

Essex County Council – Children & Families

Family Justice

Wednesday 2nd November 2022 – NCASC

Dave Barron – Head of Service, Children's Improvement Partnerships

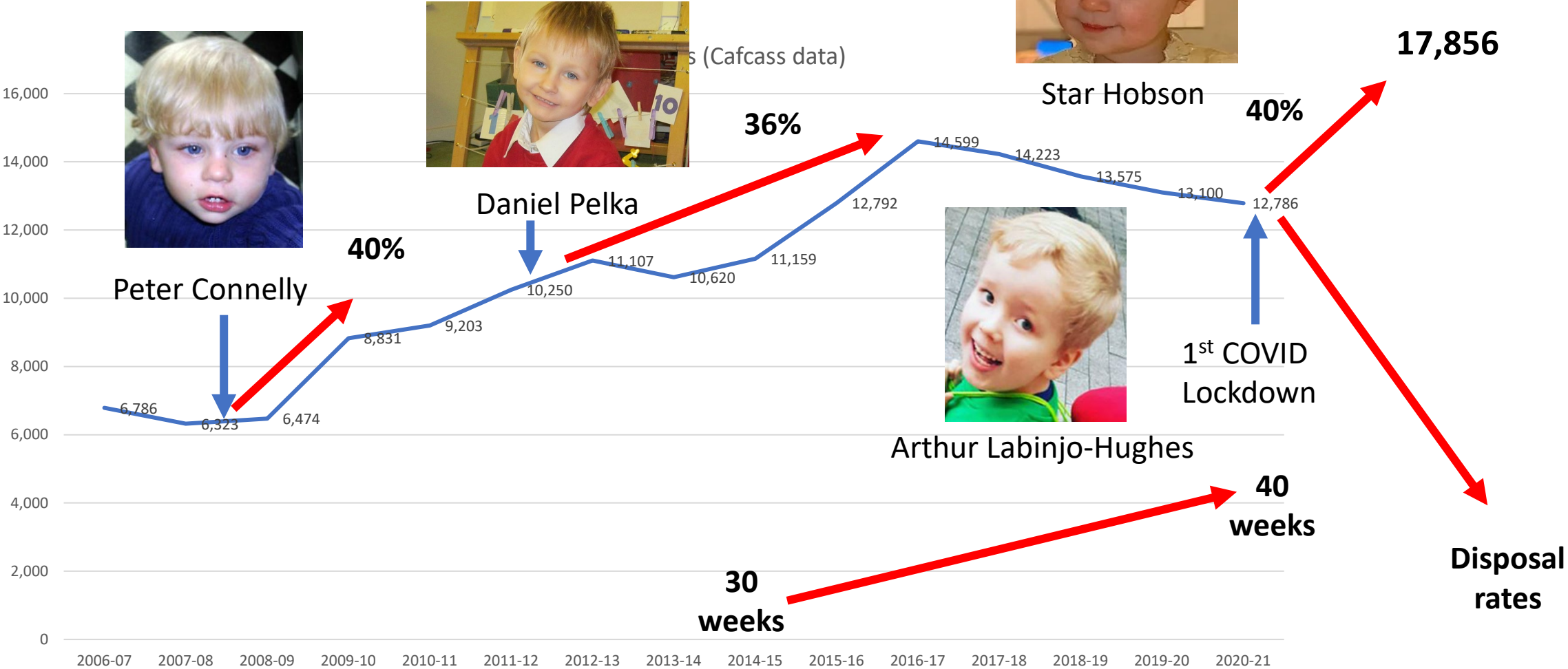
Padraig Cotter-Boston – Service Manager, Children in Care & Leaving Care



Workshop Agenda

- **Public Law Working Group** – key messages & President's comments
- **Care Orders at Home**
- **Confident & Together in Practice** - CRRABBB funded regional projects
 - Reducing Court Backlogs
 - PLO Regional Trainers
 - PLO Data
- **New S.7 guidance**

Introduction



Public Law Working Group (PLWG): Key Messages

The sustained increase in public law cases reaching the courts informed the aims and priorities of the review, namely:

- **To understand whether children and young people can be safely diverted from becoming the subject of public law proceedings**
- **And, that once they are subject to proceedings, decisions about their lives are made swiftly and fairly (26 weeks).**
- This exercise also sought to better understand the **variation in court activity within and between regions.**
- A series of tools and resources, such as best practice guidance, are included in an appendix to the final report in an attempt to address some of this variation,
- Notable variations include the rates of urgent applications to the courts, the practice of courts attaching a Supervision Order to a Special Guardianship Order (SGOs),
- A total of 47 core and 15 longer term recommendations are made in the report, these reflect the report's chapter headings



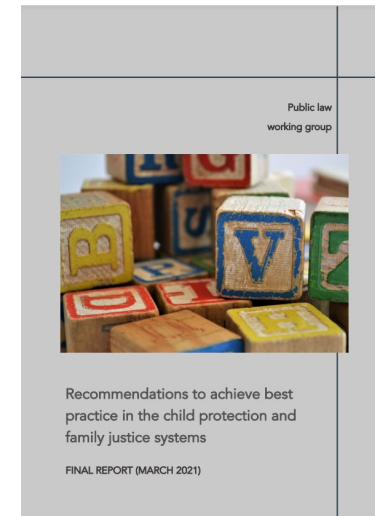
PLWG Report: President's comments

- *“...the rise in public law case numbers, and speaking now for myself, it seems to me obvious that if there has been a very significant and sudden rise in the number of cases coming to court, these “new” cases must, almost by definition, be drawn from the cohort of cases which, in earlier times, would simply have been held by the social services with the families being supported in the community without a court order.”*
- *“No one suggests that there has been a sudden rise of 25% in the number of children who are being abused in this most serious manner. Further round the spectrum of abuse lie those cases which, whilst nonetheless serious, do not necessarily justify protecting the child by his or her immediate removal from home.”*

Sir Andrew McFarlane

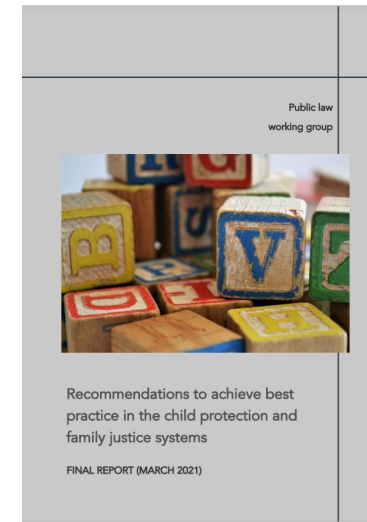
Public Law Working Group (PLWG): Key Messages

- LFJB to develop “Shared Respect Charter”.
- Voice of child at centre of collective thinking.
- Using Pre-proceedings early enough to effectively address harm.
- Legal department to track & review PLO.
- Ensure communication with parents is clear, avoiding jargon.
- Recording the assessments and support provided during PLO.
- Identifying, utilising and assessing family & friends.
- Planning for newborns and support for babies.
- Early notification of Cafcass.

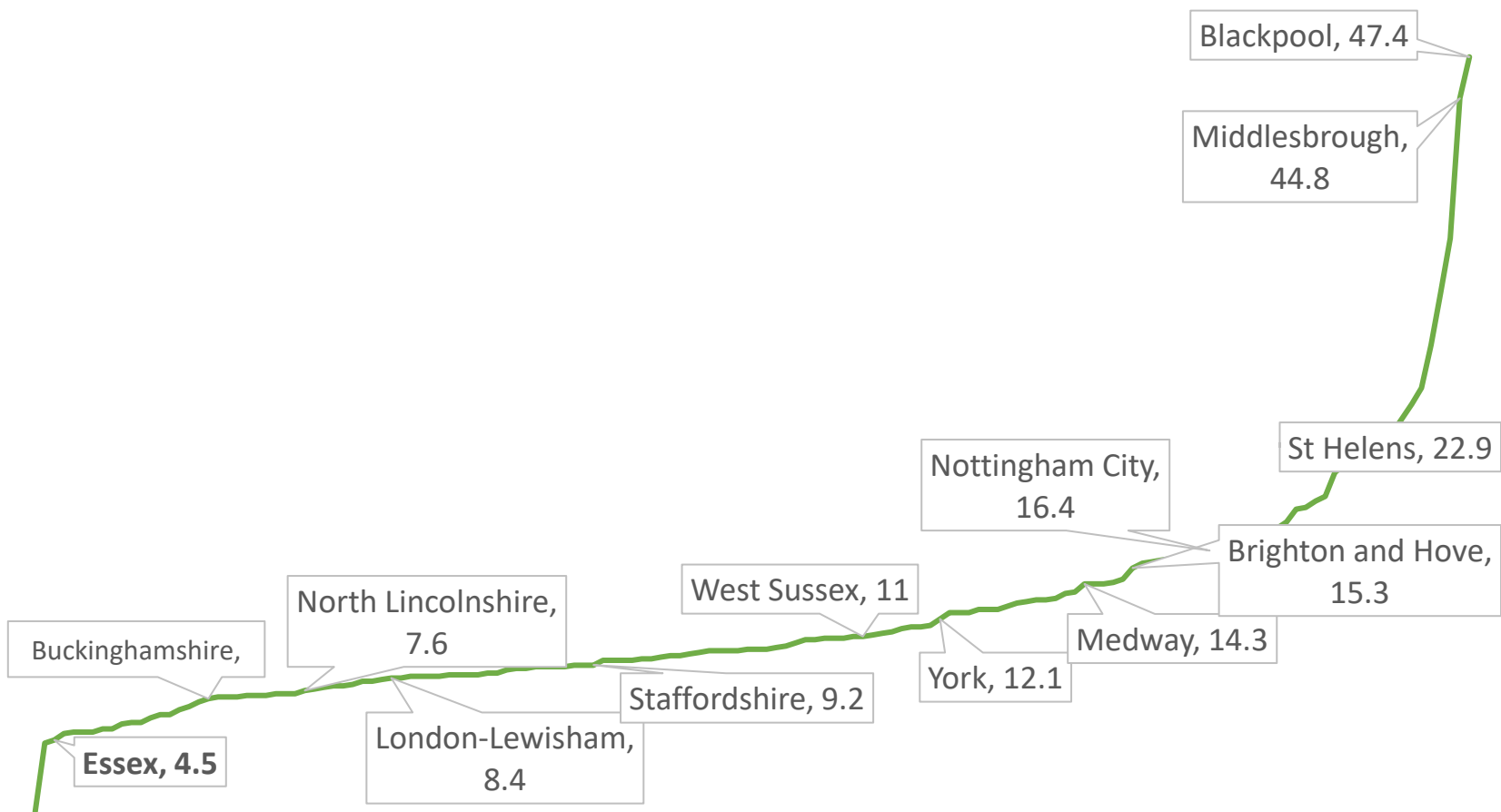


Public Law Working Group (PLWG): Key Messages

- Compilation of reliable data about urgent proceedings.
- Improvement in the range and quality of data collected by HMCTS/MoJ.
- Renewed emphasis on judicial continuity.
- The misuse of care orders (order to ensure services are provided).
- Experts: reduction in use and renewed emphasis on “**necessity**”.
- Experts: shift in culture and focus on social workers and guardians.
- Fact finding hearing only focus on what’s necessary to be determined.
- Additional hearing only when necessary.
- S.20/S.76 essential part of social workers toolkit.



Local Authority applications per 10,000 child population: 2019-20



Section 31 Applications duration (in weeks) - trend

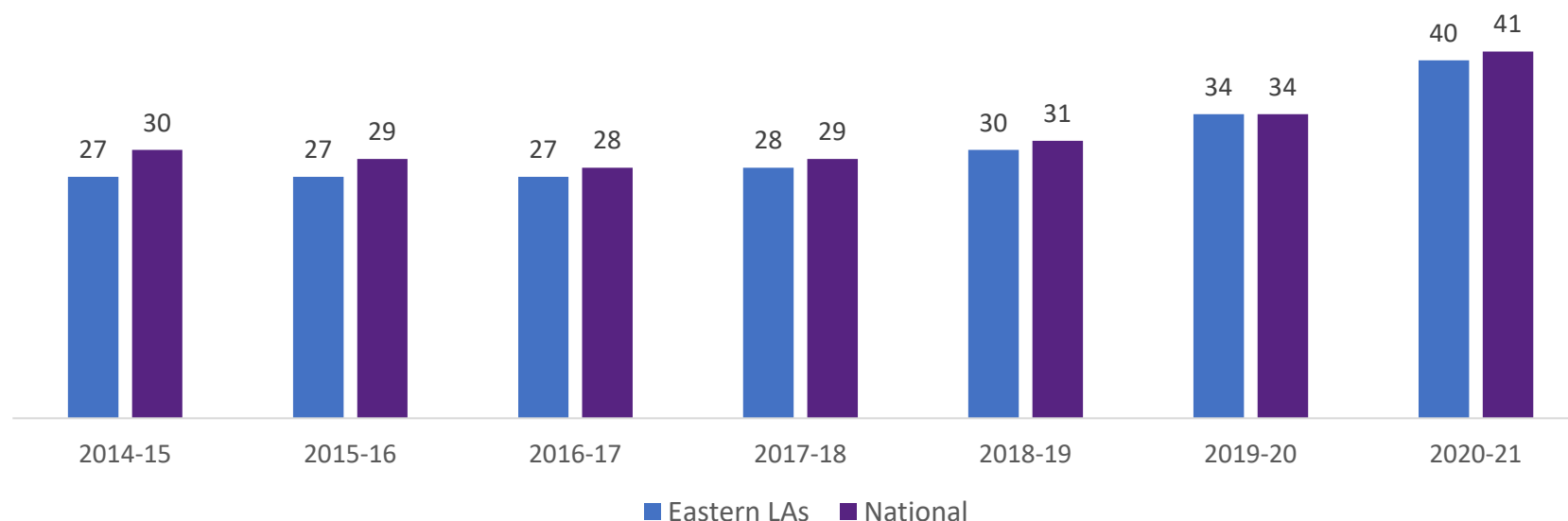
These averages do not tell the full story.

On 31.09.22 Essex had 127 open care cases which approx. 30% more court work than we would normally have.

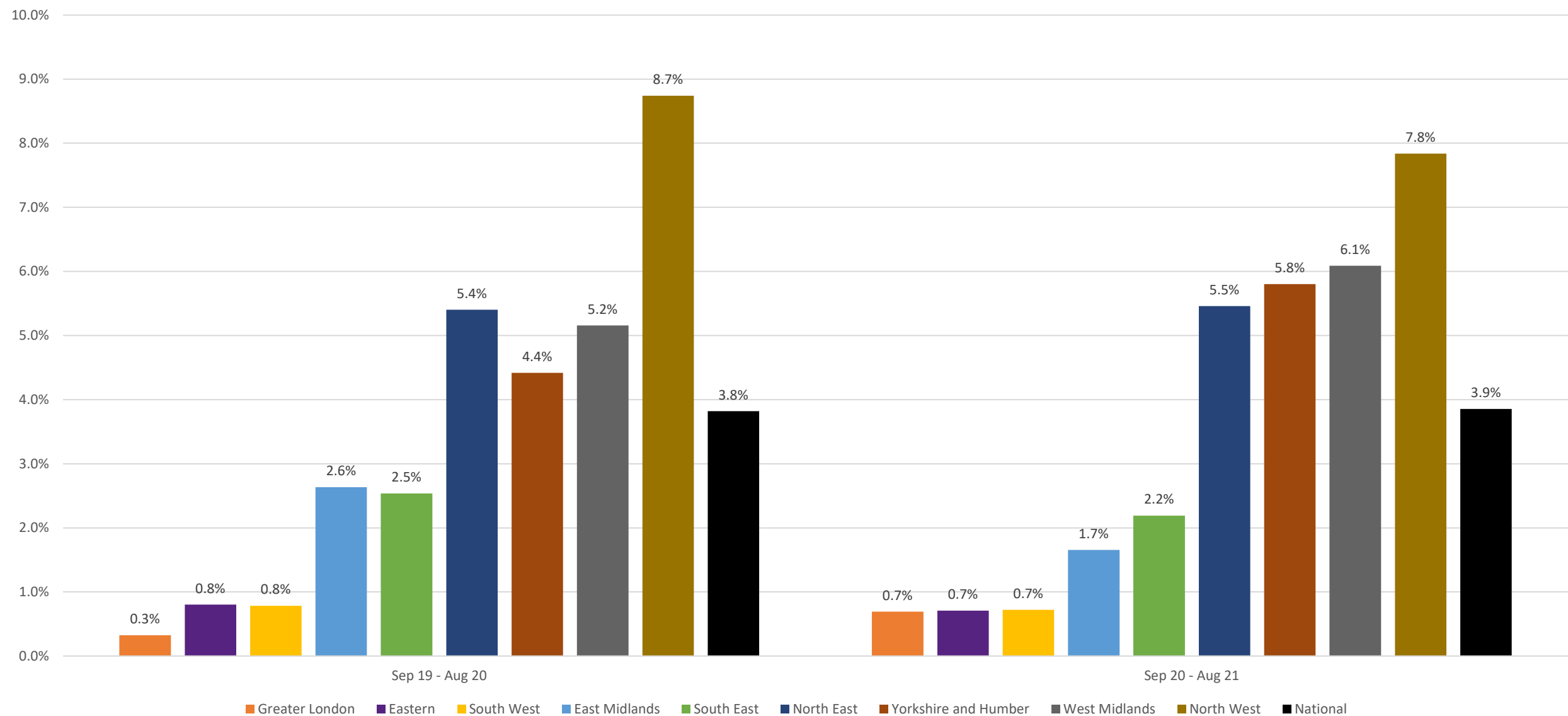
Of these we have

- 3 over 100 weeks*
- 26 between 52-100 weeks and*
- 53 between 26 and 52 weeks*

S31 Application Duration (weeks)



Children Living with Parents under a Care Order by ADCS Region



Discussion

- Why are there such variation on Care Orders at Home?
- Have we adapted our practice thinking to adjust for and tolerate Care Orders at Home?
- What can we do differently to reduce Care Orders at Home and who is leading in addressing this?

Reflections on ...

- Multi-agency working.
- Dealing with complexity and **uncertainty**.
- Working *with* children and families.
- Child focused decision making, showing our working out: BS analysis on why Care Orders at Home don't provide best outcomes.
- Building confidence in our workforce to be skilled and managing the court dynamics.

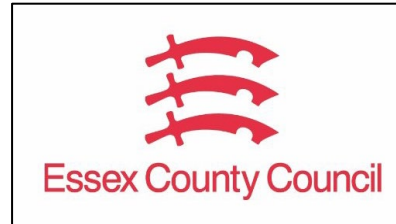
Hedley judgment (2007 Re L)

“Society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent. It follows too that children will inevitably have both very different experiences of parenting and very unequal consequences flowing from it. It means that some children will experience disadvantage and harm, while others flourish in atmospheres of loving security and emotional stability. These are the consequences of our fallible humanity and it is not the provenance of the state to spare children all the consequences of defective parenting. In any event, it simply could not be done.”

Partners in Practice:

Peer Review - PLO and Proceedings (2019-20)

Essex



Hampshire



South Tyneside



Stockport



North Tyneside



North Yorkshire



- Each LA **reflected** on three things they learnt about their own LA as a result of the peer review.
- We looked for **common themes** and **surprises**.
- We identified **shared good practices**.
- We shared some of the **challenges and barriers**.
- We considered **what we would like to do differently**.

We considered that an LA needed to:

- Hold Risk
- Work with families at the right time
- Intervene and support early
- Provide Edge of Care Services
- Keep children at home (without an order)
- Use PLO effectively
- Secure Children with Family outside of Proceedings
- **Use Secure Care Orders when it is the right thing to do**

Common Themes from the findings:

- Risk Sensible practice
- Well embedded model of Social Work
- Shared vision & values
- Strong Leadership
- Management Oversight
- Consistent Threshold
- Managing relationships with Partner Agencies
- Relationship with CAFCASS
- Edge of Care Services

Confident & Together in Practice

- Created under the COVID Regional Recovery and Building Back Better (**CRRABBB**) fund:
 - Reducing Court Backlogs
 - National Lead and Regional Trainers
 - PLO Data
- All regions created collaboration with CAFCASS and their local FJB.
- CAFCASS were involved in all regional workshops, which started dialogue between CAFCASS and Local Authorities on how best to embed the Public Law Working Group recommendations.
- Learning Events the regional trainer participated in had between 50 – 90 plus attendees.
- Research In Practice evaluation states that 75% of regions found the DfE Covid Regional Recovery and Building Back Better project enabled the activity to take place.
- 87.5% reported as a result of this project they have new learning programmes in place to improve PLO practice.
- 87.5% had LA legal teams involved in the learning programme.
- 87.5% has senior managers participating in the programme.
- 87.5% has Social Workers and or team managers involved in the learning programme

Research In Practice

research
in practice

Tools for frontline practitioners

- [Flow Chart for Public Law Outline](#)
- [Legal Planning Meeting Agenda](#)
- [Letter Before Proceedings](#)
- [S.38 Urgent Listings Checklist](#)
- [Mid Progress Evaluation](#)
- [Checklist for Issues Resolution Hearing \(IRH\)](#)
- [C110A Application Form | GOV.UK](#)
- [Social Work Evidence Template \(SWET\) | ADCS](#)
- [Using genograms in practice: Practice Tool \(2021\) | Research in Practice](#)
- [Completing social work chronologies: Practice Tool \(2022\) | Research in Practice](#)
- [PLWG Top 10 Tips | ADCS](#)

Tools to support peer review of pre-proceedings practice between local authorities

- [Partners in Practice Learning Review-A](#)
- [Partners in Practice Learning Review-B](#)

Sections

- 1 Introduction
- 2 Supporting additional needs for children and parents within proceedings
- 3 Working with intersecting identities and needs
- 4 Use of intermediaries and advocates
- 5 The use of interpreters and translators
- 6 Anti-racist practice in the Family Court
- 7 Diversity in the judiciary
- 8 The impact of lived experience of racism
- 9 Adulthood
- 10 Working with men and fathers
- 11 Specialist assessments
- 12 Additional preparation
- 13 Translated documents preparation
- 14 Ensuring equality in remote hearings
- 15 Working with harmful practices
- 16 Appendix 1: Quality circle family court anti-racist practice statement

Pre-proceedings and family justice hub: web-based learning platform outline contents:

An introduction to the Pre-proceedings and family justice resources

Messages from research and policy relevant for pre-proceedings work.

Holding place for care review summary/key findings.

PLO and pre-proceedings

Early intervention and support for families

Letter before proceedings

What to prepare in pre-proceedings

What does good pre-proceedings look like?

Use of s20

Using case law to inform and support practice

Transparency in the family court

Private law proceedings

The decision to go to court

The role of PLO and pre- proceedings

Going to court – the court process

Overview of the British Legal System and Context of Family Court Proceedings

Key legislation

The 26 week track, glossary of key dates/meetings and their function

When a supervision order is needed

Care orders at home

What to expect in Court

Cafcass role and relationship with the social worker and family

Skills in written evidence

Giving verbal evidence

The final hearing/ending proceedings

Guidance for attending remote and hybrid hearings

FDAC overview and transferable learning

Ensuring equality and diversity in the family court

Assessing Families in Proceedings

Formulating and planning assessments for Court (social worker as expert)

Pre-birth assessments and recurrent care

Completing a chronology

Working with and assessing parents within proceedings

Cultural competence in Court assessments

Genograms

Assessing and working children in proceedings

Assessing brothers and sisters

Assessing extended family and friends (kinship care)

Contact/family time

Role of Experts and How to Instruct

What is a cognitive assessment and how can it be helpful?

What is a psychological assessment and how can it be helpful?

What is a psychiatric assessment and how can it be helpful?



On the agenda or coming soon

- PLO/Court data
- S.7 Guidance

PLO/Court Data Collection

Bronze

Providing base level data on the following pre-proceedings activity (as established in agreement with Cafcass via the previous pilot project):

- Volume and rate of children in pre-proceedings including child demographics
- Length of time spent in pre-proceedings
- Total LA open case duration for children in pre-proceedings
- Proportion of pre-proceedings ending in issue

PLO/Court Data Collection

Silver

In addition to bronze, providing data on the following pre-proceedings activity:

- whether the child has been on a Child Protection Plan
- repeat periods of PLO
- number of review pre-proceeding meetings held with parents following initial meeting
- parental legal representation during pre-proceedings and/or point of issue
- number of PLOs that end in issue
- reason for 'short notice' applications
- number of hearings
- outcome of PLO ceasing e.g. was the LA plan approved / not approved
- changes to final care outcome compared to initial lead application

PLO/Court Data Collection

Gold

In addition to bronze and silver, providing data on the following pre-proceedings activity and proceedings activity:

- use of Family Group Conferencing
- changes of social worker
- involvement of experts during pre-proceedings – inc. number, type and whether the expert was externally commissioned, supported / opposed by LA and/or Cafcass
- number of externally commissioned and completed specialist assessments e.g. PAMS, cognitive/ psychological
- Identification of carers / assessment of family care options e.g viability/fostering assessments completed during pre-proceedings
- whether the child has seen the submitted evidence
- whether Cafcass has shared its recommendations with the child
- extent to which the child's wishes and feelings have been captured

S.7

Guidance on whether Cafcass or a local authority should prepare a section 7 report

1. The primary aim of this guidance is to promote continuity for children and families, preventing duplication and reducing the need for them to repeat their stories.
2. Under section 7 of the Children Act 1989, in private law proceedings courts can direct either Cafcass or a local authority to report on the welfare of a child. This is a decision of the court, and while representations can be made to the court about which agency is best placed to advise on the child's circumstances, views and wishes, the direction can only be amended by the court. Until the court has confirmed that an amendment has been made the original order stands.
3. The filing date for a report is set by the court, ideally following consultation with the relevant agency (either Cafcass or the local authority). It is important to provide the court with a realistic timetable of when a case can be allocated and a report can be filed, and then to ensure that the timescale is met.
4. The court should be advised to order the local authority to complete the section 7 report if:
 - a) a child is the subject of an open and active statutory social work case with a local authority or
 - b) in the last 12 weeks there has been a statutory social work assessment of a child's welfare in accordance with the Children Act 1989 (sections 17 or 47)
 - c) in the last 12 weeks the child has been the subject of a child in need or child protection plan.
5. If none of the above apply, then the court should be advised to order Cafcass to complete the section 7 report. It is important for the court to note that once the local authority completes and files the section 7 report and is awaiting a court date, it will not hold the case open and active.
6. Whether Cafcass or a local authority are directed to prepare the report, each agency is able, pursuant to Rule 12.75 of the Family Procedures Rules 2010, to provide the other agency with all the relevant information they hold to ensure the court has a complete picture.
7. Where Cafcass is recommending that a local authority prepares a section 7 report, Cafcass should first discuss this with the allocated local authority social worker and/or the first line manager.