

Local Members Interest
N/A

Safe & Strong Select Committee - Thursday 05 November 2020

Court Backlog: Impact on Children's Social Care

Recommendations

I recommend that the Committee:

- a. Note the impact of court closures and reduced court capacity on children's social care services and on children and families.

Report of Cllr Mark Sutton, Cabinet Member for Children and Young People

Summary

What is the Select Committee being asked to do and why?

1. Following the national lockdown in March 2020, courts closed to the public and began to hold remote hearings. Staffordshire and Stoke on Trent Designated Family Judge HHJ Sonia Harris has held regular multi agency meetings to monitor and positively address any negative impact of this locally and has led on the development of a local recovery plan which includes adjusted court hours to maximise local capacity given limited courtroom capacity.
2. Despite the efforts of the judiciary, local partners and the local authority to mitigate the impact of the reduced court capacity, this has significantly impacted on the capacity and demand on the local authority.
3. The Select Committee is asked to note the impact of these delays on the demands of the local authority and on children and their families.

Report

Background

4. On 19 March 2020, the same day that the Prime Minister announced the introduction of social distancing measures in an effort to contain the spread of COVID-19, the President of the Family Division, Sir Andrew McFarlane, issued instructions that all family hearings should take place remotely, unless fairness and justice required that a court-based hearing should be conducted. According to the President, the transition to remote access processes would enable the family justice system to 'keep business going safely' and ensure continued access to family justice.
5. COVID-19 has exacerbated the pre-existing pressure on the family justice system and is responsible for causing substantial delays to proceedings. This can partly be explained by the demands of operating remote hearings. It is also the result of a

reduced availability of judges. Magistrates stopped sitting in Family Proceedings Courts following the lockdown, increasing the flow of cases referred to district and circuit judges, consequentially reducing their availability to conduct hearings. In order to manage their lists judges were forced in the early weeks of the COVID-19 crisis to reduce the time allocated for hearings listed before the lockdown, vacate scheduled hearings and list only the most urgent cases. Most contested fact-findings or final welfare hearings were adjourned.

6. One of the additional consequences of lockdown and social distancing has been the inability to progress specialist assessments in a timely way which is likely to be another contributory factor to court proceedings delays going forward.
7. Despite the efforts of the judiciary, local partners and the local authority to mitigate the impact of the reduced court capacity and delays, this has significantly impacted on the capacity and demand on the local authority. It is recognised some progress has been made in recent weeks with some cases now concluding or scheduled to conclude in the new year however the overall impact of delays has been and remains significant.
8. Whilst new and urgent care proceedings have been issued to safeguard children who require immediate protection; final hearings, Adoption Orders, discharge applications and Special Guardianship Orders have inevitably been delayed as lower priority cases given the children are in safe care arrangements. The number of children impacted by this is constantly changing however there are over 30 children in the system impacted by these delays. The impact on the local authority is the following:
 - a. A rise in the number of children looked children (due to planned discharges, SGO's and Adoption Orders not occurring).
 - b. This rise in Looked After Children has an impact on social workers workloads and the statutory duties and tasks required for this group of children including statutory visits, statutory reviews, personal education plans, health assessments, pathway plans etc.
 - c. The extension of care proceedings inevitably means that assessments become outdated and require updating, this is additional work in the system.
 - d. Children on Placement Orders, placed with their adoptive families, awaiting an Adoption Order: there is an increased risk of birth parents challenging the Adoption Order on the basis that their circumstances have changed in the extended passage of time since the Placement Order was made. There is also the risk that the attachment and bonding between the adoptive parents and the child is compromised by the uncertainty caused by the delay. These children remain technically looked after and open to the adoption team who are supporting the family.
 - e. For a small number of children who are 'hard to place' the opportunity for them to achieve permanency through adoption becomes even more limited if their proceedings are extended any further as the children become older. The consequence of this is that these children will remain looked after for the duration of their childhood and will face the challenges that this brings to children in care (stigmatisation, risk of placement breakdown, poorer outcomes). This will have a

long term impact on the numbers of looked after children nationally and locally for a significant number of years.

9. We are working with partners and the judiciary locally and nationally to identify opportunities to reduce the current pressures in the system, including progressing children's cases where there is no disagreement without the allocation of a guardian.
10. There is a financial consequence for the local authority of having children in the care system that would not have been if the court delays and backlog were not occurring. This is predominantly linked to fulfilling our statutory duties for these children not exclusively linked to placement costs.
11. The issue of court backlogs is recognised as a significant issue that requires urgent resolution by the Ministry of Justice, Department of Education, Her Majesty's Court & Tribunal Service, President of the Family Division, Local Judiciary, the Adoption & Special Guardian Leadership Board, The Commissioner for Children and the Association of Directors of Children's Services (ADCS) . It is also a matter that is being highlighted by the regional ADCS group.

Link to Strategic Plan

12. Support more families and children to look after themselves, stay safe and well.

Link to Other Overview and Scrutiny Activity

13. The impact of the court closures on children's social care is that the ambition to reduce the number of children in Staffordshire's care had not been achieved and the financial investment to achieve this has not been realised.

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