



**Family Justice Council
Minutes of the meeting held on 22nd April 2013
Royal Courts of Justice, London**

Present:

Mark Andrews, Justices' Clerk
Professor Anne Barlow, Academic
Nick Ceadal, DfE
Bruce Clark, Cafcass
Jenny Clifton, Office of the Children's Commissioner for England
District Judge (Magistrates' Court) Nicholas Crichton CBE
District Judge Rachel Karp
Bridget Lindley, Consumer Focus, Parent Representative
Caroline Little, Family Solicitor, Public Law
HHJ Katharine Marshall
Joe Murphy, MoJ
The Honourable Mrs. Justice Parker
Dr. Heather Payne, Consultant Paediatrician (chair)
Claire Phillips, DoH
Alex Clark, Secretary to the Council
Tessa Fyffe, Assistant Secretary to the Council

1. Announcements and Apologies:

Sue Berelowitz, Deputy Children's Commissioner for England
Martyn Cook, Family Magistrate
Rhian Davies, Cafcass CYMRU
Phil Douglas, Deputy Director, Judicial Office
Dr. Elizabeth Gillett, Clinical Psychologist
Fiona Green, Cafcass
John Hall, MoJ
The Right Honourable Lord Justice Munby
Alison Russell QC, Family Silk
Julie Rogers, Welsh Government
Paul Stewart, HMCTS
Beverley Sayers, Family Mediator
The Right Honourable Lord Justice Thorpe
Malek Wan Daud, Family Barrister

Members thanked Mrs. Justice Parker for her contribution to the work of the Council over the last two years. She will be succeeded by Mr. Justice Stephen Cobb. Annabel Burns has moved

departments and as yet has no replacement on the FJC. Nick Ceadal from the Public Law team at DfE is attending to observe. Claire Phillips from the DoH attended until 11am. She is the new DfE representative on the FJB and hopes to attend FJC meetings from now on.

2. Minutes of the last meeting and matters arising

The minutes were approved without amendment.

Bridget Lindley requested an update on the expectation documents. Alex Clark reported that the first draft had been seen by the President, however this draft was not sufficiently challenging. The President will circulate the documents to the FJC for comment when he is happier with the content. Bruce Clark noted that the Cafcass documents are now on track as the judiciary's position on case management is clearer. By the third week of May, it is hoped that the new Public Law Outline (PLO) will be much nearer conclusion. Bridget Lindley noted the importance of front-loading at the pre-proceedings stage, so if the PLO is being revised, it is a good opportunity to integrate a pre-proceedings protocol. It is important to ensure that local authority practice reflects this.

It was noted that the provisions on fostering, adoption and 26 weeks and all the guidance is coming in ahead of the legislation.

DJ Nick Crichton noted that this is what the President was discussing at the recent President's conference. HHJ Marshall learnt from the conference that the PLO will be revised in July and also there will be a national disclosure protocol. Heather Payne would like to know who has ownership of these documents. Nick Ceadal said that Annabel Burns' team should be the first point of contact. Louise Bridson leads in this area and would be a good person to contact as Annabel Burns has moved to another team. Heather Payne would want that person to come to the next meeting. HHJ Marshall believed that the FJC should be a critical friend in respect of these documents. Mrs. Justice Parker was aware that a Police Disclosure Protocol is being drafted. DJ Karp noted that the Official Solicitor's document referred to at the last meeting is still not available. Heather Payne asked Nick Ceadal to feedback to the DfE.

3. Business Plan 2013-14

Members noted that Activity 10 and 11 have been added to the business plan following discussion at the last meeting of the Executive Committee. The ongoing work on interpreters, and the proposed work of the Public Law Workforce Development group have also been added. Heather Payne noted that the Council is yet to receive information on this work-stream from MoJ. Joe Murphy will have a MoJ pre-proceedings and PLO meeting shortly, and expects this area of workforce development to gather momentum soon. He will liaise with Alex Clark. Members proposed two further amendments to the business plan (reflected in actions 5 and 6).

4. FJC Working groups

Pre-proceedings: Beverley Sayers noted that the group is focusing on the new parenting agreement in conjunction with Cafcass.

LiPs in financial remedy cases: Mrs. Justice Parker will have a meeting of the group on the 25th April.

Interpreters: Mrs. Justice Parker commented that some judges have been advised to go through the Senior Presiding Judge's (SPJ) office for complaints. Malek Wan Daud continues to work on this issue and after several attempts has made arrangements to meet with Paul Harris. DJ Karp noted that in the County Courts there are a number of problems with interpreters. Anne Barlow asked whether it may be appropriate to compile a survey to address this information, but Beverley Sayers noted that this would only be useful if the information was then used to produce an outcome. Heather Payne noted that there is a separate agenda item on interpreters, but would like the item carried over to the next meeting in Malek's absence.

Experts: The experts' standards consultation is due to be published on the 16th May.

BPS/FJC (psychologists' standards): In Liz Gillett's absence, this matter will be carried over to the next meeting. Heather Payne informed members that the group would be meeting this afternoon at 1.30pm.

LiPs: The report from the cross jurisdiction working party led by Mr. Justice Hickinbottom has been written and is awaiting approval by the Lord Chief Justice and Heads of Division. Alison Russell represented the FJC on this group. It is accepted that there cannot be guidance for the judiciary and court users that covers all of the family and civil courts and tribunals as the rules differ considerably – family procedure rules being much more flexible. Having secured funding from the MoJ to commission AdviceNow to produce court guides for LiPs, the LiPs working group will take this forward.

Risk assessments: Alison Russell has stated that the remit and timetable for this piece of work will be with the Executive at its next meeting. This is on target.

HHJ Katharine Marshall asked why HMCTS could not consider a private law monitoring system similar to the Case Management System (CMS). Unfortunately, CMS does not extend to private law cases.

5. FJC Interdisciplinary Conference and FJC Debate 2013

Alison Russell is re-drafting the existing conference programme for a 1 day conference. Alex Clark is making an additional business case for a 1 day conference for the Royal Society. Members discussed the content of the existing draft programme. Bridget Lindley would like service user input to be retained in the revised programme. Caroline Little agreed but would extend this to include children also.

Caroline Little informed members of a new MoJ consultation on legal aid. It includes a proposal for a 10% reduction in advocacy fees and public law fees for solicitors. However, in real terms, this will mean a 25% reduction in fees. Caroline Little and Malek Wan Daud would like to take the lead in drafting a response to this consultation on behalf of the FJC. The Consultation closes on 3 June, and Caroline Little urged members to respond. Though it is a very tight timescale, she hoped to produce a draft response with Malek to circulate to members ahead of the deadline. Members agreed that such a tight timescale for consultations makes it particularly difficult for an interdisciplinary body such as the FJC to coordinate and submit a considered response.

Heather Payne asked whether this would be a good topic for discussion at the Conference. HHJ Marshall suggested that members should first focus on what can be achieved in 1 day. Arguably, the real difficulty is the lack of input in private law proceedings. Other members agreed, noting the difficulties surrounding the voice of the child being heard in private law cases. Other members suggested that it would be better to first consider the target audience before deciding on the content of the material. Heather Payne would like to know when the final decision on the funding for the venue will be available. Mark Andrews asked whether the Council was tied to the provisional date in September 2013 for any real reason other than these dates having been tentatively reserved for Dartington last year. Now, Dartington will not take place. He invited members to consider allowing more time for planning a successful 1-day conference. Some members agreed and urged the Council to think carefully about what it was trying to achieve, and how best to achieve it. It may be more prudent to allow more time for the planning of a successful conference. HHJ Marshall brought the discussion back to the existing draft programme, and suggested taking out the public law aspect so that the revised programme will focus on private law. Caroline Little would not support that as she was of the view that there needed to be input on public law as well as private law.

Heather Payne noted that there also needs to be a decision on the topic for this year's debate, and the planning for the debate which usually takes place in November/December, would need to begin. Perhaps the debate could be used to address those topics that cannot be covered at the Conference. Mark Andrews suggested considering ADR, as this may be an area that cannot be fully considered at the Conference. DJ Karp suggested long-term outcomes for children and special guardianship orders, looking at the different age groups for children. Bridget Lindley suggested topics around kinship care such as out- of- family placements for specific age groups. Anne Barlow suggested that a more controversial topic would lay the foundation for a good debate, such as 'Is mediation fit for purpose?' Members were in support and agreed that this topic was likely to provoke an interesting debate. DJ Karp suggested that consideration should be given to planning over 2 years, so that one topic can be addressed in the first year, with a continuation on the same theme with a linked topic the following year.

Heather Payne thanked all members for their contributions and asked members to send all their contributions to Alison Russell by email as soon as possible.

Alex Clark informed members of another consultation on court fee remissions and invited members to respond. Members invited Alex to take the lead on this, and Bridget Lindley agreed to be the second person on hand to assist. Caroline Little would like the link sent to her.

Caroline Little noted that many parents are represented by less experienced solicitors who do not seem to understand the way things are done. It is causing delays but it is a lack of knowledge about how the system works. Caroline commented that morale amongst solicitors is low.

6. Research strategy

Alex Clark is meeting with the research lead at MoJ, Rebecca Endean, on 1 May. The FJB has yet to confirm a research strategy and is seeking input from the FJC, MoJ and DfE colleagues. Anne Barlow noted that there is a large amount of research in existence, but research has a shelf-life, and publications collating existing research do not take the place of new research. HHJ Marshall asked whether this is what is suggested in the business plan under Activity 8. Alex Clark outlined the success of the Child Development Guidance with the judiciary following the recent President's Conference, and would like the Council to contribute to similar projects. Bridget Lindley noted that the ideal would be an easily accessible on-line resource pulled together by a

panel of DfE, MoJ and other researchers. Some members noted that in such an application, there could be a link to frequently asked questions or a discussion to identify the questions that the judiciary would like answered. Heather Payne concluded this discussion by reminding members that the FJC had limited resources and therefore the focus should be on what the FJC is able to do.

7. Interpreters

Heather Payne would like this matter carried over to the next meeting.

Any other business

Beverley Sayers asked whether judges dealing with private law cases involving domestic violence, could be encouraged to make reference to the domestic violence on the face of the court order, thus providing evidence for funding applications to the Legal Aid Agency. HHJ Marshall noted that this is already being done, and was also being taken forward by the Judicial College.

Bridget Lindley informed members that the Family Rights Group will shortly be publishing some research with Joan Hunt and others. Bridget will send the links to Tessa Fyffe to circulate to members. There is also the launch of the care enquiry involving 8 charities on 30 April.

Jenny Clifton informed members that the Office of the Children's Commissioner has an enquiry involving gangs and child witnesses. There is also research due to be published on Independent Reviewing Officers.

HHJ Marshall had a recent case where the local authority in question had no process in place for raising the issue of permanency with foster carers . There is a need for local authorities to have a policy in place. The concerns that often arise with placing older children with foster carers, and finalising the care plan given the 26-week deadline – this could all cause delay.