

Institution: Lancaster University		
Unit of Assessment: 18, Law		
Title of case study: Keeping children safe: enhancing the sustainability of family reunification after care proceedings		
Period when the underpinning research was undertaken: 2016 to 2019		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g., job title):	Period(s) employed by submitting HEI:
Judith Harwin Linda Cusworth Bachar Alrouh Karen Broadhurst	Professor Research Fellow Research Fellow Professor	April 2016 to present May 2017 to present August 2015 to present August 2015 to present
Period when the claimed impact occurred: 2016 to 2020		
Is this case study continued from a case study submitted in 2014? N		
<p>1. Summary of the impact Researchers from the Centre for Child and Family Justice Research (CFJ) at Lancaster have made important contributions to policy and practice regarding safe and durable family reunification, having:</p> <ul style="list-style-type: none"> (a) strengthened the case for significant investment to enable expansion of Family Drug and Alcohol Court (FDAC) provision across England and Wales. (b) enabled the Centre for Justice Innovation (CJI), the national body leading the current FDAC expansion, to benefit from international knowledge exchange regarding common challenges to the implementation of problem-solving justice, and shaping of its professional training provision. (c) identified and raised awareness of children returned home on supervision orders as a marginalised vulnerable group. (d) brought about a comprehensive review of supervision orders, co-chaired by Harwin and Mr Justice Keehan (High Court Judge) and authorised by the President of the Family Division of the High Court. 		
<p>2. Underpinning research Children who are neglected or harmed within their families can be removed to the care of the state, but the family courts must first consider the possibility of reunification and explore alternative options. Returning children home is not without risks - some children will be subject to further neglect and re-enter care. It is therefore vital that the practice of family reunification is underpinned by a robust evidence base. Led by Harwin, CFJ researchers have contributed to knowledge about innovative approaches to family reunification and about children returned home on supervision orders. Their research comprises the first and successive evaluations of the pioneering FDAC, and the first and only national longitudinal study of children returned home on supervision orders under the Children Act 1989. Building on earlier FDAC research carried out at Brunel University, London, the research and impacts described here relate to work completed at Lancaster since 2016, and supported by a major Nuffield Foundation grant [G1].</p>		
<p>Evaluation of the FDAC FDAC is a radical problem-solving court within care proceedings, but unlike standard proceedings, as well as adjudicating FDAC treats by discussing case progress directly with parents and an intervention team, and providing intensive support. Harwin's earlier research at Brunel had established that FDAC was successful in returning more children home than standard care proceedings, because of the effective treatment of parental substance misuse. Her team's research at Lancaster went on to examine the longer-term impact of FDAC on family reunification and the wider expansion of the model.</p> <p>In 2016, Harwin's team completed an international literature review and uncovered a gap in the evidence on the durability of family reunification over time following involvement in drug and alcohol treatment courts [R2]. Tracking a cohort of FDAC cases in England (140 FDAC and 100 comparison families), they provided new statistical evidence which unequivocally showed that, compared to standard care proceedings, FDAC was associated with a higher</p>		

proportion of intact reunifications within 3 years of proceedings (51% v 22%) [R1, R2]. They also found that a higher proportion of mothers remained free from substance misuse within 5 years of FDAC proceedings (58% v 24%).

The evaluative research of Harwin's team extended to questions about the potential to scale up the FDAC model, and in 2016, Harwin, with independent consultants Ryan and Tunnard (of [RyanTunnardBrown](#)), completed detailed qualitative observations of 10 English FDACs in different regions (46 cases/46 hearings). They also interviewed 12 judges from these participating study sites. The team found that all FDACs were adhering to established compassionate problem-solving principles and demonstrated procedural fairness which, along with strong support shown by the judges, strengthened the overall evidence base in favour of FDAC expansion [R3, R5]. Since 2017, Harwin's cross-national key informant analysis with colleagues in Australia and America has enabled knowledge exchange about common challenges which hinder the roll-out of the treatment court model, not least the reliance on individual pioneers to drive change and the precarity of short-term public funding [R4].

National analysis of supervision orders across England

Harwin's research on expanding FDAC provision led her to investigate children returned to parents under the auspices of a supervision order at the close of FDAC proceedings. Supervision orders mandate the local authority, under the Children Act 1989, to 'advise, assist and befriend' the child and family. However, there was widespread concern that these orders were weak and/or that local authority support did not always follow the order's mandate. Earlier FDAC research had shown that a proportion of children subject to supervision orders would return to court because reunification had failed. Supported by Nuffield Foundation funding [G1], Harwin's team conducted the first, and only, national study of all children subject to supervision orders in England. Their research found little appetite amongst local authorities to apply for supervision orders. Of the total number of children subject to care proceedings between 2007 and 2016 (n=175,280 children), just under 4% had an application for a supervision order only, yet 14% of all these care proceedings resulted in a supervision order only [R6]. In short, more supervision orders were made by the family court than were applied for. Moreover, children in the South of England were more likely to be the subject of a supervision order, whereas children in the North were more likely to be the subject of a care order [R6, R7]. The team's findings raised questions of consistency in the application of the law. Their research also showed that 1 in 5 children subject to a supervision order in England experienced breakdown of family reunification and returned to court within 5 years because of further harm (mostly neglect). New questions about the efficacy of supervision orders to support a safe return home were thus raised. Several key findings emerged from the qualitative element of their study to explain this failure, most notably inconsistent support from local authorities and insufficient opportunities for parents' and children's voices to be heard in case reviews. In the view of professionals, the statutory obligations afforded by the orders were, in themselves, considered limited in terms of their authority and mandate regarding child protection [R6].

3. References to the research

- [R1] Harwin J, Alrouh B, Ryan M, McQuarrie T, Golding L, Broadhurst K, Tunnard J, Swift S, (Dec 2016). After FDAC: Outcomes 5 years later. *Final report prepared for the DfE Children's Social Care Innovation Fund, Lancaster University*. Held at HEI. *Peer-reviewed*.
- [R2] Harwin J, Alrouh B, Broadhurst K, McQuarrie T, Golding L, Ryan M, (2018). Child and Parent Outcomes in the London Family Drug and Alcohol Court Five Years On: Building on International Evidence. *International Journal of Law, Policy and the Family*, Vol 32, Issue 2, pp.140-169 <https://academic.oup.com/lawfam/article/32/2/140/4962132>. *Peer-reviewed*.
- [R3] Tunnard J, Ryan M, Harwin J, (Dec 2016). Problem solving in court: current practice in FDACs in England. *Final report prepared for the DfE Children's Social Care Innovation Programme, Lancaster University*. Held at HEI.
- [R4] Harwin J, Broadhurst K, Cooper C, Taplin S, (2018). Tensions and contradictions in family court innovation with high risk parents: The place of family drug treatment courts in contemporary family justice. *International Journal of Drug Policy*, Vol 68, pp101-108. <https://doi.org/10.1016/j.drugpo.2018.04.019>. *Peer-reviewed*.
- [R5] Harwin J, Ryan M, Broadhurst K, (2018). How does FDAC Succeed with Parents with Substance Misuse Problems? Exploring Relational Practices within the English Family Drug

and Alcohol Court. *Child Abuse Review*, Vol 27, pp266–279.

<https://doi.org/10.1002/car.2521>. Peer-reviewed.

[R6] Harwin J, Alrouh B, Golding L, McQuarrie T, Broadhurst K, Cusworth L (2019). The contribution of supervision orders and special guardianship to children's lives and family justice. *Final report to the Nuffield Foundation, Lancaster University*. Held at HEI.

[R7] Harwin J, Alrouh B, Bedston S, Broadhurst K, (2018). Care Demand and Regional Variability in England: 2010/11 to 2016/17, Lancaster University. Held at HEI. Peer-reviewed.

[G1] Harwin (PI), *The Contribution of Supervision Orders and Special Guardianship to Family Justice and Children's Lives*, Nuffield Foundation: (2015-2018) GBP628,204 (of which GBP425,000 transferred to Lancaster University in April 2016). Peer-reviewed grant.

4. Details of the impact

Just over 400,000 children in England are in the social care system at a given point. The Department of Education (DfE) reported that 80,080 of these children were looked after by local authorities in 2019/2020 (statistics available [here](#)), many in foster and residential care. The number of children in the social care system has continued to rise annually, so it is vital to find ways to achieve safe and durable court ordered family reunification. The team's research has worked towards achieving this aim and has shaped policy debates. It has:

(a) Strengthened the evidence base to enable expansion of FDAC in England & Wales.

Since 2016, Harwin's research has provided new evidence on the durability of family reunification beyond the immediate close of care proceedings [R1, R2], which has been cited by pioneering practitioners and advocacy and policy reformists in support of further FDAC expansion. For example, the influential 'Care Crisis Review' (Family Rights Group, 2018) drew upon the team's research in proposing "*the DfE and the Ministry of Justice take forward the lessons from the FDAC problem-solving model of care proceedings so that this approach is extended, to become the normal way of hearing proceedings in the majority of cases*" [S1], suggesting the Review considered this the most efficacious way to stem the escalating numbers of children appearing in care proceedings in England and Wales [R1, R5, S1]. Furthermore, the Director of the CJI said that: "*In my work as a policy adviser [to the Lord Chancellor], I have specifically cited ... 'After FDAC: Outcomes 5 years later' as part of wider efforts within the Ministry to persuade the Government to make commitments to test these approaches for substance misusing offenders in the criminal justice system*" [R1, S3]. According to the former President of the Family Division, "*[Harwin's] programme of research ... has been fundamental in demonstrating the effectiveness of FDAC – in short, in proving that FDAC 'works' – and in consequence, in encouraging and facilitating its expansion across England and now into Wales. Her work provided the crucial research underpinning for major government investment in England and for the first pilot... in Wales*" [S2].

In May 2019, the DfE announced an investment of GBP15 million in their [Supporting Families: Investing in Practice](#) (SFIP) programme, of which a significant amount was allocated to the expansion of FDAC in England. As reported by the Director of the CJI, the delivery partner of the SFIP, there were 8 FDAC teams serving 17 local authorities and 11 family courts in England prior to investment in the SFIP programme. Since commencement, SFIP has enabled the FDAC model to reach 7 new geographical areas, including some of the most deprived parts of the country (e.g., Stockport, Newcastle, Gateshead and North Tyneside). By April 2021, there will be 14 FDAC teams servicing 35 local authorities and 21 family courts in England [S3]. The Director also reported that in 2019, 194 cases started FDAC proceedings across England compared to 324 cases in 2020; a 67% increase. He said that "*because of the impact of Professor Harwin's work in persuading Government to invest in FDAC, there are families today benefiting from the FDAC approach who would otherwise be unable to access it*" [S3].

The team's findings also galvanised local authorities in their support of the FDAC ethos, and they have match-funded central government investment. One local authority director with long-standing commitment to FDAC explained that "*The research greatly strengthened the local case for FDAC's continuation as it quantified impact across all FDAC sites... This authoritativeness supported local experience and directly influenced decision making to*

continue with FDAC... despite austere public funding reductions... FDAC's evidenced based approach ... continues to be a key part of Southwark's strategy... it influenced regionally the expansion of FDAC through south London in 2018 through a 10 borough commissioning partnership. More partners led directly to a more cost-effective intervention and the scaling up increased sustainability" [R2, S4]. In October 2019, the Commission on Justice in Wales recommended that FDAC be established in Wales, citing the follow up study [R1, S5] with "Lancaster research crucial to the deliberations of the Commission" [S3]. In November 2020, the Welsh government agreed to fund an FDAC pilot for two years (including an evaluation). It will take place in South Wales and aims to become operational in late 2021 [S3].

(b) Supported the CJI, the lead body in national FDAC roll-out.

Through international knowledge exchange, Harwin's team have provided evidence of the vital role that champions of change play in driving forward justice innovation [R5]. Their research informed a high-profile 2018 campaign, led by Lord Listowel and the Sieff Foundation [S6], to challenge the withdrawal of funding from the FDAC National Unit, which was the central driving force behind FDAC in its initial expansion between 2015 and 2016. Drawing extensively on the team's publications [R1, R2, R3], the campaign made the case for a central body to be responsible for consistent provision of support to new pilot sites and professional training [S3, S6]. The campaign led to a consortium of private benefactors offering financial assistance to this new body in 2019 - the CJI [S3]. Harwin's expertise regarding FDAC's effectiveness and potential barriers to roll-out led to her providing expert advice to the CJI and to the FDAC National Advisory Board (latter established in 2020), which reports to the President of the Family Division. The Director of CJI has commented that between 2019 and 2020, "Harwin's research, and her ongoing support and advice to us ...has been of immense value...we have developed new training programmes for practitioners and judges working within new and existing FDACs, based on the insights provided by Professor Harwin's work. To date, we have trained over a hundred new specialist team practitioners, judges and partner practitioners incorporating the Lancaster research findings. In addition, we regularly use Harwin's research in our reflective sessions with FDAC team managers to explore new practice solutions to issues arising across FDAC" [S3]. They also said that the CJI had drawn heavily on Harwin's research in producing successful funding applications which have enabled the CJI to expand their role in supporting FDACs across England and Wales [S3].

(c) Identified and raised awareness of children on supervision orders as a marginalised vulnerable group.

The team's research has radically improved the visibility of children returned home on supervision orders [R6, R7, G1]. Mr Justice Keehan (High Court Judge) has attested that "[Supervision orders] contribution has been seriously neglected" [S11], as children who are the subject of these orders are missing from any local authority reporting requirements to the DfE as a separate category of vulnerable children. Now, following the team's research, these children are at the heart of policy review and amongst practitioners [R6, S4, S7, S8]. Indeed, Mr Justice Keehan has said that "The research is widely regarded as the national reference point on supervision orders, and child outcomes and it provides courts and local authorities with crucial benchmarking information" [S11]. New evidence that 1 in 5 children placed on a supervision order returned to court for further care proceedings [R6], raised questions amongst the judiciary about the efficacy of these orders to support children's safe return home [S11]. Compounding this, the team's exposure of systematic North/South divides in the use of supervision orders and care orders [R6, R7] attracted extensive media coverage, drawing attention to this issue and raising questions of equity in the application of the law [S12]. Subsequently, a joint report by the Ministry of Justice and DfE, which cited the team's research [R6, S7], catalysed the President of the Family Division to initiate work amongst Local Family Justice Boards in 2019 to "promote consistent and appropriate decision-making in court", with supervision orders singled out for special scrutiny [S8]. Furthermore, the team's finding that inconsistent support had been provided to families of children subject to a supervision order (which raises fundamental issues about their contribution and effectiveness) has been extensively used by a consortium of 4 South London local authorities, local judges, and the Children and Family Court Advisory Service (Cafcass) to benchmark and review their own practices in the report, 'Six Years on Track: In & After Care Proceedings 2013 –2019' [S9]. The Director of one of the authorities has said that "the research raised awareness of a marginalised group of children and families ... and directly

influenced local practice with strengthened practice protocols for managing supervision order cases, and increased attention to the tracking and understanding of such cases to evaluate ongoing impact” [S4].

(d) Set the impetus for and shaped a national review of supervision orders in England and Wales.

A rapid impact from the first longitudinal analysis of supervision orders [R6, R7], was the decision by the President of the Family Division, in early 2020, to launch a national review of supervision orders in England and Wales [S2, S11]. This is the first review of these orders since the enactment of the Children Act 1989. The review is being conducted by a sub-group of the Public Law Working Group and is co-chaired by Harwin and Mr Justice Keehan, and Alrouh is a member of it. The Chair of the Public Law Working Group has said that *“The Public Law Working Group had not planned a sub-group on this topic. However, it was wholly persuaded of the necessity to address the wide-ranging issues raised by the report [R6] and that nothing less than a major review in England and Wales would suffice. The President was in full agreement with our view” [S11].* The review is considering whether supervision orders need to be made more robust and effective and, if so, how this could be achieved, or whether they should be abolished [S10a, S11]. The review has been shaped by the team’s findings [R6, S10b], and the Chair of the Public Law Working Group has stated that *“[Harwin] set out the rationale for the ...new sub-group and framed the set of questions to be addressed, drawing extensively on the issues raised by her research [S11].* The review has already collected new evidence from further afield, in Europe, USA, Canada, Australia and New Zealand - all jurisdictions with supervision orders (or equivalent) - to share experience on how to achieve safer and more sustainable family reunification.

In summary, the Director of Children and Families at Southwark Council has stated that *“while research seldom produces definitive maps, there are sometimes more influential studies that light the path for improvement much more than others, without which we would still be scrambling around in the dark trying to do our best, to find a way, with good intent but little impact. Harwin’s work has provided enduringly bright beacons to guide our path to continually improve the family justice system and ensure better outcomes for children” [S4].*

5. Sources to corroborate the impact

[S1] Care Crisis Review: options for change (2018) London, Family Rights Group (see pp. 35 and 36), https://www.frg.org.uk/images/Care_Crisis/CCR-FINAL.pdf.

[S2] Testimonial from the former President of the Family Division of the High Court and Head of Justice in England and Wales (until July 2018); Chair of the Advisory Board of the Nuffield Foundation Family Justice Observatory (2021).

[S3] Testimonial from the Director, Centre for Justice Innovation UK (2021).

[S4] Testimonial from the Director of Children and Families, Southwark Council (2021).

[S5] Justice in Wales for the People of Wales, the Commission on Justice in Wales, October 2019 (see pp. 320) https://gov.wales/sites/default/files/publications/2019-10/Justice%20Commission%20ENG%20DIGITAL_2.pdf

[S6] House of Lords meeting record, <http://www.michaelsieff-foundation.org.uk/family-drug-and-alcohol-court-fdac-national-unit-closure/> (11 July 2018).

[S7] Ministry of Justice and DfE: confidential final report (2019).

[S8] Family Justice Board Newsletter (June 2019).

[S9] Parker, C and Tunnard, J (June 2020) ‘Six Years on Track: In & After Care Proceedings 2013 – 2019’, South London Care Proceedings Project, see especially pp.39-41.

[S10a] Public Law Working Group report, *‘Recommendations to achieve best practice in the child protection and family justice systems: Special guardianship orders’*, p9 (June 2020).

[S10b] Final report of the Public Law Working Group, *‘Recommendations to achieve best practice in the child protection and family justice systems’*, pp.75-80 (March 2021).

[S11] Testimonial from The Honourable Mr Justice Keehan, the Chair of the Public Law Working Group, Family Division Liaison Judge for London (2021).

[S12] <https://www.theguardian.com/society/2017/jul/03/children-in-north-of-england-70-more-like-to-be-taken-into-care-study-reveals>; <http://www.lep.co.uk/news/offbeat/northern-kids-more-likely-to-end-up-in-care-suggests-study-of-family-courts-1-8632431>