



Family Justice Council
Minutes of the full Council meeting held on 27th April 2015
Conference Room 2M, Queens Building, Royal Courts of Justice

Present:

The Right Honourable Sir James Munby, President of the Family Division

The Honourable Mrs. Justice Pauffley (Chair)

Professor Anne Barlow, Academic

Christina Blacklaws, Private Law Solicitor

Alex Clark, Secretary to the Council

John Daly, Assistant Director of Children's Services

Dr. Elizabeth Gillett, Clinical Psychologist

District Judge Liza Gordon-Saker

Elizabeth Isaacs QC

Angela Joyce, DfE

Sara McIlroy, Parents and Families

Helen Morris, Family Magistrate

Dr. Heather Payne, Consultant Paediatrician

Dominic Raeside, Family Mediator

Jane Sigley, MoJ

Emily Tuttiett, Wales

Malek Wan Daud, Family Barrister

Paula Adshead, Assistant Secretary to the Council

Daphna Wilson, Secretariat

Guest speaker: Judith Masson, Professor of Socio-Legal Studies, University of Bristol

Announcements and Apologies:

Mark Andrews, Justices' Clerk

Sue Berelowitz, Deputy Children's Commissioner for England

Melanie Carew, Cafcass

The Honourable Mr. Justice Cobb

John Hall, MoJ (Jane Sigley attending on behalf)

Her Honour Judge Katharine Marshall
Matthew Pinnell, Cafcass Cymru

1. Apologies and announcements

The Chair welcomed three new members of the Council - Elizabeth Isaacs QC (silk), Helen Morris (magistrate) and Sara McIlroy (parents and families).

- **Recruitment for new members:** The vacancies for the Academic, Child Mental Health Specialist, Consultant Paediatrician and Justices' Clerk posts had been advertised. Given that only one application had been received to date it was agreed that the closing date for applicants should be extended. The District Judge vacancy had also been advertised. Although there appeared to be some interest, the Secretariat reported that no applications had been received to date.

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

The minutes were approved without amendment.

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

- **Advice to the Family Justice Board on FDAC:** Since the last meeting, Ministers had approved a bid to fund an extension of the FDAC model and therefore, the proposed paper to the FJB was no longer required. Alternative topics for the FJB's consideration were discussed at Item 6.

- **AdviceNow project on LiPs:** The video clips on how to represent yourself in court and how to fill in form E had been published on the AdviceNow website. The links were circulated to members and placed on the FJC website.

Members commended the Advicenow website on its excellent content and accessibility. Discussions followed around the need to improve public awareness of on-line guidance and the potential for using social media. There was a range of informative material available to the public but a strategy to bring all these strands into one dedicated, stand-alone website should be considered, and led, by the Council. This would tie in with Activity 4 of the Council's Business Plan which aims to recommend to the Family Justice Board, ways to improve support for LiPs. It was noted that the MoJ was aware of the issue and hoped to look at ways to improve on-line guidance. Sara McIlroy agreed to speak to various groups, such as Gingerbread, to get their views on the availability and accessibility of public guidance, including the use of McKenzie Friends. The Council agreed to re-visit this topic at the next meeting.

- **Vulnerable Witnesses and Children working group:** The final report and recommendations were published on 17 March and had been circulated to members. The President stressed the importance of the proposed draft Rule and Practice Directions, which would be considered at the next Family Procedures Rules Committee.

- **Joint FJC/British Psychological Society (BPS) consultation on standards for psychologists:** The document was being formatted by BPS and would be issued to the FJC for final approval.

- **Mediation:** The final report of the Voice of the Child Dispute Resolution Advisory Group had been circulated to members along with the government response.

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

3. Research on Feedback to Judges

Professor Judith Masson, Professor of Socio-Legal Studies at the University of Bristol, gave a presentation on the findings of her research into feedback to judges in public law. The presentation and Executive Summary are attached for ease of reference.

Key findings showed that researchers valued aggregate data for feedback on the operation of systems and outcomes for children and that interpretation of facts required a frame of reference. In contrast, the judiciary tended to favour feedback on individual stories, judicial performance and service compliance, and had little knowledge of aggregate data. It was noted that the findings identified a need for a process, perhaps a textbook, to pull together all research and data. This crossed over with previous attempts to encourage Jordans to produce a digest of research. Angela Joyce drew the Council's attention to a new scoping exercise to be commissioned by Nuffield on "What works in family justice". Driven by the Family Justice Board, this was discussed at a round table event last summer.

Professor Masson would be producing a final report in due course and it was agreed that this should be disseminated and discussed widely. This work will also be incorporated into the Council's Business Plan for the forthcoming year and Elizabeth Isaacs QC agreed to draft a paper setting out a plan of action.

4. Business Plan 2015-16

A draft Business Plan had been produced by the secretariat following discussions held at the last Executive Committee meeting. Members agreed the plan and assigned volunteers to lead the following work strands:

- Elizabeth Isaacs for Activity 4 – Enabling feedback for judges and magistrates on the outcomes for children and families of the decisions they make in public law proceedings.
- Anne Barlow for Activity 6 – Awareness of rights and responsibilities of co-habiting couples who are neither married nor in a civil partnership.
- Christina Blacklaws for Activity 7 – Promote awareness of the divorce process including enactment of no-fault divorce.
- Malek Wan Daud for Activity 8 – Work with Local Family Justice Boards to promote interdisciplinary training on child and vulnerable witnesses.

Other members will be co-opted to join the leads as and when required. The next step will be to seek approval for the Business Plan from the Family Justice Board.

5. Executive Committee membership

At the last Executive Committee meeting, members discussed ways to determine its future membership. Previously, membership had comprised the Chairs of the Council's sub-committees. Since the Council had moved away from standing committees, an alternative mechanism to select members was needed. The Council was asked to explore the options for a new selection method and to consider the size of the Committee and length of appointment.

The Council concluded that whichever system was adopted, it should still retain some degree of flexibility. The rotation method was favoured in which a third of the membership would be replaced each year, but the leads of specific work strands might be invited to join on a temporary basis. The Committee should comprise no more than ten members.

6. Papers for the Family Justice Board

Since earlier proposals to submit a paper to the FJB on FDAC had been overtaken, the Council considered other topics to present to the Board. It was agreed to submit individual papers in the following order of priority:

1. Proposals for feedback to the judiciary in public law.
2. A proposed strategy for improving information and support for LiPs including the role of McKenzie Friends. (It was noted that Mr Justice Cobb was a member of a judicial working group considering a Practice Direction on McKenzie Friends.)
3. The potential for implementing aspects of the Californian Litigants in Person model.
4. Modernisation of divorce proceedings - including on-line divorce.

7. Debate 2015 and Conference 2016

The Council discussed suggestions for topics provided by the secretariat, reflecting earlier discussions with the President and the Executive Committee.

It was agreed that *Adoption without Parental Consent* should be the theme for the debate, which would take place in London in November. It should focus on the points raised in Re B-S (September 2013) around adoption orders made without parental consent, change of circumstances and parents' leave to oppose. This was a topical issue given the recent coverage about some central and eastern European states' grievances about the adoption of their nationals in England and Wales. The Council of Europe had recently published a report which highlighted that the UK and Croatia were the only member states who allowed adoption without parental consent. The President added that two further judgements from the Court of Appeal were expected by the time the debate was due to take place. Consideration was given to possible speakers.

It was agreed that the topic for the conference, to be held in February 2016, would be *Modernisation*. Following feedback from the previous conference, it was further agreed not to hold parallel sessions but to divide the programme into a morning and afternoon session, covering the following topics:

- a) *Vulnerable Witnesses and Children* – exploring the issues and proposals stemming from the final report of the Vulnerable Witness and Children Working Group.
- b) *Litigants in Person* – looking at the example of the California model and whether it could be adopted in England and Wales.

Helen Morris suggested the themes of digitalisation and electronic bundles. It was agreed that these were topical issues but given that work on this was being led by the Senior Presiding Judge, this was not a priority for inclusion in the Council's conference.

8. President's Transparency Consultation

Elizabeth Isaacs QC had been invited to lead on the Council's response to the Transparency Consultation and submitted a draft for the Council's consideration. Christina Blacklaws and Heather Payne were also expected to contribute and a final response would be circulated shortly. The President confirmed that the Council's response was not needed imminently.

9. Enforcement of Financial Orders

The consultation had been circulated to the Council and members of the former Money and Property sub-committee. District Judge Liza Gordon-Saker had kindly agreed to lead on the on the Council's response, a draft version of which was circulated to members. It was suggested that the response would benefit from being divided into sections to correspond with the format of the consultation questions. It was noted that the family judiciary, FLBA and Resolution were submitting their own responses. Members were asked to feed in their views to DJ Gordon-Saker. The consultation closes on 11 July.

10. Guidance on Financial Needs

Members were updated on the proposed publication of the guide "Sorting out Finances on Divorce", drafted in January by the Financial Needs working group. The document had been considered by the Executive Committee and the MoJ and steps were now being taken to have the document recast by AdviceNow for publication in a similar style and format as the previous guides (applying for a financial order without a lawyer; applying for a CAP order without a lawyer; and applying for divorce without a lawyer) which the Council has funded. The Council discussed the feasibility of AdviceNow producing both a full version of the guide plus a summary to signpost readers. It was acknowledged that AdviceNow was not yet in a position to begin work on the latter and it would, in any case, be dependent upon MoJ agreeing to fund. The Financial Needs working group was expected to meet in May and timings would be discussed further at the meeting.

11. AOB

The next meeting was scheduled for 20 July. The secretariat was asked to re-circulate the dates of the Council meetings for 2015.