



States of Guernsey
Family Proceedings
Advisory Service

2016 Annual Report



Family Court Advisory Service
Children's Tribunal Safeguarder Service
Mediation Service

Family Proceedings Advisory Service Annual Report 2016

Mission Statement

To provide the highest quality independent Court Advisory Services for children, young people and families in private and public law proceedings, including the Child Youth and Community Tribunal, and to actively promote Mediation to divert private law cases from the court arena.

To contribute to continually improving services for children and young people within the Bailiwick.

Background.

The Safeguarder Service (now known as the Family Proceedings Advisory Service) was established under the Children (Guernsey and Alderney) Law, 2008 ("the Law") to safeguard and promote the interests of children and young people in public and private proceedings under the Law. The Service has a legislative responsibility to produce an annual report detailing its activities in the previous year for consideration by the Committee *for* Home Affairs and in the interests of good governance the Committee has agreed that the Annual Report should be made available to the public.

Governance

The Children Law 2008 and associated ordinance gave provision for a Safeguarder Service Advisory Committee (now known as the Family Proceedings Advisory Committee).¹

¹ The Children (Miscellaneous Provisions)(Guernsey and Alderney) Ordinance 2009, Part VIII, Governance and Administration:

37. Subject to the provisions of this Part, the Service is administratively a part of the Home Department, and shall be funded and supported from the general revenue account of the States.

38. (1) There shall be a committee to be known as the Safeguarder Service Advisory Committee (referred to in this Ordinance as "**the Advisory Committee**").

(2) The Fourth Schedule has effect concerning the membership and proceedings of the Advisory Committee.

The Children (Miscellaneous Provisions) Ordinance 2009 states that the Advisory Committee is responsible for:-

- Advising on policies and procedures for the Service's functions to be carried out by Safeguarders (now known as Family Proceedings Advisers);
- Advising on policies and procedures for the exercise and performance functions, powers, and duties of Family Proceedings Advisers;
- Ensuring arrangements are in place for monitoring the effectiveness of the services provided by Family Proceedings Advisers, and
- Advising on any other matters that arise in relation to the Service that may be brought to its attention.

In practice the Advisory Committee meets three times a year; membership is made up from representatives of: the Royal Court, the Family Bar, Health and Social Care (HSC) Children's Services, Legal Aid, the Office of the Children's Convenor, and Greffiers both Guernsey and Alderney. There is a Voluntary Sector representative and the Advisory Committee is chaired by the Chief Secretary of the Committee for Home Affairs; in the absence of the Chief Secretary the Head of Operations will Chair.

Summary

This report is the ninth annual report of the Service and details the work of the Service in 2016. The Service has a legislative basis under the Children (Guernsey and Alderney) Law, 2008 and has three core objectives, namely:-

- To provide appropriate and expedient independent advice to Family Courts and the Child, Youth and Community Tribunal process;
- To safeguard the interests of children in Family Court proceedings;
- To provide an effective mediation service for parties of family court proceedings in line with best practice.

Family Proceedings Advisers fulfil the role of ensuring that a child's interests are appropriately and independently represented in proceedings. This is a varied and challenging role, which Family Proceedings Advisers fulfil in accordance with the Committee *for Home Affairs'* key values of professionalism, integrity, quality, efficiency and innovation.

Statistical summary:

The Family Proceedings Advisory Service was involved in 232 live cases during 2016, a similar number to 2015 (235 cases).

There were 115 new referrals from the Court and CYCT into the service during 2016:

- 81 private law cases (55 from the Magistrate's Court and 26 from the Royal Court)
- 9 Public Law cases (where HSC is involved with the children)
- 18 from the Child, Youth and Community Tribunal (8 from the Convenor and 10 from the Tribunal)
- 7 Adoption applications.

The number of reports filed was down by 38% in comparison with 2015.

- Final reports filed: 32
- Interim reports 7
- Updating reports 7
- Total number reports filed: 46

The Service is fully committed to diverting, where appropriate, cases away from court proceedings and toward mediation to minimise the emotional impact on parents and children. All the FPAs are trained mediators, and mediation, when it works, is generally a quicker and more effective outcome for parents and children in that decision making remains with the parents.

In 2016 there were 29 new mediation referrals: seven from the court, five from the Greffe, five from Advocates, and encouragingly twelve self-referrals, which may have come via Advocates.

In some cases one party will make enquiries about mediation and attend for a preliminary meeting but for a variety of reasons the other party (usually but not always the other parent) is not willing or able to engage in the mediation process at the time it is offered. In 2016, fourteen of the couples referred did not proceed to full mediation as one party did not engage in the process.

Where families may not be willing or it may not be appropriate to undertake mediation the FPA will still attempt to help parties to some kind of resolution, either by narrowing the issues which remain unresolved and reporting on these to the Court, or by helping the parties to reach agreement before final hearing. Consent Orders made up 27% of closed cases in 2016, which avoided a costly and potentially difficult contested final hearing.

In terms of length of time between an FPA being appointed and the conclusion to the proceedings, it appears that the number of very long cases (over 12 months) is decreasing in the Magistrate's Court but remains high in the Royal Court. CYCT cases are generally concluded in a timely fashion within 6 months.

Budget and Staffing:

The 2016 revenue budget for FPAS was £433,833. 5.6 full-time equivalent Family Proceedings Advisers are employed, plus 1.2 FTE administration officers.

Progress on objectives from 2016

FPAS had 3 developmental objectives in 2016:

- 1. To work with Advocates and the Greffe to ensure that all parties are aware of the referral route for mediation:**

The number of mediation cases is not reflective of the investment made in time and development of FPA skills. Mediation is still considered a preferable route for resolution of difficulties faced by separating parents. There has not been the level of input required to make the benefits more generally known and this remains an ongoing area of concern. This said the skills of mediation used by all the trained FPAs within their practice, generally called dispute resolution techniques within court proceedings, undoubtedly contribute to the significant number of private law cases which do reach a consent order before final hearing.

- 2. To action the recommendations made by the Scrutiny Committee.**

This has been active and ongoing (see objectives for 2017)

- 3. To listen to, learn from and involve our service users.**

Various surveys were set up to try to elicit feedback from service users. These are publicised on all the service leaflets and letters but very little feedback has been received. This is another area to look at afresh in 2017.

Service priorities and objectives for 2017

FPAS will continue to focus on the recommendations made in the Scrutiny Committee report which identified 9 recommendations for the service. The current action plan and progress to date is as follows:

Family Proceedings Advisory Service Action Plan following Scrutiny Review 2015. Update – March 2017.

There were 9 specific recommendations for the FPAS in the Marshall Report published in November 2015 (recommendations 1-9 on page 92/93 of report). In addition recommendations 20 and 21 involving court rules and an independent complaints mechanism are relevant to the Service. The Family Proceedings Advisory Group approved the initial action plan on 18th February 2016 and received progress reviews on 19th May and 14th September 2016.

NB: The Safeguarder Service was renamed the Family Proceedings Advisory Service in March 2016 to coincide with the new States and the move from Departments to Committees. The Service is referred to as 'Safeguarders' throughout the Marshall report. In this update the recommendations remain verbatim but in the action plan the term FPAS and FPA are used instead of Safeguarder Service and Safeguarder. The term Safeguarder is still used in relation to appointments made by the CYCT.

Recommendation 1	Manager Responsible	Action Plan and current position.	Completed
<p>Consideration should be given to extending recruitment of Safeguarders beyond the social work profession.</p> <p>Page 26 of scrutiny report.</p>	<p>Chief Probation Officer</p>	<p>The Family Proceedings Advisory Service within the Bailiwick is unique in that its remit is to safeguard the welfare of children within three distinct contexts: public law, private law and CYCT related proceedings.</p> <p>The Guernsey Law and Ordinance do not prescribe the qualifications required to undertake the role of FPA. The use of non-social-work qualified individuals to perform this role within private and/or public law court proceedings represents a significant change from the established practice within the Court.</p> <p>In response to the Marshall report the need to be qualified as a social worker to be employed as an FPA has been changed from essential to desirable. Non-qualified staff with relevant experience can now apply for FPA posts.</p>	<p>To be kept under review to maintain the balance of skills in the team. Non Social Work qualified FPAs will be allocated mainly CYCT referrals. An appointment has recently been made of a non-social work qualified</p>

			FPAS practitioner.
Recommendation 2	Manager Responsible	Action Plan	Completed
<p>The minutes of the Safeguarder Service Advisory Committee should be published on the Service's website. This would include information about the training received by Safeguarders.</p> <p>Page 26/27</p>	Chief Probation Officer and FPAS administrator	<p>The FPAS advisory group meets 3 times a year, in January, May and September.</p> <p>Minutes are now published on the gov.gg website.</p> <p>The managers' report is included in the minutes- this gives statistical information about the work of the service and the training received by staff.</p> <p>The annual reports of the service are published.</p>	<p>Commenced 2016.</p> <p>Annual reports published once approved by CfHA.</p>

Recommendation 3	Manager Responsible	Action Plan	Completed
<p>The template for the Safeguarders' reports should list the relevant child welfare principles as a point of reference.</p> <p>These are set out as fundamental principles in the new Law and are listed on page 13 of the Scrutiny report, they are to <i>guide public authorities when they are making decisions about children.</i></p>	<p>FPAS admin and FPA's</p>	<p>The report identified that there 'may be merit in highlighting the child welfare principle relating to avoidance of discrimination which includes reference to gender'</p> <p>The FPAS has always included the Welfare Checklist as identified in Part 1, 4 (2) in the Children (Guernsey and Alderney) Law 2008.</p> <p>This recommendation to also include the Child Welfare principles was welcomed as a sensible addition and useful by FPAS as it links with the Child's plan used by HSC.</p> <p>The full list of child welfare principles is now attached as an addendum to every report and separate headings within the report address the principles particularly relevant to a case, including issues of how gender balance has been addressed.</p>	<p>Implemented and for review.</p>

Recommendation 4	Manager Responsible	Action Plan	Further action required.
<p>The Safeguarder Service should be subject to regular external inspection.</p> <p>Page 28.</p>	<p>CfHA Head of Operations and Chief Probation Officer</p>	<p>OFSTED has been invited to conduct an external inspection of FPAS which will take place during 2017.</p> <p>OFSTED inspect CAFCASS (children and families court advisory service) – the equivalent to FPAS in England and Wales.</p> <p>The terms of reference have been approved by the CfHA :</p> <ul style="list-style-type: none"> • Quality and effectiveness in private law practice. • Quality and effectiveness in public law practice. • Quality and effectiveness of work with the CYCT (Child, Youth and Community Tribunal) • Quality and effectiveness of Mediation. • Leadership and management. <p>The Scrutiny report will be made available to the inspection team so that the particular issues raised by Professor Marshall can be considered.</p> <p>It is anticipated that there will be actions identified from the inspection which will then be considered for implementation alongside the Marshall recommendations.</p> <p>The recommendations of the inspection report will be published, and depending on the recommendations a review period set.</p>	<p>Scoping visit to take place 22nd and 23rd May 2017.</p> <p>Agree timetable with OFSTED inspector.</p> <p>Complete inspection within 2017.</p>

Recommendation 5	Manager Responsible	Action Plan	Further action required
<p>The Home Department should review the staffing, resources and expectation of the Safeguarder Service to ensure that it is equipped to fulfil its responsibilities.</p> <p>Page 28.</p>	<p>Chief Probation Officer</p>	<p>The number of requests from the court and tribunal are not within the service's control. However the practices/levels of contact/length and scope of reports are areas which are currently being reviewed to ensure that the service's responsibilities can be fulfilled within current resources.</p> <p>Resources will be considered following the current priority based budgeting exercise being undertaken across CfHA, and take into consideration any recommendations made in the inspection.</p>	<p>To be considered in the priority based budgeting exercise.</p> <p>Standards and Expectations to be clarified, documented and put into practice.</p>

Recommendation 6	Manager Responsible	Action Plan	No further action
<p>Consideration should be given to providing legal aid for mediation by suitably trained Advocates in appropriate circumstances.</p> <p>Page 30/31.</p>	<p>FPAS Advisory Committee.</p> <p>Committee for Employment and Social Security</p>	<p>This recommendation has been considered by the Advisory Group (attended by the Legal Aid administrator)</p> <p>There will be continued efforts to facilitate early referral to mediation by the FPAs who are all trained mediators, but no further action by the Advisory Committee on payment to advocates for mediation.</p> <p>As legal aid is now administered by the Committee for Employment and Social Security this recommendation is now being reported on by that Committee.</p>	

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Recommendation 7	Manager Responsible	Action Plan	Completed
<p>The Safeguarder Service should seek to embed within its mediation service the principle of taking account of the wishes, feelings and views of children.</p> <p>Page 29-31.</p>	Chief Probation Officer	<p>The current mediation model encourages parents to make responsible decisions about their children without the children having to be involved. FPA's have specific training in relation to the direct participation of children in mediation and currently consider meeting with children at every mediation.</p> <p>Follow-up training on direct consultation with children was completed in November 2016.</p>	Ongoing training and review.

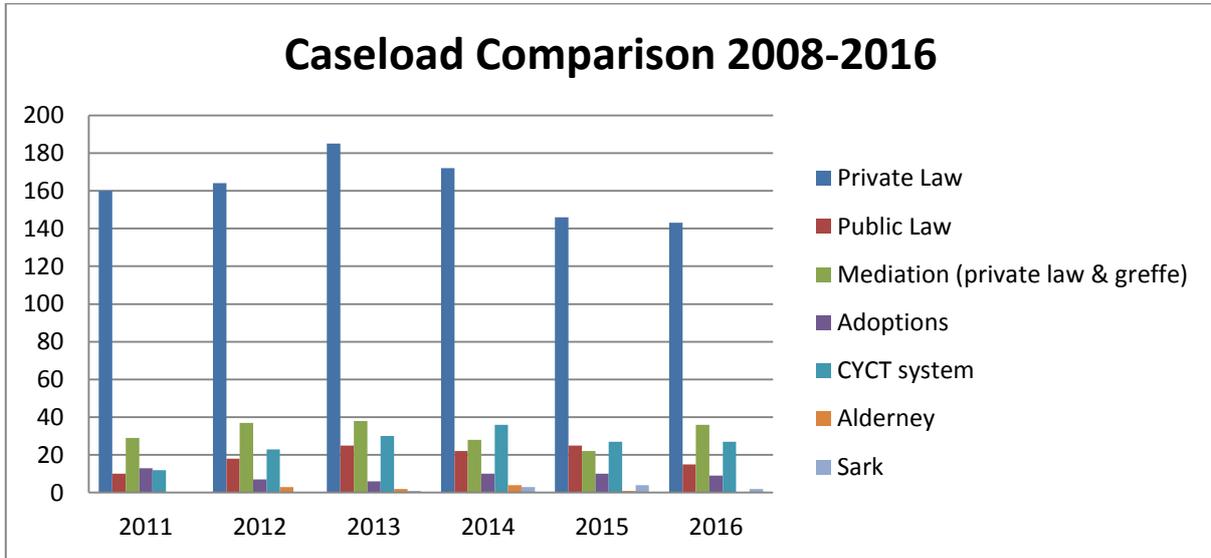
Recommendation 8	Manager Responsible	Action Plan	Further actions required.
<p>Consideration should be given as to whether the Child, Youth and Community Tribunal should have a role to play in some private law disputes about children. (see page 31/32 of the Scrutiny report for commentary)</p>	FPAS Advisory Group/Legal implementation group.	<p>This recommendation was made in the Home Department submission to Professor Marshall (page 31)</p> <p>It would promote parental responsibility and move away from the adversarial court system.</p> <p>This is a recommendation which will need to be discussed with the Convenor and those responsible for amending the Law including a new ground for referral and a review of the thresholds for referral.</p>	Discussions with Convenor/HSC and Law Officers to scope feasibility.

Recommendation 9	Manager Responsible	Action Plan	Completed
<p>Consideration should be given to providing a resource for helping parents and children to resolve difficulties that have arisen after the court case has ended.</p> <p>Page 33-34</p>	<p>Chief Probation Officer / FPAS Advisory Group.</p>	<p>Prior to the new law the Court had the ability to put in place a period of supervision by the FPA to monitor and assist the orders made in regard to contact with children. Although this is no longer in statute the individual FPA's do respond to requests for assistance in resolving ongoing problems after a case is closed. This regularly saves situations from escalating to another court application and is done on a voluntary basis by the FPA.</p>	<p>FPA time dedicated to closed cases is now being recorded and will continue to be monitored.</p>

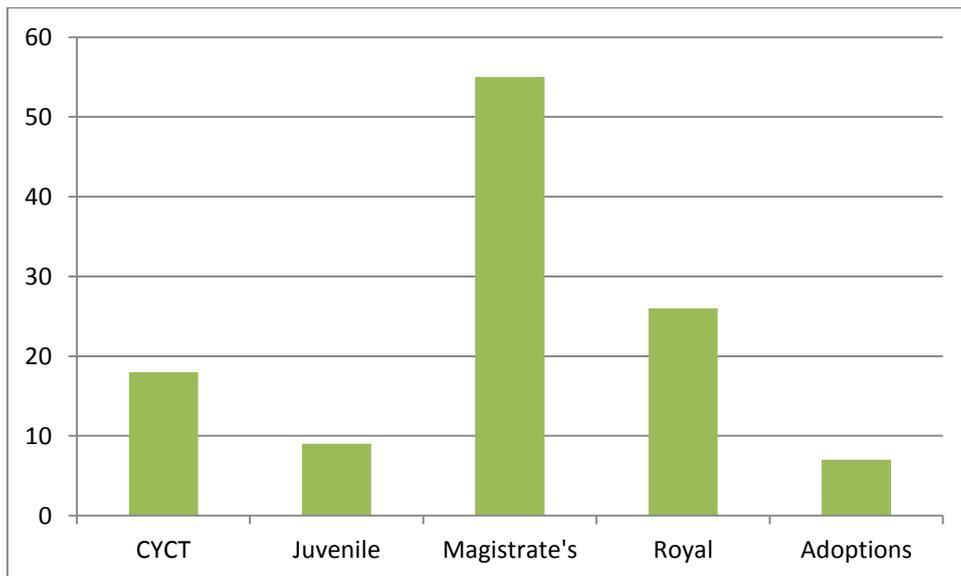
Recommendation 20	Manager Responsible	Action Plan	
<p>The Royal Court Could be invited to consider the purpose and proportionality of Rule 58 (communication of information relating to private court proceedings) and comparison with other jurisdictions.</p>	<p>Royal Court. FPAS representative.</p>	<p>The Royal Court had commenced meetings to discuss this issue before the recommendations were published. A practice direction has been issued from the Royal Court.</p>	<p>This recommendation is an invitation to the Royal Court.</p>

Recommendation 21	Manager Responsible	Action Plan	
<p>Consideration should be given to setting up an independent avenue of complaints, such as an Ombudsman, who may also be able to inform policy development in relation to children and young people. Page 20 – in reference to the Safeguarder service and Page 80-84 for general recommendations.</p>	<p>P&R/CHA/CHSC</p>	<p>Consideration of an Ombudsman role will lie with the Policy and Resources Committee or other relevant Committees.</p>	<p>No known action taken thus far.</p>

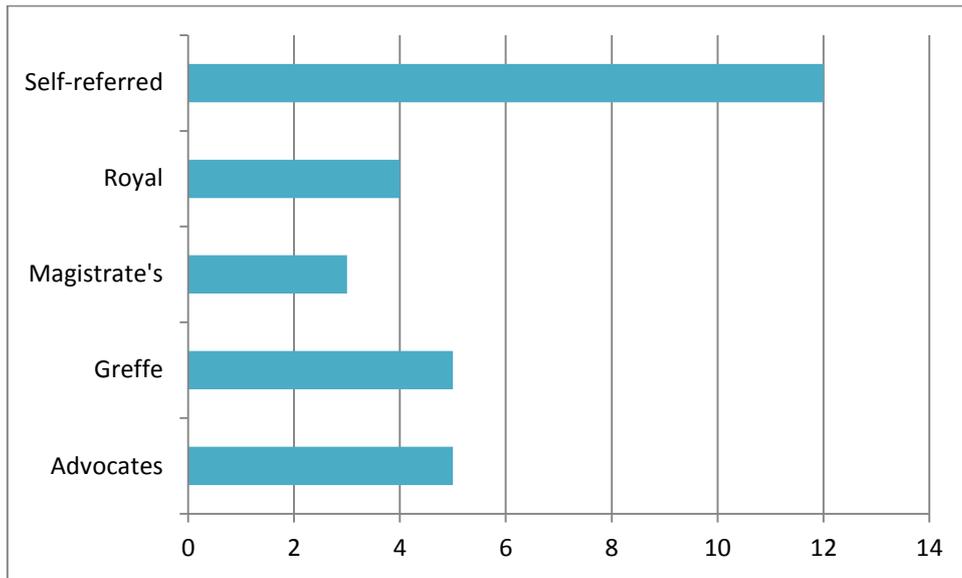
Statistical data 2016



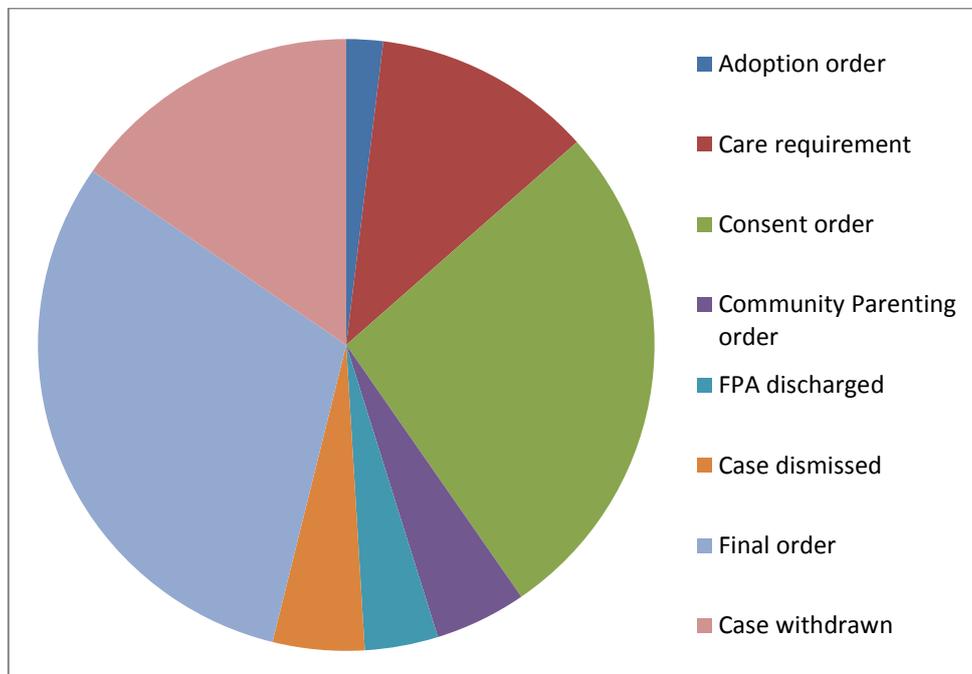
Source of new referrals 2016 excluding mediation



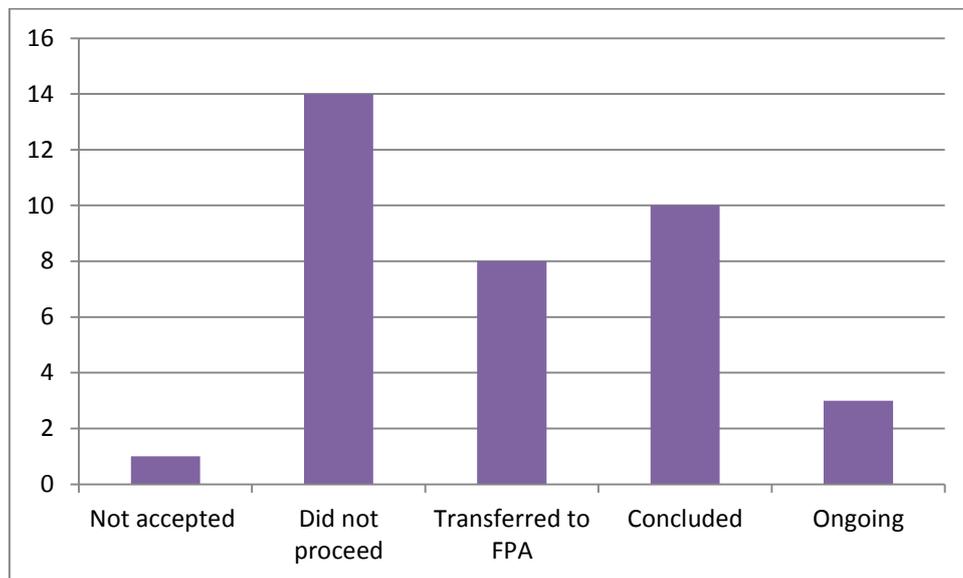
Source of mediation referrals 2016



Outcomes of closed cases 2016 excluding mediations and case with no FPA involvement



Mediation Outcomes 2016

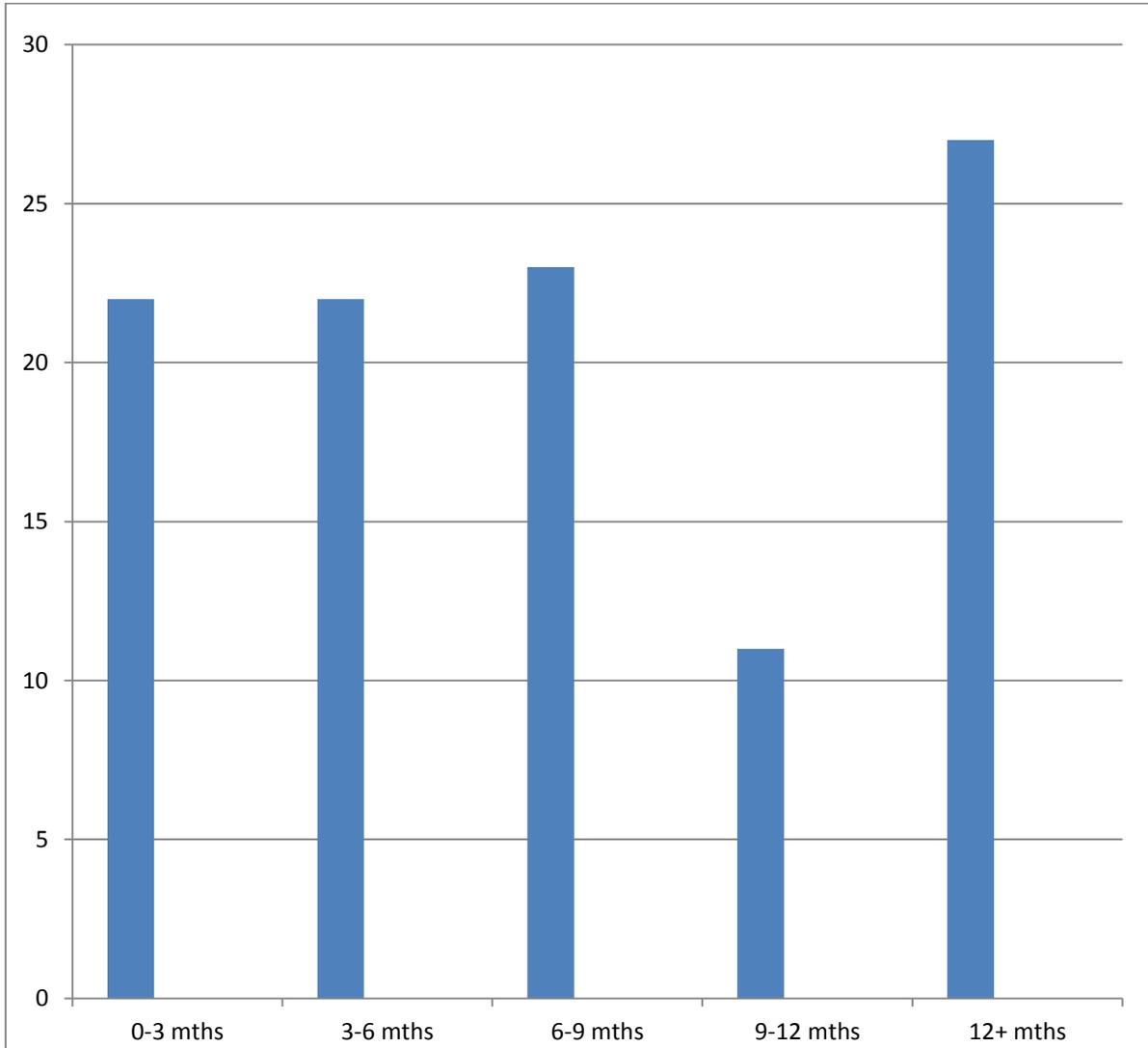


Did not proceed: one party did not wish to participate in mediation

Transferred to FPA: transferred into the court system

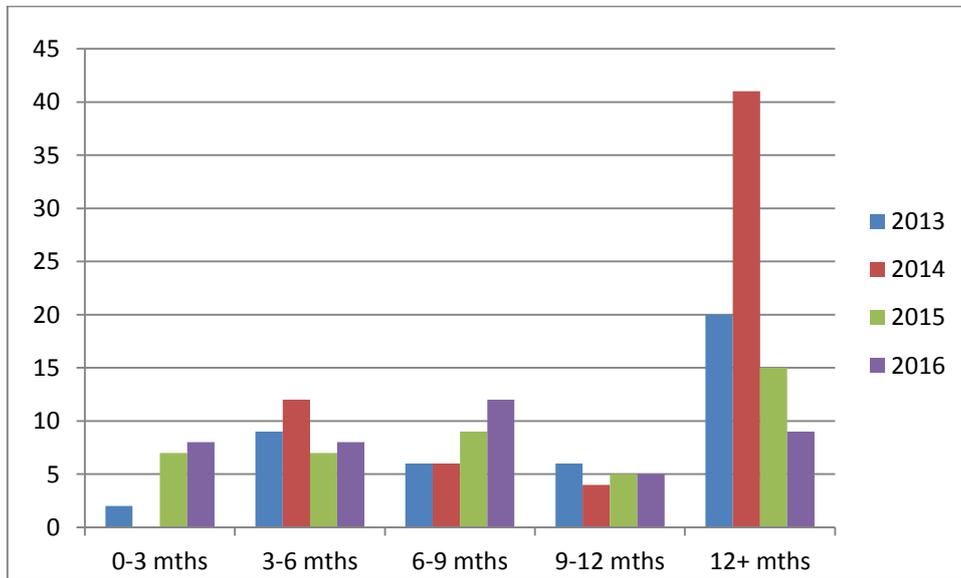
Concluded: mediation process completed

Length of all worked FPAS cases from referral to closure 2016 (excludes mediations and cases closed without FPA involvement)

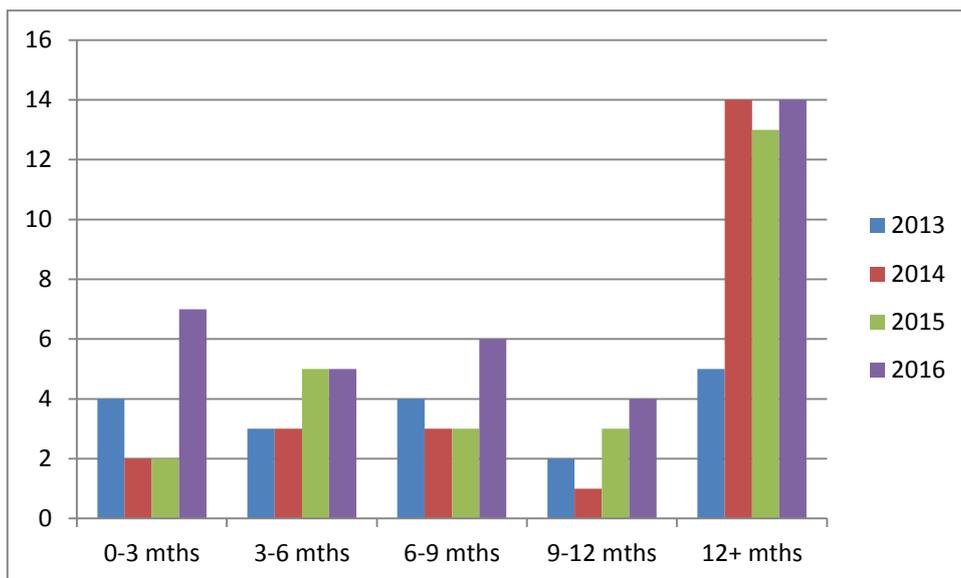


There follows further breakdown of lengths of involvement broken down by source of proceedings.

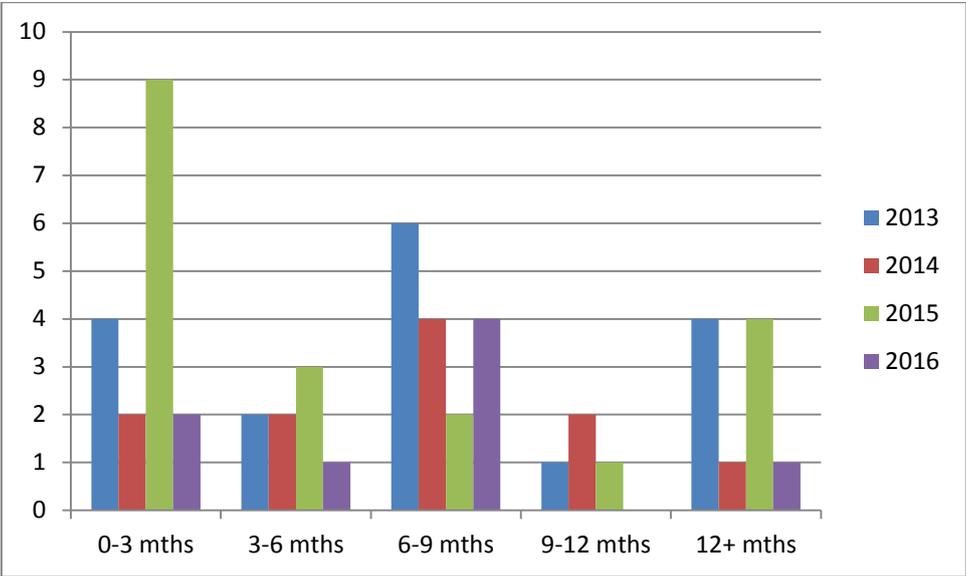
MAGISTRATE'S COURT LENGTH OF CASES FROM REFERRAL TO CLOSURE
 COMPARED BY YEARS
 (EXCLUDING MEDIATION)



ROYAL COURT LENGTH OF CASES FROM REFERRAL TO CLOSURE COMPARED BY
 YEARS (EXCLUDING MEDIATION AND SARK)



JUVENILE COURT LENGTH OF CASE FROM REFERRAL TO CLOSURE COMPARED BY YEARS



CYCT LENGTH OF CASES FROM REFERRAL TO CLOSURE COMPARED BY YEARS

