

The 'Baby Peter effect' and the increase in s31 care order applications

Executive Summary

Background

The Baby Peter Serious Case Review executive summary was made public by the Haringey Local Safeguarding Children Board on Tuesday 11th November 2008. This led to intensive media coverage and criticism of the quality of the London Borough of Haringey's child protection work. Cafcass subsequently identified a sharp increase, across England as a whole, in section 31 (Children Act 1989) care order applications during the three weeks immediately following this date, compared with the same time period in 2007. At the time, it was suggested by the Association of Directors of Children's Services (ADCS) and Cafcass that this rise in s31 care order applications had occurred as a result of the review by local authorities of cases that were on the borderline of the threshold for s31 applications, as a response to the publicity generated by the circumstances surrounding Peter Connelly's death.

Throughout 2009, Cafcass has received its highest ever level of demand for work relating to s31 applications, peaking at 784 requests in June 2009, an increase of 113% compared to the June 2008 figure (368) and an increase of 52% compared to the June 2007 total (514). Between April and September 2009, Cafcass received an average of 706 new s31 applications per month.

Here, we present a summary of the findings from a survey of Cafcass Children's Guardians, drawn from ten of the 21 Cafcass service areas, about their perceptions of the circumstances surrounding the increase in s31 applications. The survey, conducted in June/July 2009, was conducted in respect of 82 cases involving 166 children.

Aims

The survey was designed:

- To identify the extent to which the increase in the number of s31 care order applications in November 2008 arose from a response to publicity surrounding Peter Connelly's death
- To determine in what kind of cases (using the child protection categories of physical abuse/sexual abuse/emotional abuse/neglect) this increase had occurred
- To gauge the perceptions of Children's Guardians, in cases where s31 applications were submitted between 11/11/2008 and 30/11/2008, as to whether 'the Baby Peter effect' has led to children appropriately becoming the subject of s31 care order applications, in regard to the timing of proceedings and the interpretation by the applicant local authorities of the section 31 significant harm threshold
- To gauge the perceptions of Children's Guardians as to whether the s31 cases allocated to them between November 2008 and June/July 2009 have been appropriate, in terms of the timing of the applications and the interpretation by the applicant local authorities of the section 31 significant harm threshold

Survey sample & response rate

Within the 10 Cafcass areas¹ that were selected, 55 staff out of a possible 269 responded to the survey, representing a response rate of 20.4%. The responses relate to 82 s31 care order

¹ The 10 selected service areas are N2, N5, N6, C2, C3, C5, S1, S2, S3 and S5. These were selected to include areas with a large increases, moderate increases and small decreases in volumes of s31 applications post November 11th 2008

applications from 37 local authorities. In all cases, s31 applications were made between 11/11/2008 and 30/11/2008 and all comparisons with 2007 and 2008 made below are for the same time period in these years.

Survey results

The results of the survey are broadly similar to a number of the findings of the Care Profiling Study (Judith Masson et al, 2008, Ministry of Justice). For example:

- 58.5% of the children were subject of a Child Protection Plan at the time of application – (Masson 60%).
- 67.7% of the children subject to a plan were registered under the category of neglect – (Masson 75%)
- Where ethnicity was recorded by Cafcass, 24% were minority ethnic children - (Masson 28%)
- 36.1% of families had their first involvement with children's services more than 5 years prior to the current application - (Masson 45%)
- In both the Cafcass study and the Care Profiling Study, almost all parents had multiple difficulties leading to chronic instability and inadequate care for the children. Follow up telephone interviews were conducted with 20 Guardians who participated in the survey and matters mentioned in these telephone interviews were domestic violence; drug and alcohol abuse; mental health problems; learning difficulties; sexual abuse in childhood; hostile parental separation. In the Cafcass study, 67.1% of cases had one or both parents who had experienced involvement with local authority children's services as a child or adolescent.

Children who were the subject of a Child Protection Plan (CPP) for neglect

66% of all children in the survey sample (of 82 cases) who were the subject of a CPP were registered for neglect. Children registered for neglect were older than the rest of the sample, with an average age of 6.4 years, while the average age for children who were not the subject of a CPP for neglect was 4.9 years and the average age of all children was 5.4 years.

Sibling groups and multiple children in s31 applications

There is a higher incidence of multiple children per case in the survey sample than is recorded for the time period (11-30 November) from which the sample was taken in both 2007 and 2008, and a higher average number of children per case (2.0) than the for the last two years (1.8 in 2007 and 1.7 in 2008) for the same time period.

Length of involvement with Children's Services

In 61% of the sample of 82 cases, involvement with Children's Services began more than one year prior to the initiation of the s31 application and in 36% of cases first involvement had come before November 2004, more than five years prior to the application.

Of those children who were the subject of a CPP for neglect, 43% had first contact with Children's Services more than five years before the current application and 76% had first come into contact with Children's Services more than one year prior to the application.

Timing of applications & thresholds

Overwhelmingly, Children's Guardians felt that in the cases referred to in the survey, the s31 application was either timed appropriately (53.7%) or had been delayed (43.9%). In just 2.4% (2 cases) the Guardian indicated that they believed the application was premature.

Average s31 application threshold weighting

Practitioners were asked, "For each of the Local Authorities you deal with, do you believe that the threshold for making a s31 care order application has changed since November 11th 2008?" Responses were given a numerical weighting between one (decreased significantly) and five (increased significantly), with a rating of three meaning that thresholds had remained the same. The average threshold rating given was 2.8.

Legal threshold vs. Trigger for action

In their responses, Guardians appeared to differentiate between the legal threshold for care proceedings (as outlined in Children Act 1989 Guidance and Regulations Vol.1)² and the decision to activate an application to the court. The majority of respondents felt that the decision to begin proceedings was now being taken at an earlier stage, sooner after it had been identified that the legal threshold had been met than it had previously.

Was any other course of action possible?

Respondents were asked whether there was any other course of action that could or should have been pursued by the Local Authority before the court application. An alternative course of action was identified as a factor in just 7 cases (10% of cases in the survey sample). The following options were identified: temporary kinship placements, Section 20 respite care and Child Protection Conferences received two mentions each, and family group conferencing, respite care and a parenting education programme were all mentioned once.

Did the Local Authority comply with Volume 1, Children Act Guidance?

70% of Guardians surveyed stated that they believed the Local Authority had complied with the Guidance, while 22% felt that they had not complied, 6% were not sure if the Local Authority had complied and the question was not answered for 2% of cases.

Letter before proceedings

Guardians were sure that a letter before proceedings had been sent by the Local Authority in 39% of cases, and were also sure that a letter had not been sent in 39% of cases, although half of these were EPOs where the urgency of the application meant that a letter could not be sent.

²Retrieved from

<http://www.dcsf.gov.uk/everychildmatters/publications/documents/childrenactguidanceregulations/> 08/09/2009

Conclusions

This limited survey focused on cases where the s31 care order application was made in the three weeks after November 11th 2008, following the initial publicity surrounding the death of Baby Peter. The responses suggest that:

- The majority of Cafcass Guardians surveyed believe that the cases they were allocated in the three weeks following the public release of the Baby Peter Serious Case Review executive summary were either appropriately timed, or should have been brought to court earlier than they were.
- A substantial proportion of the increase can be attributed to Local Authorities re-evaluating their involvement with families where they are already providing a service. This is evidenced by the increase in the percentage of children aged 5-10 years becoming the subject of s31 applications in the 11-30 November 2008 cohort when compared to the 2007 cohort, in conjunction with the higher incidence of long term involvement with children's services exhibited by many children in the survey sample where chronic neglect was the primary factor in the decision to bring an application to court.
- Most of the Cafcass Guardians who responded to the survey did not believe that the Local Authorities they dealt with had lowered the threshold of concern at which applications were made.
- There is a difference between the threshold for legal proceedings being met, as defined by Volume 1, Children Act Guidance,³ and the decision to act upon this evidence and beginning court proceedings.
- The way these two processes (firstly, the identification that the legal threshold for a s31 application has been met, and secondly the initiation of care proceedings) operate in different local authorities seems to vary. In those Local Authorities where legal advisors regularly review cases considered by social workers and their managers to be on the threshold of a s31 application there is less of a lapse in the time between identification that the legal threshold for care proceedings has been met and the initiation of a s31 application.
- This survey suggests that in the opinion of Cafcass Guardians who were allocated s31 care cases in the three weeks following the public release of the Baby Peter Serious Case review Executive Summary, the increase in s31 care order applications by Local Authorities, although a response to Baby Peter, has led to appropriate action being taken.
- Cafcass Guardians view the increase in s31 applications as a corrective action, in that proceedings are being initiated sooner after it is identified that the legal threshold has been met, and see this as to be welcomed for the individual children concerned.

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³ The Children Act 1989 Guidance and Regulations – Volume 1 – Court Orders, Chapter 3: Care and Supervision Orders, p39. Outlines the legal threshold for a s31 application as where the child concerned is suffering significant harm, or is likely to suffer significant harm; And (b) the harm or likelihood of harm is attributable to (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give him; or (ii) the child is beyond parental control