secondly it presented a detailed implementation plan including a service specification, a timeline for implementation, a guide to evaluation, and projected costings.

The service specification made a number of key changes from the standard US Family Drug Treatment Court model:

- The proposed process was to take place as part of ongoing care proceedings, rather than suspending the proceedings while the parents engaged.
- A greater emphasis was placed on the role of the judge, with the same judge overseeing all hearings in a case.
- The proposed treatment team would be more clinically focused, and would be separate from legal representatives.
- The process was adapted to incorporate the role of the child's Cafcass guardian and their legal representatives, which do not have an equivalent in the US context.
- The English and Welsh model did not include a supported housing offer, as this was felt to undermine the ability of the court to evaluate the parent's capacity to care for children under normal circumstances.

Alongside the process of the feasibility study, the steering group had been developing relationships with a range of government departments. A funding coalition was brought together to support a three-year pilot, with the bulk of the funding coming from the Department for Education, the Ministry of Justice, and the Home Office. The Department of Health also funded the final two years of the pilot. Each partner local authority (Camden, Islington, and Westminster) made smaller contributions. Alongside the pilot funding, the Nuffield Foundation provided funds for an independent evaluation to be conducted by Brunel University.

In 2007, Camden Council, acting as the lead partner in the consortium issued a tender for an FDAC treatment team based on the specification set out in the feasibility study. Applications for the tender were evaluated on quality criteria, with a particular focus on a track record of successful delivery. Five organisations were interviewed, including two NHS trusts.

The contract was awarded to a joint bid presented by the Tavistock and Portman NHS Foundation Trust, a specialist Mental Health Trust, and Coram, a charity which works with vulnerable children. The bid was selected on the basis that the partners were able to demonstrate that they could already draw upon the majority of the expertise required and other pre-existing tangible resources including a highly suitable site.

The first case entered the court in January 2008, roughly four years after the initial concept was identified by Judge Crichton.

4. The FDAC model

FDAC works with families who are being brought to care proceedings by one of the partner local authorities where substance misuse is a significant contributing factor. These families are voluntarily diverted away from mainstream court proceedings into the FDAC programme.

From there, FDAC has three elements which are distinctive from mainstream provision: a problem-solving court process, specialist judges who maintain continuous engagement with each case, and a dedicated treatment and support team.

The specialist court sits one day per week at the Central Family Court, First Avenue House, which is London's Family Law court. All FDAC proceedings are presided over by one of three dedicated judges.

All FDAC cases begin with an induction hearing which is attended by the family, the guardian, and a representative of the local authority, plus lawyers for each party. The family is introduced to the FDAC judge and members of the FDAC team and the project is explained to them.

Following the induction, the FDAC team conducts an initial assessment of the family, covering parenting, child welfare, drug and alcohol misuse, and other relevant factors such as its housing situation. The specialist treatment team is a collaboration between the Tavistock and Portman NHS Foundation Trust and the charity, Coram. The team includes a range of specialists including substance misuse workers, child social workers, and child and adult psychiatrists. Based on the outcomes of the assessment, the FDAC team works with parents and the relevant local authority to design an intervention plan, which includes both services delivered directly by the team and those of other relevant agencies such as adult substance misuse treatment services. The timescale for the intervention plan is driven by an assessment of the child's needs and the harm that would be caused by potentially delaying placement with a permanent family.

Key differences between FDAC and standard care proceedings

Dedicated FDAC judges: The same judge will usually preside over all hearings in a given case. Judges engage directly with parties rather than through legal representatives.

Specialist support team: FDAC families are supported by a multi-disciplinary specialist support team which designs and co-ordinates a multi-agency intervention plan as well as offering direct support. The FDAC team monitors the progress of the plan and reports back to the judge. It also fulfils the role of expert witness in contested cases.

Problem-solving court process: The FDAC court process is designed to motivate and support families to engage with their intervention plan. For most of their duration, FDAC cases are managed via fortnightly Non-Lawyer Review Hearings (NLRHs) which are attended by the parties but not their legal representatives. Members of the FDAC team also attend and report back on progress against the intervention plan and the results of drug tests. NLRHs broadly fulfil the role of interim hearings, but also offer an opportunity for parties to discuss their perspective on progress and for the judge to offer advice, encouragement, and guidance.

During the intervention, children will remain with their family, or be temporarily placed either in local authority care or with a family member. Since August 2013, timescales are also bounded by the requirement for care cases to be completed with 26 weeks. During the intervention period, the FDAC team will supervise regular drug or alcohol testing of the parent or parents.

After the induction, families are placed on a regular schedule of fortnightly ''NLRHs which are attended by all the parties, but without legal representation. Usually, all the hearings in a case will be presided over by the same judge. At the reviews, a representative of the FDAC team reports to the court on progress in treatment and the outcomes of drug testing. Family members are given the opportunity to share their perspective on progress with the court. Judges discuss the case with family members and the FDAC team and offer advice, encouragement, or admonition.

Where a contested issue is identified at an NLRH – which might be a disagreement about an interim order or a case management dispute – it is put on hold for the next review hearing, at which lawyers will be asked to attend.

At the end of FDAC care proceedings, the FDAC team advises the judge on outcomes. If the outcome is likely to require a full-scale final hearing, it is returned to the mainstream court for adjudication. Otherwise, the outcome is agreed in the FDAC with lawyers present.

5. Impact of FDAC

Brunel University has published two evaluations of FDAC, one in 2011[10] and a second in 2014.[11] The most recent evaluation, which compared 90 FDAC cases with a comparison group of 106 cases from mainstream care proceedings, found evidence that FDAC was producing encouraging results. Key impacts included:

- Reduced drug use: a higher proportion of FDAC parents had ceased misusing by the end of proceedings – 40% of mothers and 25% of fathers, compared to 25% and 5%, respectively, in the comparison group.

- Increased likelihood of cessation of drug use and reunification with 35% of FDAC families achieving both outcomes compared to 19% of the comparison group.

- Lower proportions of families experience relapse (25% vs 44%) or further neglect abuse (29% vs 55%) within a year of the end of proceedings.

The evaluation also noted that these outcomes were being achieved with a particularly challenging caseload: although both groups were difficult, FDAC families had higher levels of maternal heroin, cocaine, and prescription drug abuse; a higher proportion of children with health difficulties; and a higher proportion of domestic violence than the comparison group.

The 2011 report examined the costs of the FDAC service. It found that the average cost of the FDAC team was £8740 per case, in addition to the normal costs to the courts service of care proceedings. However, the cost was offset by reduced costs to the local authority in other areas. This included shorter care placements (which saved £4000 per child) and reduced legal costs (£682 per family). FDAC also produced parenting assessments which would otherwise be undertaken by expert witnesses (which would otherwise cost an average of £1200. This reduces the average net cost of the service to local authorities to £2858 for a one-child family. In addition, the improved outcomes for FDAC families will likely produce significant long-term savings to adult drug treatment, health, and probation services, which are not factored in here.[12]

6. Understanding why the FDAC model works

The Brunel evaluations also included qualitative research with professionals and families which explored the way in which the FDAC model produced these outcomes. In particular, the research identified that impact was supported by the strengths of the court's two distinctive elements: the problem-solving court process and the specialist court team.

Stakeholders noted that FDAC court processes had a number of characteristics which supported engagement and recovery:

- **The personal authority, fairness, and specialist knowledge of the judge**, underpinned by their status and role and the relationship that they

could form with parties due to their ongoing involvement in the case was cited by parents as helping motivate them to address their substance misuse and other issues. It was also noted that the FDAC judges had developed particular expertise in the area of substance misuse.

- **The situation of the treatment offer within the context of care proceedings** where the possibility of a care order was in place as the ultimate sanction was noted as encouraging engagement with treatment.

- **The character of the NLRHs** which enabled open, direct conversations between parents and judges, was noted as building confidence within parents. This was supported by the offer of the judge's intervention to provide practical support with other issues such as debt and the non-adversarial nature of the proceedings;

- **FDAC families benefitted from better coordination and enhancement of services** compared to those in the standard care proceedings. As well as the services of the FDAC team, they were also offered significantly more services from non-FDAC agencies, including both adult substance misuse services and services related to other needs. The improved offer was the result of the FDAC team identifying and co-ordinating services for parents.

These factors highlighted as underpinning its success are similar to the characteristics of other successful problem-solving courts. Research on drug courts, for example[13] has identified the personal qualities of the judge, leverage and the relationship between treatment and court proceedings as underpinning effectiveness in the drug court model.

FDAC from the parent's perspective[14]

The role of the judge

'We don't want to see lots of different judges; we want one person directing things all the way. Otherwise they don't know what's going on. That's important because the judge makes the decision at the end of the day so it's really important he gets all the information.'

'At first I didn't like him because he was honest. He was saying it how it was and it was bad. It was horrible. But now I know it was the truth.'

Non-lawyer reviews

'No-one praised me before. My solicitor does, but I expect that. When I go to court I come out feeling really happy. My social worker never praises me, or never says it in a way that feels nice.'

'It is positive for us to see how we are progressing and have progressed, and we like everyone else to see how well we are doing too.'

The FDAC team

'This treatment experience is different from before, it's more helpful and I'm older now as well, so I feel more responsible and that also helps. Growing older has made me wiser. Trying this new treatment [FDAC] has changed my life.'

'I'd like FDAC to stay on after the case finishes. I suppose because I've built up such a strong bond with my key worker that I feel I could talk to him about any concerns I've got. I haven't got that feeling with anybody else.'

7. Sustaining and replicating FDAC

FDAC has not only demonstrated impact but become sustainable. The initial round of pilot funding provided by central government ceased in 2012, following a one-year extension to the original three-year pilot period. At this point, the cost per case to local authorities increased significantly as what had effectively been a subsidy was removed. However, they opted to continue funding the project. Stakeholders suggested that the continued funding was driven by two factors: the favourable findings of the initial Brunel evaluation,[15] and in particular the financial modelling which suggests that FDAC offers significant direct savings which defray its headline cost; and a strong sense of personal investment in the programme amongst key decision makers. The project is now primarily funded by a coalition of six London local authorities – Camden, Islington, Hammersmith and Fulham, Lambeth, Southwark, and Westminster. Local authorities commit to routing a set number of cases through FDAC each financial year, at a fixed cost per case. Additionally, funding for add-on projects, such as the parent-mentor programme, is received from charitable trusts and foundations and central government.

The value of FDAC as an approach to dealing with parental substance misuse was officially recognised when FDAC was cited as a model of good practice in the 2011 Family Justice Review. As the review put it: 'The Family Drug and Alcohol Court in Inner London Family Proceedings Court shows considerable promise. There should be further limited roll out to continue to develop the evidence base. This should be supported by research on the overall costs to users and long term outcomes for children and families.'[16] Since this point, the Department for Education has offered the Tavistock and Portman NHS Foundation Trust funding to support the development of an FDAC court at two further sites. They are currently working closely with Milton Keynes and Buckinghamshire local authorities to support the development of a court there.

8. Lessons for court innovation

FDAC is but one example of a broader trend of problem-solving court innovation in England and Wales. Outside of FDAC, problem-solving courts in England and Wales have been primarily in the criminal justice sphere, with examples including North Liverpool Community Justice Centre,[17] the Ministry of Justice Dedicated Drug Court Pilots,[18] and Mental Health Courts pilots in London and Brighton.[19] However, FDAC is distinctive within this set of problem-solving courts, not just for its civil setting but also for its practitioner-driven character and demonstrable success. While many court innovations in England and Wales have produced promising practice, few have generated the robust evidence of positive impact that was required to support long-term implementation and recommendation – although, in many cases, this is due to the lack of a robust impact study.

Given the limited impact achieved by some of the other problem-solving court experiments in England and Wales, FDAC's success begs the question: 'What did this court get right?'

1. Target a clearly defined and well-evidenced problem, relevant to policymakers and commissioners.

Stakeholders reflected that at the time that FDAC was conceived there was a significant body of evidence that suggested that the responses of children's services to parental substance misuse was poor. Research suggested that child social workers and child and adolescent mental health service workers lacked the specialist skills required to identify and address adult substance misuse, and that children's services was not well connected to adult substance misuse services.

Alongside this, there was a perception within the Inner London Family Proceedings Court that parental substance misuse was a factor in a significant number of care proceedings cases. The supportive local authorities were able to verify this using case data, drawing on their experience in gathering needs information as part of commissioning processes. These data demonstrated that there were sufficient cases to make a targeted intervention cost-effective.

Identifying both the character and scale of the need was an important early part of developing the concept of FDAC. It both helped participants recruit allies and shaped the eventual project.

At a policy level, the issue of parental substance misuse was highly salient following the *Hidden Harm* report,[20] and the project's model – a co-ordinated multi-agency approach – was, and remains a government focus; on the ground, several of the participating organisations, including Camden Council and ILFPC, had cultures which placed a value on innovation.

2. Bring together a coalition with a diverse range of expertise and authority

The FDAC steering group includes a number of significant figures who were able to mobilise support in their respective organisations. It brought together representatives from all of the institutions whose backing was crucial to the project's success including the local authorities, the judiciary, academia, the court, Cafcass, the legal profession and, eventually, the relevant government departments. Having a group which crossed disciplines and organisations enabled the steering group to draw on different resources, including expertise, specialised information, reputation, and the authority to commit institutional resources to the project.

Stakeholders also emphasised that the group was able to maintain a high-level of commitment from its members by focusing on the difference which the project could make to children and families. As one put it: 'FDAC was driven by a group of people who shared a belief that this is the right thing to do. They were inspired by ideas about justice and social responsibility.' Bringing the idea to fruition had taken the dedicated and patient support of stakeholders from a range of disciplines and institutions, motivated by a belief in the potential of this innovation to improve the lives of children and parents.

While the presence of senior figures was important, stakeholders also reflected that having an active secretariat for the steering group was important to maintaining momentum. Having other group members who were able to dedicate significant time to supporting the group by undertaking detailed research and managing relationships was important to maintaining momentum over the long period that the project was in development.

3. Draw on evidence to identify promising models

Although there were significant differences between the US Family Drug Treatment Courts and the model finally adopted by FDAC, stakeholders identified significant value in beginning from an existing idea.

First, having an identified model to draw from provided a point of reference for the steering group, which allowed them to generate a sense of common purpose. Stakeholders reflected that members of the group were enthused by the written accounts of the US model.

Secondly, being able to present evidence that a similar approach had been effective in other jurisdictions was an important tool in overcoming

scepticism around the project. In particular, stakeholders reflected that US evidence was crucial in winning the support of central government departments who were committed to 'evidence-based policy'.

4. Develop a locally tailored solution

Stakeholders pointed to the feasibility study as a crucial point in FDAC's development. As one put it: 'At the point where the feasibility study was initiated, the idea was relatively unformed. It was primarily based on a second-hand impression of US Family Drug Treatment Courts.'

In commissioning the feasibility study, the steering group was acknowledging that specific local factors meant that an English and Welsh version of the Family Drug Treatment Courts would need to differ in many respects in order to succeed. The study drew on the wide range of expertise available to the group and its allies to map the ways in which local context differed and identify a solution which met local needs.

5. Build evaluation into the project from the start

Stakeholders reflected that the embedded independent evaluation has been an important component of ongoing success in two ways.

First, having an evaluation partner on board from early on in the project's development, lent credibility to the proposals for the project. It signalled to potential partners that the team was taking the issue of evaluation seriously and proposing a rigorous and bounded pilot which would serve as a robust test of the concept.

Secondly, given the relatively short timescale for the pilot, having evaluation in place from the point of implementation was important for having a robust evaluation report in place to share with commissioners in time to secure funding for the post-pilot period. Stakeholders placed great emphasis on the value of the evaluation report in securing ongoing local authority funding – as well as in securing the support of central government for a further roll out.

Stakeholders also emphasised that the credibility of the findings was reinforced by the fact that the evaluation was independently funded.

6. Make new use of existing resources

Stakeholders noted that the process of setting up FDAC was simplified by the willingness of the Inner London Family Proceedings Court to redeploy its staff to support the new approach without counting the cost. Court managers pragmatically side-stepped the question of whether the FDAC approach would impose an additional burden, and instead focused on whether the new approach could be supported within the existing resources.

In fact, the impact of the FDAC model on the court's workload is unclear: the 2011 evaluation report noted that FDAC cases required an average of 15 hearings, compared to 10 for conventional proceedings, but that hearings were on average significantly shorter – 20 minutes as opposed to 56. This equates to significantly less court time: 300 minutes as opposed to 560. However, the evaluation also notes that scheduling greater numbers of short hearings for the FDAC list presented additional administrative burdens. Attempting to project the resources required at the project initiation stage would have added both complexity and uncertainty to the planning process.

7. Identify immediate cost savings

The stakeholders we interviewed suggested that while many of the local authority decision-makers who were instrumental in supporting FDAC past the pilot period were personally engaged by evidence suggesting that it was producing outcomes for children and families, evidence that it produced immediate savings was instrumental in securing continued funding.

The 2011 Brunel University Evaluation report included a costings exercise which compared the FDAC model to those of ordinary court proceedings. The exercise, while not seeking to capture the long-terms savings that might be produced by improving outcomes for children and families, highlighted that FDAC's headline cost was defrayed by a number of averted costs, including reductions in the use of care, and the elimination of the need for expert witnesses.

In the current fiscal climate, short-term limitations on spending can take precedence over the sometimes difficult-to-realise savings produced by positive outcomes. Being able to demonstrate how investing in an innovation can directly and immediately avert spending in other areas can, therefore, be very valuable.

Conclusion

In many respects, the fact that FDAC ever got off the ground can be considered a major achievement. This ambitious project not only succeeded in piloting a major re-engineering of how some of the most difficult care proceedings cases are handled, but it brought together three local authorities which had never co-commissioned a service before, and attracted support and funding from four separate government departments.

The example of FDAC demonstrates that problem-solving court principles, when properly adapted, implemented, and evaluated, can be shown to improve outcomes for people coming through the courts system in England and Wales. Our courts are capable of administering continuous and consistent review hearings, which temper the legal formalities of conventional adversarial hearings for a more open and collaborative tone. Our judges are capable of engaging directly with the parties in complex cases to offer effective advice, encouragement, and support. And our social service agencies are capable of working alongside courts and judges to help them build up an accurate picture of parties' progress that lets them be effective in holding them to account.

But FDAC also highlights flaws in many of the problem-solving court pilots which have preceded it. As FDAC shows, if the effectiveness of problem-solving courts is to be established, they must be sensitively adapted, integrated into existing networks, and above all else, be subject to rigorous, independent, and thorough evaluation of their impacts.

Endnotes

1. Care proceedings include a minimum of three hearings and usually significantly more. These include:

   - A **First Appointment** where interim orders may be put in place and directions will be made for the management of the case.
   - A **Case Management Hearing** (within 12 days of initial application) which will direct parties as to what reports and information must be prepared to make a final decision.
   - Multiple **interim hearings** which are held to review the progress of the case, renew interim orders and make further directions.
   - An **Issues Resolution Hearing (IRH)** which reviews what decisions have been made and can make a decision if there is consensus amongst the parties about the desired outcome.

2. Advisory Council on the Misuse of Drug. (2003). *Hidden Harm.* London: Home Office. Retrieved from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/120620/hidden-harm-full.pdf

3. Forrester, D. & Harwin, J. (2006). *Parental substance misuse and child care social work: findings from the first stage of a study of 100 families.* Child & Family Social Work, 11(4)

4. Forrester, D. & and Harwin, J. (2006). *Parental substance misuse and child welfare: outcomes for children two years after referral.* British Journal of Social Work, 38, 1518–1535.

5. McGee, C. M. (1997). *Another Permanency Perspective.* Juvenile and Family Court Journal, 48(4), 65 68.

6. Fulton Hora, P., Schma, W. G., & Rosenthal, J. T. A. (1999).*Therapeutic jurisprudence and the Drug Treatment Court Movement: Revolutionizing the criminal justice system's response to drug abuse and crime in America.* Notre Dame Law Review 74(2).

7. Edwards. L. P. & Ray, J. A. (2005). *Judicial perspectives on Family Drug Treatment Courts.* Juvenile and Family Court Journal, 56, 1 27.

8. Other members of the group included representatives of the Children and Family Court Advisory and Support Service (Cafcass), Islington and Westminster Councils and, later, policy officers from the Home Office, the Ministry of Justice (MoJ) and the Department of Children, Schools and Families (DCSF).

9. Ryan, M., Harwin, J. & Chamberlain, C. (2006). *Report on the Feasibility of Establishing a Family Drug and Alcohol Court at Wells Street Family Proceedings Court.* Retrieved from http://www.brunel.ac.uk/__data/assets/pdf_file/0007/91348/FDACFeasibilityStudy.pdf

10. Harwin, J.,Ryan, M., & Tunnard J, with Pokhrel, S., Alrouh, B., Matias C., & Momenian-Schneider, S. (2011). *The Family Drug & Alcohol Court (FDAC) Evaluation Project Final Report* (London: Brunel University). Retrieved from http://www.brunel.ac.uk/__data/assets/pdf_file/0017/91340/fdac_final_report.pdf

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12. Note that these calculations are based on the 2008 2011 data. Savings may have been mitigated by the introduction of the 26-week target for all care proceedings in 2013.

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By Stephen Whitehead

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This work has been made possible by the generous support of the Hadley Trust.

THE HADLEY TRUST

The Better Courts Programme is a partnership between between New Economics Foundation (NEF) and the Centre for Court Innovation.

Written by: Stephen Whitehead

Thanks to: Danny Conway, Nicholas Crichton, Audrey Damazer, Catherine Doran, Judith Harwin, Sally Heath, Sophie Kershaw, Mary Ryan, Mike Shaw, Jessie Barnard, Phil Bowen, Ben Estep, Ross Haig, Helen Kersley, Arsheen Qasim

Design: danfarleydesign.co.uk

Edited by: Mary Murphy

Cover Image: horizontal.integration via Flickr

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Registered charity number 1055254

ISBN: 978-1-908506-66-5