

Cabinet – 20 March 2019

Family Drug and Alcohol Court

Portfolio: Councillor Wilson, Children's & Public Health Services

Related portfolios:

Service: Children's Services

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 This report seeks approval from Cabinet that Walsall Council enter into a collaboration agreement with Dudley Metropolitan Borough Council and Sandwell Childrens Trust to deliver a Family Drugs and Alcohol Court (FDAC) with the Wolverhampton Justice Centre. It is proposed that the Family drug and Alcohol service be funded proportionately for a 3-year period by the three parties to the collaboration and on the basis of a commissioned delivery model.
- 1.2 It is proposed Walsall Council take the role as Lead Council in the collaboration. The lead role will entail Walsall Council leading on the commissioning and procurement process on behalf of the two other members of the collaboration. It will mean that following the award of contract, Walsall Council will also undertake the management and monitoring of the contract on behalf of members of the collaboration.
- 1.3 Approval of the proposed service provision, a Black Country Family Drug and Alcohol Court and its new operating model, is a key decision, as the provision will affect all Childrens and Families in Walsall who are subject to care proceedings initiated by the Local Authority where substance Misuse is a key factor. In addition, the proposed financial contribution from Walsall Council to the development of the provision over the 3-year period is over £250,000.
- 1.4 There will be a need to return Cabinet for the contract award decision upon completion of the procurement process. This process is provisionally set to complete end of June 2019, subject to Cabinet agreement to progress and establish the service.
- 1.5 Delivering The Family Drug and Alcohol Court and service is part of Walsall Right for Children (WR4C) Children's Services Transformation Programme.

2. Recommendations

- 2.1 That Cabinet give approval for Walsall Council to enter into a collaboration agreement with Dudley MBC and Sandwell Childrens Trust to deliver a Family Drugs and Alcohol Court with the Wolverhampton Justice Centre.
- 2.2 That cabinet give approval for Walsall Council take the lead role on behalf of the collaborating Local Authorities and take the lead on the commissioning, procurement and contract management of a Family Drug Alcohol Court service for a 3-year period proportionately funded by the three parties to the collaboration.

3. Report detail

3.1 Background and ethos:

3.2 The Councils of Walsall, Dudley and Sandwell Childrens Trust with the Designated Lead Judge for Wolverhampton, Her Honour Judge Hughes and His Honour District Judge Gailey, together with The Child And Family Court Assessment and Support service (CAFCASS,) wish to offer an alternative form of care proceedings for parents and children where substance misuse is key factor of concern.

3.3 This alternative court is the Family Drug and Alcohol Court, or FDAC.

3.4 Often Courts and Local Authorities face situations where children are removed from parents, and those same parents will then have further children removed. This is, perhaps, unsurprising because the problems that the parents have often remain untreated despite these problems being the basis for their children being removed and coming into state care.

3.5 FDAC is different from the traditional care proceedings model in that it involves extensive work with the parents from a multi-disciplinary team and with fortnightly progress meetings scheduled with the Judge without lawyers. The approach runs alongside the more formal court action and often looks like this:-

3.5.1 Assessment – parents are assessed by the team meeting with a substance misuse specialist, and are tested for drug and alcohol misuse. They also meet with the FDAC social worker who will consider their children’s needs.

3.5.2 Planning – formulation of a plan to identify the issues that need working on.

3.5.3 Support – this plan will often involve intensive monitoring, support and therapy for the parents. Drug and alcohol testing takes place frequently. Parents undertake a 12 week Trial for Change and if successful are supported to have their children returned to their care and then are offered up to 18 months post proceedings support.

3.6 Parents who have achieved one-year post placement reunification are offered training to become volunteer mentors for other parents going through proceedings.

3.7 FDAC is a thoroughly evaluated evidence based intervention and has recently received a What Works Centre 3 out of 3 score for effectiveness and high evidence for family reunification. The evidence base for FDAC is clear and is set out in a final

research report led by Lancaster University in 2016, FDAC Five Years On. This concluded the following :

- 3.8 Reunification at the end of care proceedings: A significantly higher proportion of FDAC than comparison families were reunited or continued to live together at the end of proceedings (37% v 25%)
- 3.9 Substance misuse at the end of the 5-year follow up: A significantly higher proportion of FDAC than comparison reunification mothers (58% v 24%) were estimated to sustain cessation over the five-year follow up. This analysis was based on the number of mothers who had stopped misusing at the end of the proceedings.
- 3.10 Durability of family reunification at 3-year follow up: A significantly higher proportion of FDAC than comparison mothers who reunited with their children at the end of proceedings were estimated to experience no disruption to family stability at 3-year follow up (51% v 22%).
- 3.11 The overall long-term positive impact of FDAC is that money is saved by the decrease in the number of children taken into care due to their parent's substance misuse. Short-term gains include the individual amounts saved on numerous assessments, expert assessments, court costs and legal services costs.

4. Development of Black Country FDAC

- 4.1 In 2017 and 2018, Walsall Council participated in explorations to develop a six Council Black Country Sub Region FDAC programme using a Social Investment Model with support from central government funding via the Life Chances Fund. After extensive time on this project, all Councils concluded that the risk was too high to enter into a collaboration, based on an untested and risky finance model that sought a 7-year budgetary commitment from each member. There was also a legally complex set of delivery models and an opaque picture as to the terms of termination from the social investors, potentially leaving Local Authorities to find funding to at least complete on going cases in the FDAC Court.
- 4.2 The Children's Services Leadership Teams of Dudley and Walsall Council and Sandwell Childrens Trust with the support of National and Local judiciary, were keen to look at the viability of a smaller project. Directions were given to explore two options:- Option 1 No Black Country FDAC would available resources focusing on improvements elsewhere in the system affect this cohort of parents and children whom present in care proceedings. Option 2:- a three-member collaboration to establish a Black Country FDAC funded through Local Authority resources, that would show a clear value for money case as return on investment, better outcomes for children and a better local justice system.
- 4.3 Detailed Case Analysis of applications to court 2016-2018 shows that a third of cases that enter care proceedings in Walsall are substance misuse related.
- 4.4 Walsall has significant repeat sequential referrals of families in care proceedings with these profiles leading to high numbers of subsequent removals.
- 4.5 Financial analysis undertaken shows positive cost avoidance in relation to Looked After Childrens placements over the period of the intervention.

- 4.6 It is clear from local evidence that Walsall families and children would benefit from the FDAC intervention however; the number of referrals for an FDAC to be viable must be at least 25- 30 cases per year. Walsall, based on its applications to court would be unable to sustain such high numbers of referrals alone. The Local Justice Centre has also made it clear that the Court would need at least two Local Authority's participating with the service to make the best use of dedicated court resources.
- 4.7 As an alternative, consideration was given to devising a bespoke intensive and holistic local approach to families affected by Substance Misuse in care proceedings however to ensure the greatest opportunity to achieve the reported FDAC outcomes it is necessary to stay as close to the fidelity of the FDAC model as possible.
- 4.8 FDAC is part of Walsall Right for Children, transformation. The transformation is committed to the establishment of evidenced based services that will transform our effectiveness in working with and making a significant difference to the lives of children and their families at the high-risk end. These families generationally reoccur in our care proceedings overtime.
- 4.9 The FDAC model includes an offer of intervention post return minimising the risk of relapse. It is evident that this service provision keeps with and /or returns a higher number of children safely to their parents and their wider family. It also provides the evidence of the 'clear blue water' for the legal threshold to be established for those children who cannot be found a safe and secure home within their family and networks and will enhance the capacity of Children Services to make timely and better-informed plans for the long- term care needs of those young people.

5. Proposed Service

- 5.1 The FDAC proposed service model is modest and prudent in its ambition. The aim is sustainability and effectiveness. The FDAC service will be a 32 case model, meaning that the Service will engage with a minimum of 32 families in one year with a potential for double that number if cases conclude through to 26 weeks in court. The service will offer community support to families where reunification has been successful for up to 18 months. In total at a minimum 86 families will have been engaged over 3-year period.
- 5.2 Walsall has agreed to refer 15 families to the service per year. The number of cases that Walsall has previously initiated on in relation to care proceedings affected by Substance misuse in the years 2016/17 and 2017/18 was between 26 to 29 Therefore a 15 cases per year referral rate is a very conservative figure and prudent in its approach to reduce risk to the LA of service failure.
- 5.3 If Walsall takes the active role as the Lead Council this will encompass responsibility for commissioning, procuring and managing the contractual arrangements with the commissioned provider. There is a risk inherent that without appropriate legal arrangements Walsall could be a risk of directing precious resources in a procurement process that that will not proceed. This risk will in part be mitigated in relation to the commission and procurement and future contract management as it is proposed that the Collaboration Agreement be legally binding between the members outlining Lead council and other Council and Trust responsibilities, offering assurance that the risk can be managed. The proposal is that the payment mechanism (as described in

paragraph 7.3,) from other members of the collaboration to the Lead Council will be attached as a schedule to the collaboration agreement. As part of the collaboration agreement Walsall has also secured an agreement from other members, to an annual payment to assist Walsall in resourcing the additional costs incurred in undertaking its Lead Council role.

- 5.4 Additional benefits to being a member of the collaboration – are reduced risk as cost of the service is spread across the boroughs ; reduction in cost of service due to economies of scale and an ability to spot purchase or sell packages to other collaboration members and potentially third party Local Authorities .
- 5.5 The purpose of this report relates to the following policies and legislation:-
- 5.6 The National Drug Strategy, Reducing demand, – Restricting Supply Building Recovery and – Global Action was published in 2017 The FDAC model is in line with this strategy which emphasises recovery from drug dependency, and building recovery in communities.
- 5.7 The Government’s Alcohol Strategy 2018 seeks, at a population level, to support individuals to make informed choices about healthier and responsible drinking, and recognises that some of the most vulnerable people in our communities will need support to change their behaviour. It focuses on support for children and recognises the link between Alcohol Abuse and Violence in the home and community.
- 5.8 The Children Act 1989 places a duty on local authorities to safeguard and promote the welfare of children within their area who are in need; and, so far as is reasonably consistent with that duty, to promote the upbringing of children by their families (section 17). Where a local authority believes that (a) parent(s) of (a) child(ren) are unable to provide sufficiently good care for the child(ren), it may issue an application for a ‘care order’. The court has the power to make such an order under section 31(1)(a) of the Children Act 1989. The court can only make a care order if it is satisfied that the child concerned is suffering or is likely to suffer significant harm. Either that the harm is attributable to the care given to the child, or likely to be given to him, in the absence of an order is not what it would be reasonable to expect a parent to give to him or that the child is beyond parental control.
- 5.9 The purpose of the care order is to allow the local authority to share ‘parental responsibility’ for a child and in practical terms, the local authority may often remove a child from the care of its parents. Removal may be either temporary or permanent. The law requires that care proceedings are concluded within 26 weeks of the issue of the application by the local authority; unfortunately, however, proceedings can sometimes take longer than 26 weeks.
- 5.10 The recommendations made for the establishment of the service by way of a collaboration and lead role are congruent with Walsall Councils statutory requirements.

6. Council Corporate Plan priorities

- 6.1 Walsall Councils Corporate plan: 2018-2021, sets out a commitment to give children and young people the best possible start in life ensuring they are safe from harm, happy, healthy and learning well. The key principles of the proposed FDAC are central

to this priority because it supports family reunification where it is right to do and reduces drift in planning for children in care.

- 6.2 The Corporate plan also sets out a commitment to People having increased independence, improved health so they can positively contribute to their communities. The FDAC Model builds resilience in successful families and promotes the development of Parents Mentors as volunteers in the service; these are made up of those parents who have been successful graduates in FDAC.

7. Risk management

- 7.1 The Council is required to provide services in accordance with the statutory guidance and legislation. There is the potential for risk if children, young people and their families do not have timely access to the right support services that can make the difference between a child staying with their family and being permanently taken into care. If a child or young person is deemed to meet the eligibility criteria for social care services, the council is obliged to fulfil its statutory duty. Joining this consortium to provide this service mitigates this risk.
- 7.2 If it is agreed that Walsall takes the active role as the lead authority for the intervention this means the responsibility for procuring, commissioning and managing the contractual arrangements with the commissioned provider on behalf of other parties to the collaboration will remain with Walsall.
- 7.3 There is a risk inherent with this that the authority will be responsible to pay the provider for all interventions (£0.329m). This is proposed to be managed by way of a legally binding collaboration agreement between the partners outlining responsibilities and offering assurance that the risk can be managed. The current proposal is that all authorities pay for expected interventions at the start of the year with any adjustments being made at year-end. Legal services are currently being consulted on the draft collaboration agreement.
- 7.4 It has been assumed that the full 32 interventions will happen, if there are not 32 referrals there is a risk that Walsall will be expected as contract holder to pay any balance, further detail to mitigate this risk will be sought when Commissioning and Procurement begin work around the specification of a contract.
- 7.5 A further risk is if Walsall were to request above 15 referrals – there is no provision in the funding request and as such would again be an additional unfunded pressure, this will need to be monitored by commissioners as part of the wider steering group surrounding the governance of the intervention.
- 7.6 Information Governance has given advice on the role and responsibilities of the Lead Council in terms of future contract management in regard to data protection and processing as part of the contract management process. A data protection agreement will form an attached schedule to the collaboration agreement.
- 7.7 The on-going day-to-day operational management of the FDAC intervention programme once live will, in Walsall be the responsibility of the Group Manager of the Walsall Permanency Hub. It is proposed that updates to Children's Services Directorate Management Team on the services effectiveness are provided as and when required.

- 7.8 In addition, the Operational Group manager overseeing the Service will report to the Walsall Children’s Safeguarding Board Neglect subcommittee as to the functioning of the service and its impact on the delivery of the overarching Walsall Safeguarding Boards Neglect Strategy.
- 7.9 A Family Drug and Alcohol Court steering group is established and is chaired by His Honour Judge Gailey and meets monthly. The group has stakeholder representatives from CAFCASS, the Voluntary Sector, Health and Adult Social Care and delegates tasks to an established finance, legal, procurement and commission subgroup. The steering Group will initially meet six weekly in year one of the service contract.
- 7.10 Alongside this group is an Operational Project group that will work to synthesise existing services with FDAC so there is cross council and other agency preparedness for the FDAC service when in operation. This group will meet monthly before the steering group.
- 7.11 Further detailed governance arrangements will form part of the collaboration agreement going forward once contract specification is complete.

8 Financial implications

8.1 As the proposed FDAC intervention would be a new preventative services offer for Walsall Children’s services, it will require funding for the three-year life of the intervention. An allocation of £2.45m funding was announced for Walsall to deal with pressures in adults and children’s social care services. Following discussion with the relevant portfolio holders, £300,000 has been allocated to FDAC to fund the first three years as shown in the table below.

8.2 The proposal has been modelled on an overall case referral limit of 32 families being offered FDAC intervention each year with the three partner organisations having an allocated share of the referrals per year based upon their current cohort of eligible families.

The current proposal includes Walsall having a referral limit of 15 families per year, Sandwell Trust 12 & Dudley MBC 5. The table below outlines the proposed costs for Walsall’s allocation of cases referred through the model (15) with the other partners contributing based upon allocated referrals each year.

| | Yr 1 | Yr 2 | Yr 3 | Yr 4 | Yr 5 | Total |
|-------------------------------|---------|----------|----------|----------|----------|----------|
| Gross Cost | 199,238 | 202,322 | 205,469 | | | 607,029 |
| Savings (Placement Avoidance) | -33,649 | -109,069 | -164,764 | -186,809 | -167,084 | -661,375 |
| Net position cost / (saving) | 165,589 | 93,253 | 40,705 | -186,809 | -167,084 | -54,346 |

Financial Risk

- 8.3 This assumes that savings from interventions will be delivered from year one onwards. There is a risk that this may not happen and this will lead to an unfunded pressure in children's services.
- 8.4 The overall forecast cost of commissioning a 32 case FDAC intervention is £329K in year 1 with annual inflation of 2% assumed over the life of the three-year contract with a total value of circa £1m and as such would require appropriate cabinet approval.

9 Legal implications

- 9.1 A collaboration agreement has been forwarded to Legal Services from Children Services (from another area) and Legal Services are in the process of reviewing this document, which will be entered into by all named parties to the collaboration agreement. Legal Services have provided legal advice to Walsall Council only and will continue to provide legal advice on the content of the collaboration agreement.

10 Procurement implications/Social Value

- 10.1 It is proposed that Walsall will act as the Lead Contracting Authority on behalf of a Collaboration which includes Dudley council and Sandwell Childrens Trust.
- 10.2 Collaborative procurement process have the benefit of shared resource, knowledge and experience however care will need to be taken to protect Walsall Council's interest and minimise any increased procurement related risk that may be associated with such arrangements. Procurement and Legal advice will be sought to minimise procurement-related risk, however, there will always remain an inherent risk of legal challenge associated with any procurement undertaken by the Council.
- 10.3 Further work will need to be undertaken to establish the most appropriate procurement route however, the likely value of the contract is above the current EU Threshold for Light Touch Services (£615,278) and the procurement process will therefore be conducted in accordance with the Public Contract Regulations 2015, the Council's Contract Rules and Social Value Policy.
- 10.4 All new services will be evidenced by a written contract in a form approved by the Head of Legal and Democratic Services and shall be made and executed in accordance with the Council's Contract Rules.

11 Property implications

- 11.1 The FDAC multi-disciplinary team will require a base that is accessible to families across the partnership and this will be subject of further discussion as the location is yet to be determined. The matter is being referred to the Walsall Asset Management Group for Transformation for advice and support in identification of possible sites.

12 Health and wellbeing implications

12.1 The establishment of the FDAC service will reduce the impact of Adverse Childhood Experiences on the Looked After Childrens population and associated health inequalities which are an explicit objectives of the Joint Strategic Needs Assessment, Walsall Plan – Health and Well Being Strategy. 2017-2020. The proposals are tested against the Marmot Objectives.

13 Staffing implications

13.1 The FDAC multi-disciplinary team will be a commissioned service so there are no staffing implications.

14 Reducing inequalities

14.1 The establishment of FDAC will positively improve the opportunities for families to effectively engaged with the Family Court where drugs and alcohol dependency impacts on their parenting capacity and has the potential to reduce inequalities for this cohort of children and families. An Equalities impact assessment will be undertaken as part of the procurement phase.

15 Consultation

15.1 There is no requirement for statutory consultation but children and families will be involved in this development.

Background papers

None

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18th February 2019