

Family Justice Council
Minutes of the full Council meeting held on 20th July 2015
Conference Room 2M, Queens Building, Royal Courts of Justice

Present:

The Honourable Mrs. Justice Pauffley (Chair)

Mark Andrews, Justices' Clerk
Professor Anne Barlow, Academic
Christina Blacklaws, Private Law Solicitor
Melanie Carew, Cafcass
The Honourable Mr. Justice Cobb
Her Honour Judge Liza Gordon-Saker
Elizabeth Isaacs QC
Angela Joyce, DfE
Ross Langer, MoJ
Sara McIlroy, Parents and Families
Helen Morris, Family Magistrate
Joe Murphy, MoJ
Dr. Heather Payne, Consultant Paediatrician
Paul Stewart, HMCTS
Malek Wan Daud, Family Barrister

Paula Adshead, Assistant Secretary to the Council
Jo Wilkinson, Assistant Private Secretary to the President of the Family Division
Daphna Wilson, Secretariat

Apologies:

Alex Clark, Secretary to the Council
John Daly, Assistant Director Children's Services
Dr Elizabeth Gillett, Child Mental Health Specialist
Matthew Pinnell, Cafcass Cymru
Dominic Raeside, Family Mediator
Emily Tuttiet, Welsh Assembly Government

1. Announcements

Triennial Review of the FJC: The Chair informed the members that following completion of the Government's review of the Council, the Ministry of Justice published its final report on 14 July. The report recognises the need for the Council to retain its functions and to deliver them independently as a Non-Departmental Public Body. A small number of recommendations were made in relation to good governance and these will be taken forward by the Secretariat.

Members: Sue Berelowitz has stepped down as Deputy Children's Commissioner and will therefore no longer attend the FJC. Her successor will be Jenny Clifton who is the Principal Policy Adviser on Safeguarding at the Office of the Children's Commissioner. HHJ Katharine Marshall and Caroline Little have both tendered their resignation from the Council and work is in progress to identify successors. The appointments of Mark Andrews, Anne Barlow, Liz Gillett, HHJ Liza Gordon-Saker and Heather Payne have come to an end. They kindly agreed to stay on until their successors have been appointed and the Chair noted that this would be their last meeting. The Council recorded its thanks and appreciation for their work over the last few years and wished them well in the future.

2. Minutes of the last meeting and matters arising (Paper 1)

The minutes were approved with one amendment.

Page 3, paragraph 3, the reference to the round table event should read this took place last summer.

There were six matters arising which were not covered in the agenda.

- **Recruitment for new members:** The interviews had taken place for the Child Mental Health Specialist and Justices' Clerk posts and the recommendations were due to be submitted for Ministerial approval shortly. The Academic interviews were ongoing and those for the Paediatrician post were being rescheduled due to the recent train strikes. The Public Law Solicitor post would be advertised shortly. On the judicial side, interviews for the District Judge appointment had recently taken place and those for the Circuit Judge post were scheduled for the 28th of July. It was hoped that the successful candidates would be in post in time for the Council meeting in October.
- **Joint FJC/British Psychological Society (BPS) consultation on standards for psychologists:** The guidance has been agreed by the FJC and the BPS Board. The final print proof will be sent to the secretariat shortly.
- **Consultation on Transparency:** Elizabeth Isaacs has drafted a response. If there are no further comments, the response can be submitted.
- **Consultation on Enforcement of Family Financial Orders:** The FJC response, drafted by Judge Gordon-Saker, has been submitted to the Law Commission.

- **Guidance on Sorting out Finances on Divorce:** AdviceNow is aiming to complete the guide ready for publication on its website by the end of September. An accompanying promotional leaflet, to be funded by the MoJ, will follow. Final quotes and timescales for this are currently being discussed.
- **Financial Needs guidance for the judiciary:** The Financial Needs working group expects to have its first draft ready in early August. This will be circulated to Council members for comments before the group meets again in October. The guidance is expected to be finalised by the end of the calendar year.

There were no other matters arising that were not agenda items.

3. Research on Feedback to Judges

Elizabeth Isaacs spoke to the paper, which had been circulated to the Council. This had been drafted following Professor Judith Masson's research on feedback, and her discussion with the Council at their previous meeting. Elizabeth Isaacs explained her paper focussed on the provision of evidence from research studies or data analysis (feedback type 5 in Professor Masson's document). The Council agreed that the use of the term 'feedback' was open to misinterpretation and the phrase 'lessons from research' was preferable. Angela Joyce highlighted a project funded by the Nuffield foundation on the provision of an information hub which could be exactly the type of resource that the Council was suggesting. It would be useful to speak to Nuffield to find out more about this work.

It was agreed that Elizabeth Isaacs would recast the paper in a shorter form for the Family Justice Board, putting forward the case for a scoping exercise. Paula Adshead confirmed that the Council did not have the budget in the current financial year for funding of any scoping exercise into the provision of such information.

4. Modernisation of the Divorce Process

Christina Blacklaws had presented the Council's paper on the topic to the meeting of the Family Justice Board on the 7th July and she felt that it was given a sympathetic hearing. On behalf of HMCTS Paul Stewart noted that the overall modernisation reform process was at an early stage, but divorce digitalisation was a project identified as one to be taken forward in the first stages of the process. A full business case would be required to get funding and approval and assuming that it was approved and went ahead it was unlikely that there would be a 'big bang' introduction, rather that the on line process would be introduced in stages.

This paper also raised the possibility of the introduction of 'no fault divorce', which was a policy issue for government, on which, as yet, there has been no indication of Ministerial views. It would be an opportune time for the Council to make representations to Ministers.

Liz Trinder, of the University of Exeter, has received a Nuffield grant to look at the impact of fault based divorce and this project was likely to begin in the autumn of 2015. It was

agreed that Anne Barlow would send the Council's paper to Professor Trinder and put her in touch with Christina. There has been a lack of research in this area, particularly on the content of behaviour petitions. It was agreed that the Council should look at ideas as to how divorce might be made less harmful for children and it would be sensible to seek engagement from the Children and Young People's Board. Information from Cafcass on the private law cases particularly those that did not involve divorcing couples would also be valuable.

Christina Blacklaws will carry on with this work to include discussions with Resolution and other interested bodies. The President, as Chair of the FJC, will be asked to raise the issue of no fault divorce with Ministers.

Support for Litigants in person.

Helen Morris and Sara McIlroy spoke to their respective papers which had been distributed to the Council. Sara reported that it was clear that Litigants in Person do not know where to start when they seek information. It is difficult to find signposting on line. Further concern had been expressed by those to whom Sara had spoken about the lack of regulation for McKenzie friends for whom there appeared to be no recognised set of standards and no clear structure for charging for their services. The Legal Services Consumer Panel produced a report on this in 2014 which recommended, among other things, that fee charging McKenzie friends should form a trade association. A public consultation will be published later this year.

Queries about Special Guardianship are also at a very high level, according to information from Coram's enquiry line. It was noted that the DfE have launched their call for evidence on their current review of Special Guardianship and this kind of information would be very helpful as part of the Review.

Helen Morris asked members to let her know what further additions they would like made to her paper. The work carried out in Bristol and the creation there of a central hub was much praised. With any information hub it was essential to have the right information and the right advice and the Council was of the opinion that an authoritative government sponsored hub was essential. However, work over a period of time had failed to provide this. It was noted that the removal of legal aid for the vast majority of private law cases had effectively removed the 'triage' process carried out by lawyers, who would direct clients to mediation or other sources of assistance. The Council considered it vital that some method was found to bridge that gap.

6. Children and Vulnerable Witnesses

The Chair noted that the Council had received copies of two outline draft Practice Directions. A consultation on the draft rule that these Practice Directions supported was to be launched imminently and the President would also be asking for comments on the outline Practice Directions.

7. Viability Assessments

Elizabeth Isaacs presented the paper from the Family Rights Group (FRG) which set out their proposals to set up a working group under the auspices of the FJC to develop a viability toolkit. Angela Joyce noted that research by Professor Judith Harwin for Nuffield was looking at supervision orders which would include work on viability assessments and this could also feed into the review on Special Guardianship. The Council agreed to endorse the proposal in general terms and members of the Council who wished to participate in the Working group, which would be serviced by the FRG, could do so on a self nominating basis. Links with DfE were to be encouraged and the FJC would welcome a report back on the progress with a view to considering inclusion in the Business Plan for next year.

8. Business Plan

The Business plan was approved by the Family Justice Board at its meeting on the 7th July. An updated version had been circulated to members and they were asked to send any comments or suggestions to Paula Adshead.

In the light of earlier discussion, the word feedback should be deleted from Activity 3 and replaced with the phrase 'lessons from research'. Activity 5 would be amended to remove Anne Barlow's name given the end of her time in office.

9. Executive Committee Membership

The proposal that membership should be correlated with the activity leads on projects in the Business plan was agreed. The Secretariat will review the membership accordingly.

10. Debate 2015

The motion for the debate is 'Adoption without parental consent is wrong in principle'. Suggestions for potential speakers were agreed and the Secretariat will approach those individuals to see if they would be willing to take part.

11. Conference 2016

The Council agreed that the conference should focus solely on Vulnerable Witnesses to allow more time to be devoted to the subject. It was suggested that service users with disabilities such as hearing impairment could be invited to speak about their experiences of the family justice system. The secretariat should ensure that the venue has appropriate accessibility.

The Council was grateful to Malek Wan Daud for agreeing to take the lead on the Conference and members who can offer assistance were asked to approach him directly. The

Council was also grateful for the assistance offered by two members of the Bar, who would be invited to the December meeting for a further discussion on the programme.

12. AOB

Angela Joyce asked members to consider and suggest any further groups or bodies who could be asked to provide information to the Review of Special Guardianship.

There was no other business