

Making a target work: messages from a pilot of the six-month time limit on care proceedings in England

Abstract

Since 2014, it has been a legal requirement in England and Wales for child care proceedings to be concluded, apart from 'exceptional cases', within 26 weeks. When this was first proposed there were concerns that it might lead to poorer decision-making, or to delay being squeezed to either side of the court proceedings, before or afterwards. This paper reports on the messages from a pilot programme to hit the 26-week target that took place in London in 2012-13. The study compared the progress of the cases from the pilot year with those the year before, 180 cases in total, involving 256 children. The local authorities involved were able to achieve considerable improvements in timeliness, not just in the proceedings, but for the pre- and post-court processes too; and the quality and fairness of decisions did not seem to be impaired, in terms of the plans for the children and subsequent outcomes over a period of two years. 'Targets' do not generally find a warm welcome in the social work literature, but this paper shows that when collaboratively implemented, with a measure of flexibility and adequate resources, they can be an effective way of helping to achieve positive change.

Key words

Courts; Outcomes in Child Welfare Intervention; Policy/Management; Children in Care System; Child Care/Statutory Agencies Work

Introduction

This article considers the effect of a numerical performance target on social work and legal practice, the target in question being a 26-week limit in England and Wales to the length of care proceedings (legal proceedings which are issued when the relevant authorities believe that a child is at risk of

significant harm and alternative care arrangements need to be made). Within this jurisdiction, this is a legal requirement, under the Children and Families Act 2014, in other than ‘exceptional’ cases. It is not achieved in every case, but in April-June 2017 the average (mean) duration of proceedings for care and supervision orders in England was 28.3 weeks (MoJ, 2017), slightly up from the year before, but still a significant reduction from the average of 56 weeks in 2011 (Family Justice Review, 2011: 5, 103-4).

This article looks at a pilot programme to hit this target, carried out over the period April 2012-March 2013, in three London boroughs (Kensington and Chelsea, Westminster, and Hammersmith and Fulham, known collectively as the ‘Tri-boroughs’). It reports on the findings of an evaluation and a follow-up to that evaluation, both carried out by the present authors (AUTHORS, 2014, 2016).

Performance targets and the ‘target culture’ do not, generally speaking, find a warm welcome in the social work literature. As examples, Eileen Munro (2012: 3) speaks of ‘a defensive culture that focuses on compliance with targets and rules instead of whether services are providing effective help’, and Pamela Trevithick (2014: 305) warns that ‘prescribed tasks and targets take precedence over an emotionally meaningful encounter’. There is research evidence to support such misgivings. For example, Broadhurst et al. (2010) showed that seven-day completion targets for initial assessments of children and families had negative consequences for the quality and reliability of these assessments, and therefore also the safety of children, because meeting the target was achieved at the cost of quality and thoroughness. In order to meet the target, assessments were signed off with important information missing, or whole sections left blank, while, to manage their workload, social workers often fell back on ‘deflection strategies’ (Broadhurst et al., 2010: 360) to reduce the need for further enquiry.

In the present instance, however, a numerical target operated, at least in some respects, in a surprisingly different way to what might have been anticipated. The primary objective of the Tri-borough pilot was to reduce the length of care proceedings, which were averaging about 11 months in

the three boroughs, to 6 months. Based on the known unintended consequences of performance targets, the researchers thought it possible that the pilot would result in delay being pushed out to other stages, before or after court, or both, where there were no specific targets to meet. (One of the present authors had previously identified this as a danger, using the analogy of a squeezed toothpaste tube: AUTHOR, 2010). It also seemed quite possible that the emphasis on a time limit would result in poorer quality work: speed at the expense of thoroughness or fairness, as in the rushed initial assessments discussed by Broadhurst et al. (2010). The picture that emerged in fact, however, was more complex and, in many respects, more positive than this.

The issue of court delay

Lengthy court proceedings about children have, for many years, been a cause for concern in the UK and elsewhere (AUTHOR, 2014) because of the harm that may be caused to children by lengthy periods of uncertainty (see, for instance, Brown and Ward, 2012). Indeed, recognition of the harm caused by delay was embedded in law in England and Wales in the Children Act 1989, where section 1(2) requires the court to ‘have regard to the general principle that any delay in determining the question is likely to prejudice the welfare of the child’. Nevertheless care proceedings continued to get longer, despite a number of initiatives intended to address the problem (Family Justice Review, 2011). The difficulty is, of course, that there are perfectly good reasons why care proceedings take some time. The decisions they make may quite literally change the course of a child’s entire life, so thorough consideration of the evidence is essential. Proper assessment is time consuming, as is the examination of witnesses, and time is also needed to allow parents to demonstrate their ability to change.

On the other hand, absolute certainty can never be obtained in a ‘Solomonic judgement’ of this kind (Elster, 1989) and, as long as the adults involved continue to pursue certainty, the child necessarily remains in a state of uncertainty (AUTHORS, 2014). In a study of a group of exceptionally long proceedings (AUTHOR, 2003), assessments continued well beyond a point where

it seemed obvious to the researchers that further assessment was unlikely to add any substantive information to what was already known. Meanwhile children were waiting in temporary placements for the secure home that the entire process was seeking to achieve for them. Momentous decisions quite properly take time, but, as Isabel Menzies-Lyth (1960) observed in her famous study of nursing in hospitals, organizational structures function to contain anxiety about decisions where the outcomes are necessarily uncertain. They do so, among other ways, by ‘checking and rechecking decisions for validity and postponing action as long as possible’ (Menzies-Lyth, 1960: 104). This, as the authors have discussed elsewhere, can result in difficult decisions being deferred, even when delay may itself be harmful, and even when there is little reason to suppose that the decision will become easier in the future (AUTHORS, 2014). The challenge is to achieve a decision-making process which explores the issues with a thoroughness appropriate to the gravity of the decision, but also with a speed that acknowledges the need of children to have the matter resolved as quickly as possible.

The Tri-borough pilot and the evaluation

The Tri-borough pilot set out to meet this challenge, ahead of the proposed changes to the law which now apply. It involved the three local authorities working closely with the local courts and Cafcass (the independent social work service for the courts) (for details, see AUTHORS, 2014).

A key feature of the pilot was the appointment of a ‘case manager’, a social work manager whose role included: oversight of cases subject to, or being considered for, care proceedings; liaison with the courts; helping social workers write concise and rigorous analysis rather than long, descriptive accounts, and supporting them during proceedings; and ‘trouble shooting’ when momentum was lost. In addition, agreements were made with providers of independent assessments to introduce a more flexible and proportionate approach to their work, so assessments could be completed more quickly. The Tri-borough fostering and adoption service made a similar undertaking with respect to their assessments of ‘connected persons’ (family members or friends offering to

provide care). Further, a dedicated team of four children's guardians was set up by Cafcass to work on the Tri-borough cases, again with an undertaking to proportionate working. There was also a commitment from the courts to ensure judicial continuity for Tri-borough cases as far as possible, and to operate robust case management, avoiding unnecessary assessments and hearings. In addition, the pilot framework included quarterly 'post-case reviews', involving all the agencies, as well as private practice solicitors, in order to address problems as they arose and identify learning points.

As part of the pilot, external evaluation was commissioned (AUTHORS, 2014), and then a follow-up study (AUTHORS, 2016), to look at what happened to the children in the two years after the conclusion of proceedings. The aim of these two studies was not simply to determine how successful the Tri-boroughs had been at meeting the 26-week target – itself a fairly straightforward task – but to consider the impact of the pilot on practice and on outcomes for children, looking in particular for possible unintended consequences of the kinds discussed above. The present article is the first to bring together findings from both the pilot and the follow-up. Two previous articles (AUTHORS, 2014; AUTHORS, 2014) reflected on the findings of the initial evaluation, the first from a psychological perspective, the second from an international and socio-legal perspective.

National developments since the pilot

The 26-week limit became a legal requirement in April 2014, but the strategy for achieving it, the *Public Law Outline*, had been rolled out nationally since summer 2013. There have been a number of studies to evaluate its impact (e.g. Ipsos MORI, 2014; Bowyer et al., 2015a, 2015b, 2016; Masson et al., 2017).

Local authorities and the courts are working under considerable pressure, not only because of the timescale but also because the annual number of care applications has risen substantially, from 10,620 in 2013-14 to 14,596 in 2016-17 (Cafcass, 2017a). It is important to note that there is great variation between different local authorities in the rate of care applications. The national rate in 2016-17 was 12.5 per 10,000 children, but it was 4.9 in Wokingham, and 47.1 in Blackpool (Cafcass,

2017b). Wokingham is one of the least deprived authorities in the country, and Blackpool one of the most (see Bywaters et al., 2017, on the impact of deprivation and austerity policies on child welfare intervention rates). There is also considerable variation between courts in terms of case duration (MoJ, 2017); and there is some evidence of a slipping back since 2016. The mean figure of 28.3 weeks, cited earlier, is up from 26.7 weeks in the third quarter of 2016 (median up from 24.4 weeks to 25.4 weeks: MoJ, 2017).

Furthermore, new case law has created new pressures and demands, over and above those of the 26-week target. These include a series of critical judgements about the ‘misuse’ of voluntary accommodation under s. 20 of the Children Act 1989, and there has been a substantial increase since 2014 in the proportion of children looked after under care orders compared to s. 20 (DfE, 2017). There were also two notable judgments in summer 2013, *Re B (A Child)* [2013] UKSC 33 and *Re B-S (Children)* [2013] EWCA Civ 1146. These have been seen to have shifted local authority and court practice away from adoption in favour of more kinship placements (e.g Adoption Leadership Board, 2017; see also Bowyer et al, 2015b; DfE, 2015; Harwin and Alrouh, 2017). The 26-week limit was not promoted as a way of changing the pattern of court orders, but it is impossible to say what the effects of the time limit alone would have been, given the impact of the judgments.

Methodology

A full account of the methodology can be found in the reports of the original evaluation and the follow-up (AUTHORS, 2014, 2016). This section discusses the aspects relevant to the findings discussed in this article. Ethical approval for the study was given by the research ethics committee of the School of Social Work at the researchers’ university.

Quantitative elements

Both the evaluation and the follow-up included a quantitative element in which two cohorts of cases were compared. The two cohorts are referred to as the ‘pilot cohort’ and the ‘pre-pilot cohort’. The pilot cohort consisted of all the care proceedings cases initiated during the pilot year (1 April, 2012-31 March, 2013). There were 90 cases in all, involving 125 children. The pre-pilot cohort consisted of all the care proceedings initiated during the immediately preceding year (1 April 2011-31 March 2012), when there were also 90 cases, involving 131 children. In the original evaluation, analysis was carried out on data on the pilot and pre-pilot cohorts collected by the three boroughs, comparing characteristics of cases, outcomes of proceedings, length of proceedings, time between the Initial Child Protection Conference and beginning of proceedings (if applicable), and time between the Legal Planning Meeting and the beginning of proceedings. The last four of these measures provided numerical measures of the changes that had occurred between the two years.

In the follow-up study, the case data was used to provide further statistical measures with which to compare the two cohorts, by looking at the progress of the children after the proceedings. In order to compare like with like, a snapshot of each child at a point two years after the conclusion of proceedings was used. Various measures were used, including the plan at the end of the proceedings and the timing and frequency of subsequent planned, and unplanned, moves. The authors also compared the incidence of what they termed ‘serious problem indicators’ in the two samples: a range of events which could be unambiguously identified and which, if they occurred, would be fairly strong indicators that all was not well with the child in placement. They included placement breakdowns, new child protection concerns, episodes of absconding, youth offending, ‘edge of care’ panel meetings or further court proceedings. (For more details on the serious problems indicators, see AUTHORS, 2016).

Where differences were apparent between the two cohorts, appropriate tests of statistical significance were used, although the relatively small size of the samples means that caution is needed in drawing general conclusions from them. It is also important to note that there were some missing data, notably if the children were no longer open cases to the authorities in question.

Qualitative elements

The findings to be discussed here also include material gathered from a range of interviews and focus groups with professionals who were involved in the process and able to compare their experiences of working under the pilot with their previous experiences of working under the old system. In the original evaluation, 24 professionals were consulted, including social workers and their managers, the Tri-borough case manager, local authority and private practice solicitors, children's guardians (i.e. court-appointed social workers), judges and court legal advisers. In the follow-up study, eight social workers were interviewed from across the three boroughs, with the case manager as a ninth interviewee. These interviews were undertaken in summer 2016. Here, the nine workers were not just comparing their experience of the pilot with their experience of the previous way of working, but were also considering also their experience of working *since* the pilot.

Transcripts of these interviews were used for thematic analysis. In both phases the number of professionals interviewed was fairly small and the sample was not completely randomly chosen, so findings cannot be taken as a representative account of the views of all staff involved. Nevertheless, whilst there were differences of opinion in some respects, general themes emerged over which there was a wide degree of consensus.

Findings

Court proceedings

The median duration of care proceedings for the pilot cohort was 27 weeks, as against 49 weeks in the pre-pilot cohort. This is a substantial reduction (45%), although the fact that it is a median figure means that just over half of cases still took longer than the 26 week target. There were more cases involving new-born children in the pilot cohort than in the pre-pilot (27 as compared to 13). The

longest cases were those involving siblings where there were different plans for different children (AUTHORS, 2014).

Children experienced fewer moves during proceedings in the pilot cohort. Almost three-quarters, 71%, remained in the same place throughout the proceedings, whether at home, with a relative or in foster-care, as against 42% in the pre-pilot cohort (AUTHORS, 2014).

Plans at the end of proceedings

There was data on the final care plans for all of the children in both cohorts, shown in Table 1 (AUTHORS, 2016). We focus on plans rather than orders, because of our interest in how plans work out, and because the same plan could be approved under a number of different orders – e.g. placements with parents could be under no order, a supervision order, a child arrangements order, or exceptionally, a care order.

The pattern in the two years is similar, except that there were higher proportions of children in the pilot year whose plan was to live with a parent or ‘connected person’ (usually a relative or a family friend). Placements with parents might mean staying with the parent(s) who have always had care of the child, even during the proceedings; returning to the parents after a period in substitute care; or going to the ‘other’ parent who did not have care of the child previously. Placements with connected persons are most likely to be under a special guardianship order, which may be accompanied by a supervision order (Harwin and Alrouh, 2017); they could be under a care order, as discussed further below. The data also showed a lower proportion in the pilot cohort where the plan was live in long-term foster care with a non-related carer, typically under a care order. It is important to note that none of the differences between the two cohorts are statistically significant, meaning that we cannot say that the reduction in duration by itself leads to different court outcomes. (It is worth recalling that the pilot had concluded before the publication of the judgments in *Re B* and *Re B-S*.)

Table 1. Plans at the end of proceedings – a comparison of the pre-pilot and pilot cohorts

| Plan made | Pre-pilot cohort (131 children) | Pilot cohort (125 children) |
|-------------------------------|------------------------------------|--------------------------------|
| Long-term non-kin foster care | 26 (20%) | 15 (12%) |
| Adoption non-kin | 18 (14%) | 15 (12%) |
| Live with one or both parents | 56 (43%) | 60 (48%) |
| Live with connected person | 27 (21%) | 33 (26%) |
| Residential provision | 4 (3%) | 2 (2%) |
| Total | 131 (100%) | 125 (100%) |

Pre-court timescales

The decision-making period prior to the initiation of proceedings was measured in two different ways.

- 1) The length of time between Initial Child Protection Conference (ICPC) and initial hearing;
- 2) The length of time between Legal Planning Meeting (LPM) and initial hearing. (The LPM is when social workers consult with the agency's lawyers about starting care proceedings.)

In both cases, there had been a substantial fall. The median wait from ICPC to initial hearing fell from 17 weeks in the pre-pilot cohort to 9 in the pilot: a 47% reduction, similar to the reduction in the length of court proceedings. The median wait from LPM to initial hearing fell from 8 to 5 weeks (a 37% reduction). However, the duration between both of these meetings and the start of proceedings has *increased* in cases involving new-born babies, where proceedings were started within a week of the child's birth. This suggests earlier planning was taking place for children, before they were born (AUTHORS, 2014).

Post-court timescales

There are three key findings about post-court timescales.

First, reducing the duration of care proceedings did not mean that more children were left waiting for a permanent placement at the end of the proceedings. On the contrary, a slightly higher proportion of children in the pilot year were already in their planned permanent placement at the end of the proceedings: 65% compared to 60% the year before.

Second, for those who did need to move to a permanent placement afterwards, the focus on shorter care proceedings had not led to extra delay at this stage. There were 52 children in the pre-pilot cohort who needed to move after the proceedings, and 44 in the pilot cohort. In both groups, about three-quarters of these children subsequently moved to a planned permanent placement. There were others whose temporary placement was subsequently approved as permanent. In the pre-pilot cohort, 10 children did not achieve a permanent placement by the two-year follow-up date (19% of these needing to move), whilst for the pilot cohort this was four (9%).

For those who needed to move after the proceedings, the average (mean) wait fell from 30 weeks to 14, a reduction of over 50%, but it is informative to break this down according to the different plans for the children.

Live with parent(s) – This was the most frequent plan for children, in both years. All for whom it was the plan were placed with the parent(s), and over 90% were already living there at the time of the full hearing, so no move was necessary after the proceedings. When it was, it took on average one week for the pilot cohort, compared to three weeks pre-pilot.

Live with connected person – This was the second most frequent plan in both years. All were placed with the proposed carer, and over 60% were already living there at the full hearing. For children who needed to move to the proposed carers after the proceedings, this took on average three weeks in the pilot, compared to 13 weeks in the pre-pilot.

Adoption – The time to a move to a planned adoptive placement reduced to an average of 22 weeks for the pilot children, compared to 34 weeks pre-pilot.

Long-term foster care (LTFC) – This is a more complex picture. LTFC was the plan for 15 children in the pilot year. A quarter of them (four) were already in that placement, four did not move because their temporary foster placement was subsequently approved as permanent, and four never achieved permanency as envisaged. The median for the minority who did move to a LTFC placement (three) was 37 weeks compared to 34 weeks for the pre-pilot cohort (eight children). There was one very long case in the pilot year because of the child’s serious illness.

For children not already in final placements at the end of proceedings, the combined reductions in time pre-court, in-court and post-court, mean that the overall length of time between concerns being discussed at a legal planning meeting and permanent placement had been reduced from 96 to 52 weeks.

Placements at two years

The follow-up study used ‘serious problem indicators’ (see Methodology section above) as a measure of problems that had occurred in the two years after the conclusion of proceedings. Table 2 below shows the incidence of these indicators in the two cohorts in that period. The reader should note that there are missing data.

The proportion experiencing one or more serious problems was slightly lower in the pilot cohort (16% compared to 22%), but the difference is not statistically significant. Nevertheless, the fact that it is not higher in the pilot year suggests that quicker decision-making processes do not necessarily lead to less satisfactory placements for children.

To expand on one aspect of the measure, there were 15 placement breakdowns in the pre-pilot cohort: eight from foster care, and seven from placement with parent(s). This compares to six breakdowns in pilot cohort: three from foster care, two from parents, and one from a connected persons placement.

Table 2. Presence of ‘serious problem indicators’ apparent within 2 years of final hearing

| Number of children with: | Pre-pilot cohort (n= 105) | Pilot cohort (n=112) |
|---|---|--|
| One or more ‘serious problem indicators’ present within 24 months | 23 (22%) <i>11 of these living with parent(s), 10 in long-term foster care, 1 with connected person, 1 in residential care</i> <i>Mean age = 11.5 years</i> | 18 (16%) <i>12 of these living with parent(s), 4 in long-term foster care, 2 with connected persons</i> <i>Mean age = 10 years</i> |
| No ‘serious problem indicator’ present within 24 months | 82 (78%) <i>Mean age = 6 years</i> | 94 (84%) <i>Mean age = 5 years</i> |
| Total | 105 (Missing data: 26) | 112 (Missing data: 13) |

Practitioner views: focus

We move now to qualitative data from the interviews and focus groups with professionals, who were invited to compare the new way of working with the old. One word that came up frequently in the initial evaluation was the word ‘focus’, for example:

Yes, the focus is there [in the new way of working]. I keep coming back to that word really....

(Local authority solicitor)

[In] proceedings that have dragged on for a year, a year and a half ... you lose the parents half way through the process often, so with this being as short as it has been, it has allowed everybody to remain focused. (Social worker)

Similar accounts of the way of working instituted by the pilot were given by the social workers interviewed for the follow-up:

The new system has kind of pressured you into being ready and being clear about what you want. (Social worker)

Practitioner views: workload

Views differed on the impact of the new regime on workload. In the original evaluation, some participants argued that the new regime had increased their workload, while others felt that their workload had been reduced. It is suggested that the discrepancy reflects the fact that when people speak of themselves as being busy or under pressure, typically they are not just referring to the number of hours they have to work, but to their subjective sense of the effort and concentration involved. Because the new way of working involves more 'focus', it might feel like harder work, even if it takes no longer in terms of hours. One children's guardian observed:

I have to be on the ball straight away... I have to be all guns blazing, all kind of focused...because you have got to engage your brain very, very quickly... (Children's guardian)

In the follow-up study, similar views were expressed. 'The pace is quite relentless,' one social worker said, while another pointed out that the tight timeframe made it very difficult to respond flexibly to unexpected demands. The case manager noted that social workers, not uncommonly, had very little time after receiving the final assessment to complete their final report and she had worries about whether this was enough time to analyse the evidence. On the other hand, she noted, fast turnover could also have a positive impact on workload. Several social workers in the follow-up commented appreciated the better templates and greater clarity under the new way of working, and the fact that less time was wasted in unproductive court hearings. The case manager suggested the new way of working was particularly challenging for newly qualified workers, due to the very fast pace (she was also concerned about pressure on the Tri-borough legal team) but more experienced social workers could see the benefit of reduced timescales, and being more analytical.

Practitioner views: costs and benefits

In the initial evaluation, there was wide support from the various professionals for the new way of working. In the follow-up, all of the social workers interviewed were asked if they would prefer to go back to the old way of working, and all said that they would not, even though most had some reservations about the system now operating. Work pressure was a concern and one social worker went so far as to suggest that this was a threat to the sustainability of the model, because it led to stress and tensions between participants. A practice manager thought that the new approach was secure in the Tri-borough area, but might not be in less well-resourced authorities.

Another reservation was that the timeframes were now too rigid. All but one of the participants in the follow-up suggested that in at least some respects the pressure to adhere to timeframes could have unintended consequences that might be harmful to children. One social worker spoke of the intense focus on deadlines leading to 'heightened tension... everyone anxious to meet deadlines whether the deadlines are beneficial or not'. Most participants were concerned in particular about overly-rushed 'connected persons' assessments, which will be discussed separately below.

Practitioner views: hitting the target but going back to court later

One social worker described a case where (in her view) a care order had been made to 'tick the box' of the 26-week limit, even though in fact a final decision had not been made as to the suitability of the current placement. This meant that if all went well, the case would have to be brought back to court to discharge the care order. The case manager also referred to such cases: for example, when the local authority had recommended a special guardianship order in favour of a relative, but the court decided instead that the child should remain with the relative under a care order. The concern here was that, although the 26-week limit was technically met, the need to return to court meant that, in effect, the final decision was deferred to a time well outside the 26-week timescale.

Practitioner views: connected persons

In the follow-up study, a particular concern expressed by most of the social workers interviewed was that connected persons (family members and friends) were sometimes being approved as carers for children too quickly. A social worker in the specialist 'Connected Persons Team' said that when family members came forward late in proceedings, sometimes because they had only just found out about them, courts were reluctant to delay the final hearing, and pressed for a swift assessment. (If the conclusion of the assessment was that the child should be placed with the relative, but with some doubt about its suitability, the court could make a care order, as described above, or a special guardianship order and a supervision order.) The worker's concern was not just about the short time allowed for the assessment, but about inadequate time for family members to come to terms with the enormous decision they were being asked to make. This might not be an issue in cases where relatives had cared for the child for some time, but others were expected to make a decision about becoming a child's long-term carer a matter of weeks after learning for the first time that the child was not receiving adequate care at home, and might not even know the child very well.

In the view of several participants, there had been considerable pressure recently to use connected persons, as against foster- or adoptive carers, even if their connection to the child was tenuous. A social worker in the Post-Order Team, which supports adopters and special guardians, suggested overly rigid adherence to the 26-week limit meant that some potential carers did not have enough time even to be able to process what it was they were committing themselves to. She also made the point that the preparation for special guardians was far shorter and less thorough than it was for adopters, even though (she argued) special guardianship placements were likely to be more fragile than adoptive ones: unlike adopters these kinship carers did not come forward because they wanted to add a child to their families, but were responding out of familial duty; they were not as exhaustively assessed as adopters are; and they were, typically, from poorer backgrounds.

Despite these concerns, the workers in the Connected Persons Team and the Post-Order Team, in common with all of the social workers interviewed in the follow-up, saw the new way of

working as a step forward and did not advocate reversing the changes. The Post-Order Team social worker commented:

No, I certainly wouldn't reverse the pilot. I think actually there are a huge amount of positives ... [and] it has actually worked very well for the sake of children... but there are occasions where you do just feel we need a bit more time here, or the family needs a bit more time here.

Discussion

Although only about half of pilot cases concluded within the 26-week target, the pilot succeeded in dramatically reducing the length of care proceedings, as compared to the previous year. The time limit also did *not* have the unintended consequence of pushing delay, in toothpaste tube fashion, into the periods before or after care proceedings. In fact, not only did this not happen, but there was a change in the opposite direction. Thus, for the children in the pilot cohort, not only were care proceedings much shorter, but waits before and after court were considerably shorter as well. This is striking because it goes against widespread assumptions about how performance targets operate: there were no targets set for the pre-court or post-court period, but nevertheless, instead of the 26-week target narrowing attention on to court work at the expense of work in these periods, it has apparently had the opposite effect, and the new ethos seems to have spilled over into areas not specifically addressed by the target.

Thoroughness and fairness

The possibility remained that the target may have had negative unintended consequences of another kind. Perhaps the emphasis on speed would have had negative consequences on the fairness of care proceedings, with parents not getting a fair hearing. Or, perhaps, the professional system might be

jumping to conclusions without sufficient consideration of the evidence, like the social workers in the Broadhurst et al. (2010) study who met assessment timescales at the cost of thoroughness.

In respect of fairness, the percentage of children in the pilot cohort who stayed with, or were returned to, their parents was slightly higher than for pre-pilot children, meaning that there is no evidence that courts were looking less favourably on parents. Family solicitors interviewed in the initial evaluation (who might be expected to be sensitive to any encroachment on family rights) were positive about the new way of working, and several participants (one is quoted above) suggested that shorter proceedings were helpful to parents as well as children.

In respect of thoroughness, the interview and focus group material from the initial evaluation did not suggest that the decision-making process had become less thorough than before. The new way of working had resulted in a more intensive, focused way of working, rather than a more rushed or slapdash one. The interviews with social workers carried out in the follow-up did reveal some concerns about the 26-week target becoming overly rigid, but it is important to balance this by noting that none of the nine social workers interviewed considered the previous way of working to be preferable to the new one, and none advocated going back to it. It is worth noting too that data collected by the Tri-boroughs since this study shows that there continues to be a fair amount of flexibility in practice, even now that the 26-week limit has become a legal requirement, since half of all cases still exceed it (TCPP, 2016).

The ‘serious problem indicators’ used by the researchers admittedly had their limitations. There is missing data, there will certainly be serious problems which have not yet manifested themselves in these particular ways, and two years after proceedings is still relatively early days. Nevertheless, if the much quicker process of the pilot had resulted in poorer decision-making, then one would anticipate more events such as repeat proceedings and placement breakdowns by the two-year point. This had not in fact occurred.

One further point: it was suggested in the introduction (following Menzies-Lyth, 1960) that drawn-out decision-making may be, at least in part, be an organisational defence against anxiety. If

this were indeed the case, then one would predict that professionals would feel anxious about the process being cut short, even if in fact the decisions being made were no less robust than previously. This is not to say that the anxieties of the professionals are not well founded, but it does mean that one should be careful of assuming, on the basis of these anxieties alone, that the target is not working effectively.

Connected persons

The concerns raised in the follow-up interviews about over-hasty assessments of connected persons are not unique to the Tri-boroughs (see DfE, 2015; Bowyer et al., 2015b, 2016). This was one area in which, in the view of the researchers, the 26-week target may have had perverse consequences of a kind familiar to critics of the target culture. In general, the regime established by the pilot seems to take account of human psychology in an intelligent way, in that it tries to address the psychological harm caused to children by long delays, and to offset the tendency to defer difficult decisions. In relation to connected persons assessments, however, it does seem as if meeting the target may have sometimes taken precedence over the need for the potential carers to fully consider and come to terms with the situation before making a decision. Agreeing to provide a long-term home for a child is surely too big a step to expect people to make in a few weeks.

Possible 'loopholes'

As noted, two participants in the follow-up spoke of cases where the target had been met, but in circumstances where assessments would need to continue beyond the 26-week limit, and a return to court would be required in the future. Such arrangements have the potential to become 'loopholes' whereby the 26-week limit could be met 'on paper', but a final decision on a child's future deferred for a much longer period. Other research has suggested that the use of care orders for children placed at home or with extended family may be on the increase nationally (Bowyer et al., 2016: 70-72), and,

while such arrangements may of course sometimes be entirely in the interests of children, they do need to be monitored to ensure that they do not become a means of undermining the 26-week limit.

Why was this target different?

Despite the problems and reservations discussed it is still possible to say that, across the Tri-boroughs, the 26-week limit was introduced in a way that goes against widespread expectations about the effect of performance targets. John Kotter, one of the leading researchers and writers on change management, suggests that most change initiatives fail as a result of, among other things, ‘not creating a powerful enough guiding coalition’, ‘lacking a vision... which goes beyond the numbers’, ‘not removing obstacles to the new vision’ and ‘declaring victory too soon’ (Kotter, 1995: 62, 63, 64, 66). In this case, a strong guiding coalition was built across several different agencies and professions. The ‘vision’ of a shorter, more focused process was communicated effectively to practitioners, a process that was no doubt assisted by the fact that many would have had their own concerns about the effects on children of very long proceedings. Powerful arrangements were set in place by these relatively well-resourced boroughs to remove obstacles to the new vision, including the creation of the new post of case manager, and regular meetings at a senior level, across agencies and boroughs, to review progress and solve problems. That this framework remained in place two years on suggests that the Tri-borough had also avoided the temptation to ‘declare victory too soon.’

Conclusion

The experience of the Tri-borough pilot gives important messages about the ways that targets can be made to work. The 26-week limit was a component in a cultural change which continues to secure the support of practitioners and which has resulted in positive change, including in areas which the target itself does not directly address. The system is not without flaws – overly rushed connected persons assessments are one – and it could fail in the future, in a number of ways. National commitment from

policy makers and professional groups is essential, but local factors and everyday practice are crucial to its operation (in the Tri-boroughs, one challenge may be that the three-borough arrangement itself is to break up: RBKC, 2017). It may be that the 26-week target is not working in the same way in other parts of the country, for the Tri-boroughs are relatively wealthy authorities, and the pilot benefited from the fact that this was a ground-breaking experiment, with a strong sense of ownership on the part of managers and staff. Things may be very different in other authorities with higher levels of need, fewer resources, less focus across all agencies and practitioners, and now that the newness is wearing off.

Nevertheless, what the findings of these studies do suggest is that, when collaboratively implemented as part of a wider cultural change, with an appropriate degree of sensitivity and flexibility, and adequately resourced, a numerical target may be part of a useful strategy to achieve positive change.

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