



Family Justice Council

Minutes of the meeting held on 25 January 2021 (by MS Teams)

Present:

Chair: Mrs Justice Theis
Mavis Amonoo-Acquah, Junior Barrister
Neal Barcoe, Ministry of Justice
Jenny Beck, Private Law Solicitor
Annie Bertram, Parents and Relatives Representative
Melanie Carew, Cafcass
Rebecca Cobbin, HMCTS
Jaime Craig, Child Mental Health Specialist
Judith Crisp, District Judge
Maud Davis, Public Law Solicitor
Louise Fleet, Magistrate
Rosemary Hunter, Academic,
Maria Kavanagh, Secretary to the Council
Bernadette MacQueen, Legal Adviser
Matthew Pinnell, CAF/CASS Cymru
Jane Probyn, Circuit Judge
Fiona Straw, Paediatrician
Natasha Watson, Public Law Solicitor
Claire Webb, Family Mediator
David Williams, High Court Judge

Secretariat:

Paula Adshead
Daphna Wilson

Apologies:

Ify Okoye, Department of Education
Sam Momtaz, Silk

1. Announcements

- Mr Justice Williams was thanked for stepping in as acting Deputy Chair since June 2020.
- Jenny Beck was congratulated on her recent appointment as an Honorary QC.

2. Minutes of last meeting and matters arising

The minutes of the Open Meeting were approved.

Matters arising:

Action points: Most action points had been completed. The Secretariat reported that no comments had been received about the suitability of the Council's terms of reference. Members were encouraged to review the ToR.

Forum on the Harm Panel recommendations: The Chair thanked all those involved in the highly successful online event. Attracting over 150 attendees, the forum raised some interesting issues and made a valuable contribution to the topic. A video recording of the event was published on the FJC website.

Family Procedure Rules - amendment to the over-riding objective: A proposal had been put to the Family Procedure Rules Committee (FPRC) that the overriding objective set out in the FPR 1.1(2) be amended in relation to vulnerable witnesses and parties to make clear the importance of ensuring that all parties were enabled to participate as fully as possible in proceedings and to give their best evidence. The proposal was considered by the FPRC and would be discussed further at its meeting in March. The equivalent amendment had now been made to the Civil Procedure Rules and the text of that amendment sent to the FPRC.

Law Commission consultation on weddings law: Sam Momtaz and Rosemary Hunter had drafted a response. They welcomed most proposals but raised concerns around lack of consent; void or voidable marriages; and religious-only marriages. The response was agreed by the Executive Committee and approved by the President before being submitted.

JUSTICE working group on improving Access to Justice for Separating Families: Professor Gillian Douglas had been appointed to chair the Working Party and work would begin in late January. The Council noted that this was an important area of work and would be happy act as a liaison point.

3. Family Justice Board

The Family Justice Board's meeting in February was expected to focus on:

- Delivery of the Private Law Advisory Group's recommendations on reform and the roll-out of pilot schemes, dependent on the financial position.
- Next steps in relation to the Public Law Advisory Group's recommendations.
- Recovery and reform, including backlogs and sitting days.
- Implementation of the Harm Panel recommendations, particularly trialling the investigative approach.

The Family Justice Review Implementation Group continued to meet regularly to consider progress in the implementation of reforms.

4. Business Plan

Judgecraft: There were no new developments due to the pandemic. However, the existing videos were proving useful in online judicial training.

Child Protection Mediation: The Nuffield Foundation's Evidence Review of Child Protection Mediation had been positive but it was clear that both funding and protocols would be needed. A pilot scheme would cost around £100k but it was expected that neither the Government and local authorities could commit to funding. It was noted that the Public Law Working Group had not included this in their recommendations.

It was suggested that the Council had gone as far as it could with this work. However, Neal Barcoe would make enquiries as to whether there was any government appetite or funding for it and report back to the next meeting. The Review of Children's Social Care may also wish to be aware.

Pensions Advisory Group: The survival guide had been endorsed by both the Council and the President and published on the Advicenow website. It would also feature on the FJC website. The Council thanked Law for Life for its work on producing this valuable resource for both lay people and lawyers. This activity was now complete and would be removed from the Business Plan.

Covert recordings: There had been no further developments.

Communications and dissemination of FJC business: Given the current restrictions regarding new Twitter accounts, the Council would continue to use that of the Judicial Office. It was noted that the JO Communications Team managed the FJC website and the timings of all publications were dependant upon its other priorities.

It was agreed that a strategic approach should be taken to raise the profile of the Council and one in which all members should engage.

In terms of the Local Family Justice Boards (LFJBs), the Secretariat provides a summary of business for the national FJB meetings but it was not clear if these had been circulated to the LFJBs. Neal Barcoe would make enquiries. It was suggested that the Council members could give a short presentation to LFJB meetings; take the initiative in seeking input from the LFJBs; and attend MoJ sessions with LFJB chairs.

Members could also promote the work of the Council to other organisations by way of a standing agenda and a standard Powerpoint presentation. It would be useful to share information with the family judiciary.

It was agreed to prepare a communications strategy setting out the main points and key stakeholders. This could be discussed further with Communications Team and considered at the next Council meeting.

Domestic Abuse: The Domestic Abuse Bill had its second reading in the House of Lords and the committee stage had commenced. It was unclear whether there were any potential government amendments going through (particularly from the Harm Panel report) and if the

Council's earlier evidence on cross-examination provisions could be re-submitted at this stage. Enquiries would be made of Neal Barcoe.

There had been very little feedback so far on the the Domestic Abuse in Remote Hearings guidance. HMCTS would incorporate relevant sections into its Notice of Safety, Protection and Support, sent out to litigants with the notice of first hearing.

Jenny Beck indicated that a recent Court of Appeal case had generated some proposals in relation to guidance material. She would share the information with Rosemary Hunter.

Medical mediation: Mr Justice Williams would be stepping down as chair of the working group but would remain a member. Members agreed to meet to agree a new chair and re-establish a sense of direction. Fiona Straw agreed to join the group.

Experts: The committee would oversee implementation of the recommendations set out in the final report of the President's Experts Working Group. It had agreed a strategy and was setting up eight regional groups, to which over 130 medical and legal professionals had volunteered. Preparations were being made for the committee's inaugural event in March and a strategy would be developed to look at the other recommendations in the report.

Jaime Craig stressed that this work covered psychology experts as well as medical experts and that should be reflected in the work and membersip of the committee and its regional groups.

5. Suicide and self harm awareness

The Executive Committee had recently discussed members' suggestions for future workstreams and agreed that two items should be put to the Council for further consideration.

The first was the issue of self-harm, suicide and violence to others in the context of family proceedings. HHJ Jane Probyn proposed an investigation into a) current research on family proceedings and the potentially heightened risk of self-harm/suicide on participants and b) consideration of the support available to the participants and judiciary. Annie Bertram stressed the need for training for the judiciary and court staff as well as easily accessible support and information for families. Maud Davis added that consideration should be given to promoting organisations who provide support after proceedings where children have been removed from parents.

It was agreed that clear parameters should be set for the research element – i.e. to consider at the factors that give rise to suicide and how court proceedings might exacerbate that. It was important also to look at existing vulnerabilities and what needs to be in place; mental health assessments; support offered after proceedings; and issues around confidentiality and what professionals can do if they have concerns about a person's mental health.

The workstream would be added to the Business Plan and an initial meeting set up. Jenny Beck, DJ Judith Crisp, Maud Davis, Fiona Straw and Jaime Craig expressed an interest in joining the working group.

6. The capacity of children

Melanie Carew expressed the need for guidance in this area particularly given recent judgements, the rising number of deprivation of liberty applications, and the lack of consistency in decision-making. The central point was the child's voice and how that was best expressed. There should be a multidisciplinary approach to best practice including psychologists, lawyers and organisations such as the Family Justice Young People's Board.

It was agreed to add this workstream to the Business Plan. Maud Davis, Mavis Amonoo-Acquah, Jaime Craig, HHJ Jane Probyn, and Matthew Pinnell agreed to help.

7. Seminars

The Council would be hosting a series of seminars on adoption and the Bridget Lindley Memorial Lecture in late March - to replace the original conference that had twice been cancelled due to Covid. The Conference Planning Committee would reconvene to help plan the events. It was agreed that all presentations would be grouped as originally planned and that Baroness Hale's lecture should stand alone as the final session.

8. Research update

Rosemary Hunter pointed out that recent studies had highlighted the urgent need to look at access to justice and that remote and hybrid hearings were creating further difficulties. She had noted a congruence between research on the advice sources on which people rely and on some of that advice being misleading. This reinforced the need for an authoritative source of information and re-introduction of early legal help. She also commented on some constructive work in this respect, such as that of the Harm Panel and the Justice working party.

9. Any other business

Law Commission's 14th Programme of Law Reform: Mrs Justice Theis and Mr Justice Williams had recently met the Law Commission to discuss areas for potential law reform. The judges suggested private law and family breakdown; medical cases relating to children; deprivation of liberty; Family Law Act reform; one statute for jurisdictions; and a statutory basis for care proceedings in the jurisdiction.

Further consultation would take place in due course.

Study into the advantages of early legal advice in family cases: Jenny Beck sought the Council's support for a funding application to Nuffield for a pilot on early legal advice. The pilot was expected to show the importance of effective early advice to avoid problems escalating to the point of litigation, thereby reducing the overall cost to the state of resolving private family disputes.

The Council fully supported the application. The wording would be agreed out of committee.

Independent Review of Children's Social Care: The review would offer an opportunity to tackle the issues which affect those who experience of children's social care. It was currently inviting expressions of interest to join its Experts by Experience group and seeking early advice on the issues. Colette Dutton stressed the importance of tackling the root causes of why children end

up in the system. It was agreed that the Council should offer any relevant information and await further details about what future role it can play.

10. Guest presentation

Annie Bertram and Dr Anna Gupta, Professor of Social Work at the Royal Holloway, University of London, gave an interesting presentation on parent advocacy in child protection. They looked at the Camden Conversations (a family-led child protection enquiry), different types and scope of parent advocacy programmes and methods for effective implementation.