

Neutral Citation Number: [2024] EWFC 292 (B)

Claim No: CF23C50257
Pontypridd County Court
Court House Street, Pontypridd, CF31 1JR

Date: 15TH OCTOBER 2024

IN THE FAMILY COURT SITTING AT PONTYPRIDD

Before :

HER HONOUR JUDGE SIÂN PARRY

Between :

COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF

Applicant

And

M

1st Respondent

And

F

2nd Respondent

And

The child A through her Guardian

3rd Respondent

Ele Stubbs solicitor for the Applicant
Kate Broadhurst (instructed by Hopkins Law Ltd) for the 1st Respondent
Rachel Price solicitor with Costley and Partners for the 2nd Respondent
James Lewis (instructed by Avery Naylor Ltd) for the 3rd Respondent

Hearing date: 15th October 2024

Approved Judgment

This judgment was handed down 15th October 2024 to the parties and by release to the National Archives

HHJ SIÂN PARRY:

Preamble

- A. This judgment deals with the last case which initially commenced in the Cardiff and Vale FDAC. It also considers the impact on the proceedings and on the family involved of the FDAC pilot coming to an end before the conclusion of the case.
- B. As all parties agree the outcome of these proceedings, the court would not normally provide a judgment. Due to the exceptionality of these proceedings, it is appropriate to give a judgment with permission for it to be published.
- C. The evaluation of the Cardiff and Vale FDAC has now been published and can be found at [Evaluation of the Family Drug and Alcohol Court in Wales pilot^{\[OBJ\]} – CASCADE \(cascadewales.org\)](#).

Judgment

1. I am dealing with child A who is 11 years of age.
2. A has some features of Foetal Alcohol Syndrome. There is no formal diagnosis.
3. A is a 11-year-old girl. The Local Authority is the County council of the City of Cardiff (“The LA”) who brought public law proceedings in respect of A, B, C and D.
4. These proceedings were issued on the 23rd June 2023. They are therefore at week 66, notably significantly well beyond 26 weeks. The delay is exceptional, but this is an exceptional case necessitating delay.

Background

5. A was part of a sibling group of 4 being cared for by their M and her stepfather. A has a full sibling 'B' as well as two half siblings (C and D). The concerns that led to the LA issuing proceedings related primarily to domestic abuse and maternal alcohol and drug misuse.
6. A and B's father (F) also misused alcohol and drugs, had mental health issues, and lived with a family member who had significant allegations of a sexual nature.
7. The living arrangements for the children whilst with M were described as dirty and unhygienic. There was a lack of food, faeces were smeared on the walls and the children had chronic headlice infestations.
8. The children were accommodated by the LA when the parents gave their section 76 consent (i.e. the Welsh equivalent of s20 Children Act 1989) on the 1st March 2023 with proceedings being issued on the 23rd June 2023. A and B were placed into separate foster placements.

FDAC

9. In 2021 the Welsh Government commissioned a two-year pilot of Family Drug and Alcohol Court (FDAC) to be operated from the Cardiff Family Court from 5th December 2021. I was privileged to be involved with the pilot, being the lead Judge. The pilot concluded on the 30th November 2022, and I refer to the comments of HHJ Muzaffer in his judgment: *Vale of Glamorgan Council v M & ANOR* [2024] EWFC 84(B) who went as far as to say at paragraph 63.

“The Cardiff and Vale FDAC Pilot, the only FDAC court to have ever operated in Wales, concluded as scheduled in November. It is a matter of obvious regret that funding could not be secured for the Pilot to be extended, as this had clear implications for families and professionals involved in cases still before the court. The reality is that a talented, committed team have now been disbanded, and it will be a question of starting from scratch should the go-ahead ever be given”.

10. What is FDAC? It is an alternative model of care proceedings which employs a problem-solving court approach. There is an independent multi-disciplinary team which provides expert advice through a dynamic assessment (Trial for Change) of the family whilst delivering intensive support through a coordinated and tailored intervention and treatment plan. As stated by DJ Tait in *Gloucestershire County Council v A and B and C [2024] EWFC 18(B)* at paragraph 17:

“The pioneering FDAC judge Nicholas Crichton said: “What is it that family courts are there to do? Just take children away? Or are we there to provide part of the whole construct of support around families to try to enable children to remain within their family? If we are looking to remove the 8th, 9th or 10th child, the family courts can’t be doing very well by this family.” Statistics show that one in four people who lose a child in care proceedings return because the underlying issues have not been dealt with.”

11. In light of the issues in this case, and the substantial alcohol and drug misuse the parents were referred to the Cardiff and Vale FDAC team and at the first CMH the FDAC team were tasked with providing a viability assessment in respect of M, F and stepfather.

12. That viability assessment was available at the next hearing on the 11.08.2023. The report concluded that F was a viable candidate for the FDAC, but M and stepfather were not. The case for A and B therefore proceeded under the provisions of FDAC for F and ‘normal’ care proceedings for M and stepfather.

13. The proceedings in respect of the younger half-siblings concluded within the 26 weeks with Care and Placement Orders being made by consent in December 2023.

14. The proceedings for A and B continued with F engaging with the FDAC process, attending for the fortnightly non-lawyer reviews before me. M’s assessments

progressed in the normal way concluding negatively. There is no criticism of that assessment. Indeed, M's position since about December 2023 is an acceptance that she is not able to care for either of the children but would support F if his assessment were positive.

FDAC in this case

15. F's issues were significant and multi-faceted. They included: abuse of substances and alcohol; mental health difficulties; instability in his home life, where he was the subject of domestic abuse; and living with a family member with alleged offences of a sexual nature.
16. Indeed, F's alcohol use was so problematic that he was admitted as an emergency in July 2023 to complete a medical alcohol detoxification.
17. By the time of the FDAC assessment report dated 30.10.2023 F was abstinent but had only just moved into new, safe accommodation. He had limited contact with the children. The analysis of the FDAC assessment concluded that it was not possible for A and B to return to F's care immediately but that further evidence and assessment was required before the case could be concluded.
18. Specifically, the FDAC Trial for Change assessment says:

“F has met all of the expectations of him during the Trial for Change as agreed in the Intervention Plan. Due to complications outside of F's control, his housing situation was not able to be resolved until very recently. Due to the reported domestic abuse in the home ..., it would not have been possible to assess F's capacity to care for the children whilst living there. However, he has recently obtained a new property, and continues to evidence his abstinence from substances and alcohol.”

19. The recommendation is that an extension of the proceedings with a further assessment by the FDAC team would be in the best interests of the children BUT as they eloquently opine:

“The FDAC Team are unable to propose that the Trial for Change is extended for a further 8 weeks. This is due to the Family Drug and Alcohol Court Pilot Project concluding on the 30.11.2023. Subsequently, responsibility for completing the Addendum Parenting Assessment will need to be agreed between F, Children’s Services, and the Guardian.”

20. Perhaps surprisingly, the LA’s care plan at IRH was for final Care Orders to be made with the children placed in long-term foster care but with the proposal that there should be a transition plan with the possibility of the children returning, perhaps, to live with F after 6 months.

21. As the children’s Guardian said in her report dated 24th November 2023:

“I do not support the local authority’s plan as it is. I feel that it is ill thought out and the transition plan has not been constructed with F or taking the children’s wishes and feelings and need for stability into consideration.

I am of the opinion that F and the children need to be given the best possible chance of the placement with F succeeding and not rushing into a plan that has the potential to fail and overload F. By addressing his own needs first and arming him with the tools to parent children who have additional needs and experienced adverse childhood experiences, any future placement is likely to be more successful and provide more stability for them.”

22. This confusion surrounding the care planning was due in no small part to the conclusion of the FDAC assessment coinciding with the FDAC pilot coming to an

end, so that the FDAC team were unable to continue supporting, assisting, and assessing F.

23. This demonstrates the many positive attributes of the FDAC assessments which are difficult if not impossible to be mirrored by LA's. It also demonstrates how the closure of FDAC courts can negatively impact on the families working within them.
24. All parties at the IRH were initially asking for the case to be concluded with Care Orders but with different views as to what the plan should be.
25. I refused to conclude matters and ordered an extension of proceedings, adjourning for the LA to put before me an assessment plan. I reiterated to them it should be a dynamic assessment looking at how F can be assisted to make further changes and cement the changes already made.

Proceedings Post FDAC

26. At the April 2024 hearing it came to light that F had struggled with the transition from working with FDAC. There was evidence that F had struggled with his abstinence and hadn't been able to work as openly as he had with the FDAC team. The Guardian thus identified further work "supporting F in the next steps of the family" and the position of all parties was that I was unable to conclude matters at that time. It was with some reluctance that I agreed.
27. The proceedings were next listed 17th June 2024, when final Care Orders were made in respect of B. The position having crystallised that F was unable to care for both children, and there being no welfare benefit to B to having his proceedings extended any further.
28. The transition plan for A therefore continued, with a further extension to proceedings. Continuing concerns remained, including F's support network and although he remained abstinent, he struggled with it. Balanced against this, were the noted

positives, including contact increasing to overnight with F being able to demonstrate an ability to manage A's needs and maintain his home environment.

Care Plan and Present Circumstances

29. As of the 28th August 2024 A has returned to F's care full time. This has necessitated her changing schools, navigating contact with B and M as well as experiencing a goodbye contact with her half-siblings. Her school have also made a neurodiversity referral to CAHMS.
30. A is described by her Guardian as "funny and sarcastic". She has settled well with F and is making progress in school and contact with B appears to have greatly improved.
31. Unfortunately, contact with M remains problematic. M has recently been arrested and has taken an overdose. She hasn't attended this hearing due to her difficult circumstances but consents to the orders and supports A's placement with F.
32. In respect of F the Guardian makes the following observation,

"F is to be commended for the progress he has made to date; he has completed what has been asked of him and more. He is highly motivated to achieve abstinence and care for his children."
33. The care plan before me agreed by all parties is for A to be cared for by F under a Supervision Order with a robust Care and Support Plan.
34. I have previously found that Threshold has been established. I concur with the parties that the LA does not require a Care Order, that the support that F now requires can be provided by way of a Supervision Order with a Care and Support Plan and such an order is in the best welfare interests of A.

Postscript

35. Following receipt of the FDAC assessment, an extension of proceedings was highly likely, as F had made significant steps but had not yet been able to evidence an ability to care.
36. If the FDAC pilot hadn't come to an end the FDAC team would have been tasked with completing an addendum Trial for Change parenting assessment.
37. However, following the loss of the FDAC the LA struggled to ensure that the appropriate support and ongoing assessment was available to this family. That is no criticism of any individual social worker or any of the professionals working with the family but is the reality faced by this family (and potentially others) when FDACs close often due to a lack of funding.
38. If the FDAC team had been able to conclude the 'Trial for Change' parenting assessment it would have been likely that the proceedings would have concluded much sooner and possibly during the spring of this year.
39. F has a significant history of substance misuse, poor mental health, and chaotic volatile living arrangements. FDAC was able to provide targeted, intensive treatment and support which led to him achieving abstinence, better mental health, and a stable home environment.
40. The loss of that support and targeted intervention due to the ending of the pilot made further assessments difficult, which has led to additional delay in this case.
41. I conclude by expressing my thanks to all the professionals who have worked so hard with this family, often in difficult and distressing circumstances. It was pleasing to see when everyone came into court today that the social worker instead of sitting behind his legal team came and sat next to F and the Guardian. This was a stark demonstration of the positive nature of the working relationship that has developed between the professionals and F.

42. I leave the final word to F when he says in his statement:

“I am extremely grateful to all the professionals that have been involved in my case. Not only have these proceedings changed my children’s lives to ensure they have the best future; they have also changed my life as I was a different person at the start of these proceedings and was very unwell. I will forever be grateful that I was accepted by FDAC, and I am so grateful that A and I have been re-united and have the opportunity for a happy future together. I will never do anything to jeopardise this.”