

**NOTTINGHAM TRENT UNIVERSITY**

# Concurrent Planning

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Report of a scoping exercise carried out for Faith in Families, Nottingham

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## **Context**

During 2008 -2009 Faith in Families investigated the possibility of introducing a concurrent planning scheme with 6 local authorities in the East Midlands. Planning for this became quite advanced, and a member of staff was appointed by Faith in Families to carry forward the project. Nottingham Trent University was asked to evaluate the implementation, and funding was secured through a Knowledge Transfer Partnership grant. Following the demise of the Goodman project in Manchester (see below), and internal changes at Faith in Families, the implementation was put on hold and the university was asked to undertake a scoping exercise. This report relates to that exercise.

## **Summary**

Interviews were carried out with social workers and managers in children's social work departments in 3 local authorities. 2 focus groups of social workers and 1 of fostering and adoption managers took place, covering more of the region. Interviews were then carried out with legal representatives, Child and Family Court Advisory Service Practitioners (CAFCASS) and 2 judges.

In contrast to earlier research, the findings indicate a preoccupation with legal processes and an overwhelmingly adult focused agenda. The Public Law Outline has changed the management of care proceedings with the result that it is more difficult to see where concurrent planning would easily fit. Concern about the rights of birth parents under the Human Rights Act is dominant and overrides concern about developmental and attachment issues for the child.

The following key themes and issues emerged:

- I can see it's good for the child, but.....
- Is it adoption or fostering?
- You could never do it under the PLO
- What about the birth parents – you have to be seen to be fair
- You can't preempt the court's decision

A strong commitment from the courts will be essential for the implementation of the scheme, and a change in focus from adoption to fostering as the underpinning caring principle to bring credibility for birth parents and allow for flexibility of placement.

## **Introduction**

“Concurrent planning” is a term used to describe a system of ensuring permanence, either at home with their parents or in alternative placements, as early as possible for young children in care. In essence, the child is looked after by carers who in the first place foster the child and work toward reunification with the birth parents, within a strict time limit; if this is unsuccessful, the same carers adopt the child. In all the schemes in the UK the carers are specifically recruited for the task. One of the key features of concurrent planning in its original form was that the child was placed with his concurrent carers after the **first** hearing of care proceedings, rather than after the **final** hearing as in traditional adoption, so the child is in a secure placement while the birth parents are being assessed. Prior to the commencement of this research project, the Public Law Outline was introduced which significantly changed the way care proceedings were managed (DCSF, 2008; Ministry of Justice, 2010). During 2009, it became apparent that existing concurrent planning projects were struggling to survive, and in mid 2010 the Manchester Adoption Society closed the Goodman project, which had first introduced concurrent planning into the UK in 1998. Other schemes run within local authorities also closed, or were absorbed into mainstream fostering or adoption teams. This left Coram Family in London as the only surviving project.

The drive for concurrent planning began in the US in Seattle, where during the 1990s there was concern about the number of children in impermanent placements, and the long term effect this would have on their emotional and psychological wellbeing (Katz, 1996). During the 1990s it became accepted that early permanent placement was of essential benefit to children; non permanent placement caused significant adverse behavioural and emotional effects (Monck et al, 2003; Dance and Rushton, 2005). However, recent statistics demonstrate that the overall number of children being adopted has decreased, and while the number being adopted at 4 years of age and under has increased, the number under the age of one year has fallen dramatically (Office of National Statistics 2011). Children suffer as a result of both the impermanence of their placement (a legal and emotional limbo) and instability through placement moves. Early resolution of issues of permanence for the child would prevent instability in both senses, enhance the child’s attachment to its carers and promote emotional and psychological wellbeing. The concept of concurrent planning is therefore essentially child focussed.

## **Background**

### **Child development affected by neglect and trauma**

Research in the last 10 years has highlighted the effect of early adversity on young children (Glaser, 2000; Balbernie, 2001; Schore, 2001). These writers have convincingly argued that early abuse negatively impacts on the development of the brain, producing effects similar to those apparent in post-traumatic stress disorder. Schore maintains that early intervention can significantly alter the "intergenerational transmission of post-traumatic stress disorders" (Schore, 2002), and the child's developmental stage at the time of exposure to the trauma is a crucial factor. "Bowlby's speculation that, within the attachment relationship, the mother shapes the development of the infant's coping responses is now supported by a large body of experimental studies that characterize maternal care and the development of stress responses" (Schore, 2002). Schore has argued convincingly that adverse and abusive experiences in early life affect psychological and emotional health and children's behaviour into adolescence and beyond. Glaser has suggested that "The importance of early intervention and attention to the chronicity of environmental adversity may indicate the need for permanent alternative caregivers, in order to preserve the development of the most vulnerable children" (Glaser, 2000).

### **Attachment**

Attachment experiences in the first two years, including experiences with a traumatizing care giver, directly influence the maturation of the right brain, and thus the development of the infant's lifelong coping responses. "Traumatic attachments, occurring in a critical period of organization of the right brain, will create an enduring vulnerability to dysfunction during stress and a predisposition to posttraumatic stress disorders" (Schore, 2002). The right hemisphere of the brain stores the internal working model of attachment relationships, and for this to be effective, the child needs a nurturing emotional environment, where positive interaction, appropriate responsiveness and play occur. Howe et al (1999) argue that for the first 6 months, the attachment system is at a stage of "attachment in waiting", but between 6 – 24 months, the crucial attachment patterns start to form. A child subjected to neglect is in "an intensely disruptive psychobiological state that is beyond her immature coping strategies" (Schore, 2002). A child who is in an insecure psychological environment will be adversely affected when it isn't possible for the carer or child to make that essential connection and interaction. Uncertainty about the future, which is an effect of delay, has been shown to have a cumulative effect on children's adjustment and behaviour even in an otherwise adequate environment (Rutter et al, 1990; Beckett and McKeigue, 2003).

### **Multiple changes of placement**

Repeated changes of placement once in care affect children's ability to form attachments, and thus their long term emotional and psychosocial development. The length of time spent in care and placement moves, together with older age at placement, are predictors of adoption success or disruption (Lowe and Murch, 2002; Selwyn et al 2006). In Ivaldi's study of adoption outcomes 44% of children between 1 and 12 months had four or more changes of placement before placement for adoption (Ivaldi, 2000). Ward found that several of the babies in her study had had many changes of home prior to admission to care, some with parents but some elsewhere e.g. with grandparents, or friends. Only 7 of Ward's 42 babies stayed in the same placement during their care episode (Ward et al 2006). Some of the multiple placements were with birth parents as a way of testing parents' capabilities; others were because of foster carers' holidays for instance. However, for the babies, these were still placement moves, whatever the reasons.

### **Children considered for concurrent planning**

Poor outcomes for children in care are indicators not only of the inadequacy of the care system, but the effect on the child of abusive early experiences. Children born into families where drug and alcohol use is endemic, resulting in inconsistent care giving, will be inhibited from forming secure attachments. In addition, it is likely that such children will have suffered physical damage to the brain from exposure to drugs and alcohol in utero; other issues in the birth family such as poverty, domestic violence, and poor parenting will also have an influence (Rutter, 1995; Zeanah, 2009). Given that the children being considered for concurrent planning are born into families with high levels of chaos and dysfunction, this research reinforces the importance of establishing permanence early. It is the accumulation of risk which has the most devastating consequences for psychosocial development (Rutter, 1999). Recent research by Ward et al (2010) has highlighted the poor outlook for young children where parents are affected by drug and alcohol misuse. The study found that parents who were able to change did so within the first 6 months.

The underlying philosophy of the Children Act 1989 is that children should be looked after in their birth family if at all possible; poor outcomes for looked after children in terms of educational achievement and subsequent life chances reinforce the belief that care is a last resort. However, this belief may be mistaken. It can be argued that for children living in chaotic and dysfunctional families, entry to care earlier rather than later might produce a more beneficial outcome. As Ward et al conclude "While the majority of children are best cared for within their families of origin, this is not true for ALL children" particularly where there are entrenched problems of drugs and alcohol and long standing involvement with social services, probably with other children being removed (Ward, 2006). It is

these children who could most benefit from concurrent planning (Monck et al 2003).

## **Methodology**

It was decided to undertake a purposive interviewing strategy. This involved focused interviews with key personnel. Prior to starting the interviews, visits were made to the two concurrent planning projects (Goodman and Coram Family), and a separate report has been provided to Faith in Families about these. 6 local authorities had been involved in the first round of discussions; the interviews were focused on a sample of those who had shown most enthusiasm and were therefore most likely to want to be involved, both in the research and in any future implementation of the scheme.

Previous research by Monck et al (2003) and Frame et al (2006) had identified children's services managers and social workers as the key people in their role as corporate parent, so this was where the interviews began. The three local authorities involved at this stage were Derby City, Nottinghamshire and Nottingham City (Local Authorities 1, 2 and 3). Following on from initial findings, the scope of the study was extended to include legal practitioners, CAFCASS, and judges.

The interviews took place over the period May 2010 to August 2011, and were carried out with:

<b>Position in organisation</b>	<b>Number of individuals</b>	<b>Area represented</b>
Adoption heads of service	2	Local authorities 1 and 2
Head of service for children in care	1	Local authority 1
Team or service managers (titles differed according to agency)	5	Local authorities 1 and 2
Social workers	25 individuals in 2 focus groups	Various across the region but including local authorities 1, 2 and 3
Adoption and fostering managers	8 in a focus group	Various across the region but including local authorities 1, 2 and 3
Legal services practitioners	2	Local authorities 2 and 3
CAFCASS manager	1	Regional
CAFCASS practitioners	2, interviewed together	Regional
Family court judges	2	Regional

The questions used to guide the interviews and focus groups are in Appendices 1 and 2.

## **Emerging Themes and Issues**

### 1. "I can see it's good for the child, but....."

All respondents acknowledged that in terms of attachment concurrent planning was a good idea. However, there was overwhelming concern for and about the adults in the situation – these will be explored below. Social workers felt powerless to argue for a solution which they acknowledged would be best for the child. There was a lack of urgency and passion about the importance for a child's development of reducing delay and placing children early – it was really felt that nothing can be done to improve this.

Some social workers felt the child would be confused because they wouldn't know what to call the carers; or that being with concurrent carers would influence them when they were asked what their wishes and feelings were. This indicates a misunderstanding of concurrent planning as the children involved are usually very young, it also raises issues about understanding the child's emotional state as the case is going through the court. The child is in legal limbo but not an emotional one; the child cannot be held in a vacuum while the care proceedings are going on.

- **Key point for the agency – the need to have someone driving the project with sufficient passion to carry it through**

### 2. "Is it adoption or fostering"?

All the respondents were concerned about the carers – in many instances, this was the first issue they mentioned. It was felt that the ambivalent status of concurrency would affect the carers' ability to attach to the child and the ability of any carers to undertake the task was questioned. Carers wanting to adopt the child would "contaminate" the process until a decision was made. It was also felt that the concurrent carers should be outside the assessment process, which foster carers are not. However, some perceptions were that in fact the carer knows the child best and both couldn't and shouldn't be neutral. This illustrates the complexity of the task and raises another whole issue about the neutrality of foster carers. The task foster carers carry out preparing the child for adoption was appreciated by social workers, but other respondents pointed out the value of day to day caring for the child in promoting attachment. The concurrent task is different from both adoption and fostering, but because of the outcome has often appeared more like adoption. The adoption/fostering debate arose in a different context where one adoption and fostering service manager stated that concurrent planning placements were in effect independent fostering placements, and she wouldn't pay an IFA fee for a baby.

- **Key points for the agency**
  - **referring social workers will have to be reassured that carers are capable of fulfilling the complexities of the task**
  - **carers will need sufficient support and training to enable them to do so**

3. "You could never do it under the PLO"

The theme that it would be extremely difficult to carry out concurrent planning under the Public Law Outline arose from almost all the social work practitioners and local authority personnel, and this proved to be a key issue. Legally this is not actually the case, as interviews with legal services and CAFCASS confirmed. However, there were differing views as to where in the PLO process concurrent planning would fit. Most of the work with the birth family should be done before the case comes to court, including assessment of other family members. This in the past has been part of the concurrent planning process. This may involve the child having one or more kinship placements before the case ever reaches court. The issue of whether concurrency is viewed as fostering or adoption comes in here – if it's fostering, a concurrency placement could be made early in the proceedings (see case example attached as Appendix 3); however, if it's adoption, a placement would have to wait until the proceedings were concluding and a placement order was being made.

- **Key points for the agency –**
  - **commitment to the principle from the judiciary**
  - **robust legal guidance in each case will be essential**

4. "What about the birth parents" – you have to be seen to be fair

Concern was expressed by all respondents, but particularly the social workers, about the effect on the birth parents. It was felt that ethically the process had to be seen to be fair, but also that parents were aware of their rights under the Human Rights Act, and this would delay the proceedings. Strong feelings were expressed about balance, and in favour of the principle that it was right for the child to stay with the birth parents if at all possible, to uphold the right to a family life. As well as a personal belief in the rights of birth parents which some practitioners held, there was also the issue of birth parents solicitors who were seen as obstructive in planning for the child, and described as "playing a game". CAFCASS respondents pointed to the lack of communication with some local authority social workers. CAFCASS and judges both disagreed with the widely held belief by social workers that CAFCASS are on the "side" of the

birth parents. CAFCASS were more positive about concurrent planning than local authority social workers. Issues were raised about the neutrality of the agency. While it was felt by some that the independence of the agency from the local authority would be beneficial and regarded positively by birth parents, the ability of the agency to carry out an objective assessment was doubted by some. There is an issue here about objectivity and neutrality.

- **Key point for agency – clarity and transparency about role with birth families**

5. You can't preempt the court's decision

This relates to points 3 and 4 above, but is primarily to do with parents' human rights: the right to a fair trial, and the right to family life. Although care proceedings are not a "trial", the principle was frequently invoked, particularly by social workers, some of whom felt this themselves, but also by others who considered that birth parents solicitors would bring in this principle, and that it would be accepted by the court. The child's human rights to a family life and a court outcome likely to promote optimum development, were less important.

The legal practitioners and CAFCASS considered that as long as the judge understood the principle and the process was clear, this obstacle could be overcome. However, this remains a concern as anecdotal reports indicate that there are many private practice solicitors who would be opposed to concurrent planning on behalf of their clients, the parents. In addition, although leadership comes from the local Family Court Judge, many care proceedings are heard in the Family Proceedings Court (magistrates) where different magistrates may hear the case each time and judicial management is more difficult.

- **Key point for the agency– strong support from the judiciary will be crucial**

Overall, findings suggest considerable hesitancy from social work practitioners about the feasibility of concurrent planning, and perhaps surprisingly, a lack of focus on the benefits for the child. Concern about the rights of the parents clearly outweighed the needs of the child. More positive responses were received from CAFCASS and local authority legal practitioners, perhaps because they could see the way through the legal process more clearly. The judges interviewed were also positive within certain constraints, but they may not be representative. Interestingly, the actual cost of the scheme per child was not raised as a particular hindrance.

## **Discussion**

Concurrent planning is a system of child placement which is overwhelmingly child centred, where the adults take the risks and which has proven good results for the children concerned, speeding up the resolution of permanence and promoting good attachments (Monck, et al, 2003; Kenrick, 2009; Kenrick, 2010). However, this research project has confirmed the difficulty identified by Wigfall et al (2006) in implementing the idea. Previous research about concurrent planning was focused on the role of children's social workers and team managers, identified as key personnel as they have a key role in decision making for the child in their role as corporate parents (Monck et al, 2003; Frame et al, 2006). In this research legal factors, both real and perceived, were much more important than had previously been the case.

While it might be expected that legal advisers would be concerned about possible legal challenges, social workers were concerned about human rights issues for birth parents to a perhaps surprising degree. This was either because they were fundamentally concerned about this, or they felt that birth parents solicitors would raise this as a hindrance to concurrent planning. This reminds us that the ethos of the Children Act 1989 that children should be brought up by their birth parents remains very strongly in place, despite exposure to research concerning attachment and the adverse effects of both trauma and placement instability on small children.

Worry about children being influenced by carers as to their wishes and feelings indicates a misunderstanding of concurrent planning as the children involved are usually very young, but it also raises a question as to social workers understanding of the child's emotional state as the case is going through the court. They are not in a neutral place, just "waiting"; on the contrary they are living their lives during the decision making process (Beckett and McKeigue, 2003). CAFCASS respondents in this research pointed out the importance of day to day living to the attachment process. For many carers in both Monck's and Kenrick's studies, helping the child through its initial post natal experiences proved to be a powerful bonding experience (Monck et al, 2004; Kenrick, 2009). Supporters of concurrent planning would argue that it is better that this is done with a carer with whom the child is likely to remain.

Social workers and managers questioned whether concurrent carers can promote attachment and still be objective within the court process? Previous evidence is that carers can fulfill this task (Monck, et al 2004; Kenrick, 2010), though Kenrick (2010) reported that carers found the degree of uncertainty unsettling. They also felt they were "on trial", and that the child could be removed at any moment, so some were reluctant to ask for support in case they were perceived to be not coping. Some carers found it difficult to fully attach, and also found their contact with the birth parents disturbing and indeed frightening at times. However,

Kenrick concluded that all carers felt it was beneficial to have taken the child at such an early age, and to have a holistic view of the birth parents obtained through frequent interaction with them (Kenrick, 2010). Kenrick also explored the issue of confusion for the child and found that while the high level of contact was disturbing for the child, there were long term benefits which outweighed this, i.e. the early attachment to the carers which helped the child's emotional development.

Concurrent planning may contain a fundamental inconsistency, in that it is normally only considered for parents with 2 or 3 other children already in care or placed for adoption, so the likelihood of rehabilitation home is very small. The fact that the child is already in its permanent placement at an early stage will undoubtedly have an impact on birth parents (though this could go either way – the birth parents might decide to give up and let the status quo prevail, judging that they had no chance of winning; or it could spur them on to a final fight for their child). Concurrent planning might have more credibility with birth parents if it had a higher rate of return home - in all schemes it is about 10% (Monck et al, 2003). Findings from the Family Drug and Alcohol Court (FDAC) evaluation involving birth parents who have a similar profile to those involved in concurrent planning, indicate a rate of return home of 40% - this is a much more positive possible outcome to present to parents. There are other aspects of FDAC which could usefully be transferred to concurrent planning if it were to be introduced, for example judicial continuity for each case, fortnightly reviews by the court (including the judge – who speaks directly to parents without lawyers being present), and a dedicated team of professionals attached to the court who not only work directly with the parents but also facilitate referrals to mainstream services (Harwin et al, 2011).

Although the stated aim of the PLO was to speed up care proceedings and reduce the number of assessments being carried out, this has not been the case. Care proceedings are now longer than ever, taking on average 53 weeks (Norgrove, LJ 2011) and external assessments are frequently commissioned. This militates against concurrent planning being used at an early stage. Masson suggests that birth parents solicitors become involved quite late in the process, and only have the birth parents version of events before entering the first legal planning meeting (Masson, 2010). They are therefore unlikely to recommend acceptance of concurrent planning to clients at that stage. Children's guardians are also sometimes appointed late in the day (Jessiman, 2009), and CAFCASS practitioners in this research confirmed this. Kinship care assessments are now a stronger feature of care proceedings, and while consideration of family members was historically always part of the concurrent planning remit, under the PLO kinship carers have to be assessed first. A new issue for concurrent planning therefore might be, should concurrent carers be prepared for more uncertainty, and take the child at an early interim care

order stage, when a kinship care placement or residential assessment of mother and baby might still be ordered by the court. The child would then have its care by the concurrent carers interrupted, but if the kinship or parental placement was unsuccessful, the child would return to them. Traditional concurrent planning was in reality much more like adoption, with an added element of uncertainty balanced by the very early placement of the child. This idea would be more akin to ordinary fostering.

Munro and Ward (2008) examined whether the implementation of the Human Rights Act 1998 had any impact on decisions in care proceedings, and whether parental rights were prioritized over children's' rights in certain instances. They concluded that "professionals needed to be mindful of the legal requirements of the Act throughout the decision making process". However, findings from this current research study indicate that the Human Rights Act has taken on the persona of the "elephant in the room" and the idea of the Human Rights Act tends to paralyze social workers even when it need not.

However, the real issue which is clear from this research is that social workers seem to have lost sight of the child, and are enmeshed in legal concerns, some of which are real but some not. The acceptance and implementation of concurrent planning is tied up in an overwhelmingly parent centred court process. The human rights of the parents override those of the child. The issue of a right to family life is overwhelmingly considered to be a right for the parents.

## **Conclusions**

Concurrent planning is a service for the child, aimed to reduce delay and promote stability. The risk is transferred from the child to the adults. At the time of Monck's research, concurrent planning was seen as primarily as an issue for social workers and their managers. This is no longer the case. Practitioners see decision making for children as a function of the courts, where they have little power or even influence. For concurrent planning to be introduced the attitude of the courts is crucial. This research has indicated that this would be forthcoming from the two judges interviewed. The way forward may therefore be to introduce a pilot scheme in one of those two judicial areas. Concurrent carers need to be regarded (and regard themselves) as foster carers rather than adopters, allowing for more flexibility in placement options in the early stages of the case.

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15<sup>th</sup> September 2011

## **APPENDIX 1**

### **Questions for concurrent planning feasibility study**

It has been proposed that concurrent planning be introduced in the East Midlands as a possible placement for young children.

- 1.** What is your understanding of concurrent planning, and what do you think the understanding of your staff is?
- 2.** What are your initial thoughts about concurrent planning? What might be the benefits and the drawbacks?
- 3.** What would influence you (or CAFCASS guardians) to recommend that a child be referred to the scheme? How might this child differ from others you are responsible for?
- 4.** Could you talk me through a young child's career path in care? I'm interested in the points of decision making.
- 5.** What factors do you think will or should influence the introduction of this scheme?

Jo Ward

20<sup>th</sup> July 2010 (amended May 2011)

## **APPENDIX 2**

### **Focus groups – guided discussion questions**

1. What do you understand about concurrent planning?
2. Under what circumstances do you think it could be used?
3. What are the issues for and against?
4. Do you think it's feasible in the current legal context and financial circumstances?

Jo Ward

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**APPENDIX 3**

Example case to consider where concurrent planning might fit in the process

Date	Event	Legal status:	Concurrent planning placement?
February 2011	Baby born; 4 previous children, in care or looked after by relatives	Pre birth assessment; Interim Care Order applied for and granted at birth	
	Mother and partner go for residential parenting assessment – outcome positive	ICO	
March 2011	Mother and partner and baby return home under supervision	Social worker/court consider supervision order	
May 2011	Mothers mental health starts to deteriorate		
July 2011	Baby placed in foster care	ICO	Now?
July/August 2011	Baby has 4 placements in 5 week period	ICO	Now?
August 2011	Mother disengages from process and fails to instruct solicitor	Social workers attend court for case planning ICO	
August 2011	Social worker to assess maternal grandmother as kinship carer		Now?
November 2011 (Projected)	Assessment of grandmother partially complete – possibility of placing baby with gr mother if going well, pending	Court to review progress	If not going well – now?

	completion of assessment		
January 2012 (fastest possible time scale)	Fostering panel for approval of grandmother (or not)		Now?
2012	If grandmother not approved, placement for adoption	Care order and placement order	

## **APPENDIX 4**

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