

Neutral Citation Number: [2024] EWFC 46 (B)

IN THE FAMILY COURT

SITTING AT THE CENTRAL FAMILY COURT

Date 21 February 2024

Before:

District Judge Hughan

Between

London Borough "A"

-and-

A

-and-

B

-and-

C & D (Children)

1. I am giving judgement at the end of public law proceedings relating to 2 brothers, Child C and Child D. C is eight years old and D is five years old.
2. The application was made at the beginning of March 2023 but early in the proceedings it was recognised that this would be a case suitable to be conducted within the Family Drug and Alcohol Court (FDAC). It was allocated to me and I have had judicial conduct of the case throughout.
3. An unusual feature of this case being allocated to FDAC is that it had almost no issues in relation to substance misuse. The primary issues related to domestic abuse and neglect. It perhaps needs to be more widely recognised that the FDAC model can very successfully be used in cases where the main presenting difficulty is domestic abuse. This is one such case.

Background

4. Children's services have had long-standing involvement with the family primarily due to reports of domestic abuse between the parents and neglect of the boys' care. The elder of the two boys was the subject of a child protection plan as long ago as July 2016 under the category of neglect due to cross allegations of violence between the parents. Children's services involvement continued on and off, as a result of similar concerns, with the family being offered Early Help in 2020 and the children being put on Child in Need plans in 2022.
5. Both parents accept there was domestic violence between them on various occasions from 2016 onwards. These have involved physical altercations in public and in private, witnessed by the children, repeated police involvement over a period of years, criminal damage and breaches of bail conditions. The children were exposed to this. C told a police officer immediately prior to these proceedings starting that his parents are at war with each other.

6. Linked to this toxic and volatile situation, the children were exposed to neglect, and plainly they were at risk of significant emotional and physical harm. That harm can involve being physically caught up in their parents' conflict, but it exposed the children to corrosive and emotionally harmful consequences which cannot be underestimated.
7. As a direct result of the conflict between the parents, who were separated by the time these proceedings commenced, the children were taken into police protection on 24 February 2023, in circumstances where the children's home had suffered serious damage following parental conflict and in circumstances where the parents gave highly conflicting accounts of what had taken place.
8. The police deemed the children's situation to be unsafe and the children were placed by the local authority in foster care. Following the grant of an emergency protection order on 28 February 2023, the local authority made an application within care proceedings on 7 March 2023, at which point I made both children the subject of interim care orders, and I approved separation of the boys from parental care.

FDAC

9. To the credit of the applicant London Borough A, they are signed up to FDAC. To their further credit, by the time of the first hearing, the local authority had already identified this case as suitable for FDAC and had liaised with the clinical lead at FDAC who confirmed they were able to accommodate this case.
10. That is a relatively formulaic process. However, as I have mentioned above, this case had almost no issues in relation to substance misuse. The primary issues in the case related to domestic abuse and neglect.
11. It is plain that the FDAC model has demonstrated significant success in working with and assessing families where substance misuse is the primary concern. However, it is also plain that the FDAC method of working is equally suitable to cases which involve domestic abuse and indeed mental health.
12. I credit the local authority for seeking for this case to be dealt with in FDAC despite the absence of significant substance misuse issues. It is clear, as we complete this case, that they were right. That has been demonstrated in the outcome to these proceedings, with both boys being restored to parental care with their mother.

The proceedings

13. Following each of the parents being told about how FDAC works, they each signed up. Parenting assessments of the mother and separately the father were directed and undertaken by the respective FDAC keyworkers. Those were to be available by 14 September 2023.
14. There was psychological assessment of the children undertaken by CAMHS, as the children were identified as having significant emotional and behavioural needs, quite likely arising out of adverse childhood experiences. In fact, the boys' individual needs were identified as so significant, that there was a recommendation at an interim stage, that they should not be placed together due to their high level of individual need. They spent the majority of their time in foster care in separate placements within these proceedings.
15. While the parents were undertaking their assessments, the FDAC process involved them meeting with me as the allocated judge on a fortnightly basis in non-lawyer reviews. This affords the FDAC judge a significant opportunity to offer support and encouragement, or alternatively, reminders as to the importance of working openly and honestly alongside all

the professionals involved. Those meetings also provided me an opportunity to review progress.

16. In considering how each of the parents were doing, by the time of a court hearing in October 2023, the FDAC team had completed their assessment of the father and did not support the children being placed in his care. However, in relation to the mother, FDAC were encouraged as to the progress she was making, and at the invitation of both the FDAC assessors and the local authority, I was invited to grant an extension of time to complete further work with the mother with an addendum parenting assessment in late November 2023.
17. The reason for being invited to grant that extension was that the mother was making real progress. She was developing her insight into the issues of domestic abuse which had been part of family life and the impact of that on the children. She was also seen to be gaining greater insight into her own emotional and mental health, and an understanding of areas of work that she needed to complete in order to be a better parent.
18. A further feature of the multi-disciplinary aspect of the FDAC team meant that there was also adult psychiatric involvement in the mother's assessment.
19. In parallel, again as part of the FDAC multidisciplinary model, the mother had access to necessary support. That took the form of an emotional regulation group with other parents. It also took the form of a domestic violence group. A clear advantage of the FDAC work is access to such necessary support groups, alongside active key work sessions with the parents.
20. These are not features which are routinely available to parents in a standard care proceedings model but which have greatly assisted the mother in this case.
21. During all of this process, it was becoming clear to the FDAC team that the mother was making real progress. She was developing from someone who had been resistant to professional involvement and probably lacking insight into the extent of her own difficulties, to someone who was describing actively enjoying key work sessions, group work and professional involvement. She was getting the support that she needed and, to her enormous credit, she was using it.
22. By late 2023, progress was such that the FDAC team proposed a return of the children to the care of the mother under a transition plan. It is fair to say that at this point there was not a uniform consensus amongst the professionals as to whether, when and how that should be attempted. The local authority retained significant concern as to the prospects of success, and the pace at which any transition should be attempted. The FDAC team and the Children's Guardian saw greater opportunity for a quicker and successful transition and a quicker transition was directed by the court to take place.
23. The transition was not without difficulty but there was significant support provided by the local authority, through family support work and social work visits, which dovetailed with ongoing key work being undertaken by the FDAC team.
24. During this phase of the case, another important additional support provided by the FDAC team was VIG work with the mother, video guided parenting work. Again, the ready access to this type of expert support was a feature available under FDAC which one cannot ordinarily expect to be available, at a critical juncture and at short notice, under a standard care proceedings model.
25. I'm delighted to say that the professional assessment across the board now is that the transition home of these two boys, with quite demanding individual needs, has been a success.
26. The mother's home is in a neighbouring borough, London Borough B. To their great credit they have proactively become involved during the transition phase of getting the boys out of

their respective foster placements and back into the care of their mother. They provided social work allocation and other aspects of support which I think have also been of fundamental importance.

27. There has been proactive engagement between the two local authorities, with critically important contributions from a very actively involved Children's Guardian and the mother's FDAC keyworker, such that the transition plan has been properly supported and ultimately successful.

Final hearing

28. We have therefore arrived at a final hearing at which the position of all of the parties is that final orders should be made by agreement. A contested final hearing has been avoided. That is a significantly more common feature of FDAC cases than standard care proceedings. The stress of a conflictual, contested final hearing has been avoided.
29. It did appear there would need to be a contest at the final hearing in relation to the father's contact. However, following fairly significant discussions, both inside and outside the court room, the parties have been able to reach a negotiated and agreed position. I would say that I was at a significant advantage in being able to direct those discussions given my detailed knowledge and familiarity with the parents as a result of my fortnightly non-lawyer meetings with them during this case.
30. I am being invited to make a child arrangements order confirming that both boys live with their mother, alongside a 12 month supervision order to London Borough B.
31. No one invites me to make an order specifying the spending time arrangements for the boys with their father. However, I am invited to record by way of recitals to the final order, that the boys will have fortnightly contact with their father, supervised, over the next four months, at which point London Borough B under the supervision order will hold a review of contact. That review will be informed by a one-to-one programme of work (involving both parenting work and domestic abuse work) that the local authority are offering to the father, with which he is very happy to engage.
32. The father would want more frequent contact, and to have less supervision, but to his enormous credit he has agreed to work with what is now proposed.
33. I would want to commend the father. Despite whatever past conflicts there have been with the mother, he was desperate for the children to be out of foster care and to be placed with the mother. He loves and is committed to the boys and the position that he has adopted at this final hearing reflects his wish to put the children's needs first.
34. It is further agreed that the parents will offer cross undertakings which will underpin their respective commitment to avoid contact and communication such that past conflict may be avoided. London Borough B pursuant to the supervision order will be working with the parents on such issues. It is anticipated that during the life of the supervision order, mechanisms will be put in place to facilitate neutral communication between the parents restricted to the arrangements for the children. The parents, with the advice and assistance on offer under the supervision order, will be exploring a free parenting app to communicate.

The law

35. For the purposes of this judgement, I do not need to say a great deal about the law. I am being invited to make a public law order. Before I can contemplate doing so the first of a two-stage process needs to be satisfied, the threshold criteria. The parties have now settled

upon an agreed formulation as to the threshold criteria. I have read it and I approve it as the court's finding in relation to the threshold criteria.

36. That takes me to the second stage involving welfare considerations for each of these boys, with their individual welfare being my paramount concern. Consideration of their welfare is informed by the checklist of factors in Section 1 of the Children Act 1989. I have those clearly in mind.

Conclusions

37. I am satisfied that the order that the children should live with their mother is plainly one which reflects their welfare interests. I am also satisfied that the arrangements for the boys to spend time with their father reflect the boys' interests. There is significant advantage in not setting those out in the form of a child arrangements order, with the greater flexibility afforded by the recorded intentions of the parties set out in recitals to the final order. I am also satisfied, having considered the consensus between the parties, that each of the orders, and notably the 12 month supervision order, are orders which are a necessary, proportionate and reasonable response to the circumstances of the children and indeed their parents.
38. I have reviewed a detailed and much amended supervision order support plan. I commend the various professionals from each of the local authorities and the Children's Guardian for their work in refining that plan to the point where it reflects the necessary supports which have been identified. I note and approve the intention for written agreements to underpin that supervision order support plan.

Postscript

39. I have thought it appropriate to set out within this judgment the advantages which I have observed from the proceedings being conducted within FDAC.
40. We have arrived at the best plan for these children that could have been achieved. I retain significant doubts that this outcome would have been achieved in standard care proceedings. To quote my fellow FDAC judge, District Judge Tait, from a recently published judgment, this case is an example of why FDAC is so vital to the family justice system.
41. The FDAC programme is set up to provide intensive work for parents. The work is nothing other than challenging. However, the FDAC model provides the support to help parents to achieve necessary changes. It is a dynamic and on-going assessment of a process. It isn't just a snap shot assessment. FDAC offers an assessment of how a parent responds to support and interventions.
42. Without the consistent and intense nature of the support that the FDAC keyworker and team were able to put in place, I do not think we would have reached this outcome. Had the mother just been subject to assessment, absent of the keywork and other support, I fear that these children may have remained in foster care.
43. I'm not making these comments in any way to diminish the fundamentally important work of the local authority social workers in this case. I am acutely aware, however, of the pressures under which children's social workers have to operate. Their role in these proceedings, and the nature of their statutory duties, are not such that a local authority children's social worker could replicate the key work sessions provided by an FDAC keyworker. The local authority children's services departments do not routinely have access to the services and support that FDAC teams have. They also do not routinely have access to the multi-disciplinary expertise available within FDAC.

44. I want to recognise that the applicant local authority in this case has actively supported the transition of these children to their mother's care at a critical phase which has been fundamental to the success of these children being rehabilitated to their mother.
45. I also want to recognise that the local authority to be designated under the supervision order has been incredibly proactive as a non-party and its work has also been fundamental to the success of the transition home of these children.
46. The Children's Guardian has equally been very active in these proceedings and her professionalism at each stage, most notably through her commitment to supporting the transition of these boys home, has been invaluable from my perspective.
47. I have been greatly assisted in this case not only by the professionals but also by my meetings with the parents as part of the FDAC process. That has enabled me, in a very different way to standard care proceedings, actively to understand each parent's perspective and to case manage these proceedings.
48. Lastly, in authorising a copy of this judgement to be published with appropriate anonymisation, I want again to highlight that this was in effect a domestic abuse case and not a substance misuse case. The FDAC model of working is absolutely suited to helping parents who are afflicted by domestic abuse to reflect on their experiences, to gain greater insight and to achieve required change. That is exactly what has happened in this case.
49. I would urge local authorities to consider referring such cases to their local FDAC.

The parents

50. I again want to give enormous credit to the father for supporting the plan for the children and in putting the children first. His love and commitment to the boys is overwhelmingly clear to me.
51. In relation to the mother, I am delighted that she has been able to use the professional support offered to her in such an extraordinarily constructive way. To quote the Children's Guardian:
"The difference in the mother's emotional presentation from the beginning of these proceedings till now is striking, and she should be commended for the progress she has been able to make in very difficult circumstances. She has demonstrated a high level of commitment and engagement to the process and her love for both children has been clear throughout."

Orders

52. I therefore put in place a 12 month supervision order and an order that the children live with their mother. I approve the arrangements for the children to spend time with their father as recorded in recitals to be included in the final order. I approve the supervision order support plans.
53. I sincerely hope that the father can work successfully to achieve his aspiration of more normalised contact arrangements during the life of the supervision order. And I sincerely wish the mother well in achieving a stable family environment for both these boys.