



Committee on Experts in the Family Justice System

Newsletter: Autumn 2021



Introduction

Welcome to the 1st edition of the Newsletter. I hope that this will become a quarterly or half-yearly publication which will provide news on the activities of the FJC Committee, the regional groups, information on forthcoming events, feedback from recent cases involving expert issues and any other items which seem to us to be of interest

Since the Presidents Working Group Report was published in November 2020 (<https://www.judiciary.uk/publications/the-president-of-the-family-division-working-group-on-medical-experts-in-the-family-courts-final-report/>) and the FJC Sub-committee formed to take forward the implementation of the Recommendations we have been active on a host of issues. I will say at once that the task of converting aspiration to reality is a considerable one, and that I am hugely grateful to those who have volunteered for the FJC Sub-committee and the regional groups without whom the Recommendations would remain just that.

I hope that the contents of this, our first Newsletter, will prove useful to you the reader and if you have any ideas for content or feedback please do let us know (fjc@justice.gsi.gov.uk).

If you are a 'new' expert and wish to sit in on a case and observe an expert giving evidence please contact the FJC at the e-mail above or make contact with your regional group.

A handwritten signature in black ink, appearing to read 'David Williams'.

Mr Justice David Williams.

FJC Sub-committee news

The members of the FJC Sub-committee are:

Mr Justice David Williams (judge), Mavis Amonoo-Acquah (barrister), Jaime Craig (psychologist), Maud Davis (solicitor), Colette Dutton (Director of Childrens Services), Fiona Straw (paediatrician), Dylan Jones (solicitor), Adam Oates (radiologist), Keith Rix (psychiatrist), Sharon Segal; (barrister), HHJ Malcolm Sharpe (judge), Maria Kavanagh (Private Secretary to the Pfd).

HHJ Jane Probyn stood down, her term of office on the FJC having come to an end. She remains co-chair of the London Regional Group.

We are supported by Kim Webb, Deputy Secretary to the FJC, Daphna Wilson and Chukwuma Uju (Judicial Office).

The FJC has set up a dedicated part of the website to deal with Expert issues: [Experts in the Family Justice System \(EFJS\) | Courts and Tribunals Judiciary](#)

We are in the process of drawing up Action Plans in relation to each of the clusters of Recommendations.

Current 'work in progress' includes

- Supporting and Sustaining Change: Regional Groups developing systems to enable 'new' experts to observe experts giving evidence (currently termed mini-pupillage's until we come up with something more apt); several 'new' experts have observed evidence being given in a fatal head injury and an FII case before Williams J.
- Medical Colleges and Professional Bodies: A letter is being sent to the President of the Royal Colleges and other bodies to initiate discussions.
- Commissioners and NHS Trust: initial meetings have been held with officials in the Department of Health (England) and Department of Health and Social Services (Wales)
- Payment: The Legal Aid Agency have amended their Guidance in relation to prior authority and hours allowed (<https://www.gov.uk/guidance/expert-witnesses-in-legal-aid-cases>) and further discussions are in train within the Payment Action Plan group.
- Court Process and Treatment of Experts: Williams J has delivered several lectures to the judiciary and legal practitioners; HHJ Lewis spoke at the South East (East Anglia) Local Family Justice Board training event; the Judicial College is considering how training of judges might be amended to incorporate aspects of the Recommendations; the senior judiciary have approved in principle the adoption of a standard wording for a direction to be included in 'final' orders which requires any expert to be notified of the outcome and to be sent a copy of the judgment.
- Training: the legal professions and other training groups have been approached to explore how the training they deliver can incorporate aspects of the Recommendations and initial meetings have been arranged with some providers;

There is clearly a huge amount more to do so if you are able to assist in any way please don't be shy!

Regional Group News

8 Regional Groups have now been established.

North West (Manchester, Lancashire, Cumbria, Cheshire & Merseyside)

Co-chairs: HHJ Malcom Sharpe and Dr Jaime Craig

Contact: ExpertsNorthWest@ejudiciary.net

North East (Northumbria & North Durham, Teeside and South Durham, Leeds & West Yorkshire, North Yorkshire, South Yorkshire, Humberside & North Lincolnshire)

Co-chairs: HHJ Gillian Matthews and Prof Amaka Offiah

Contact: ExpertsNorthEast@ejudiciary.net

Midlands (Black Country & Shropshire, Northamptonshire, Birmingham, Coventry & Warwickshire, Derbyshire, Nottinghamshire, Leicestershire, Hereford and Worcestershire, Staffordshire, Lincolnshire)

Co-chairs: HHJ Rosalyn Carter and Dr Adam Oates

Contact: ExpertsMidlands@ejudiciary.net

Wales

Co-chairs: HHJ Mererid Edwards (South), HHJ Gareth Jones (North) and Dr Claire Thomas

Contact: ExpertsWales@ejudiciary.net

South West (Avon, North Somerset & Gloucester, Dorset, Hampshire & Isle of Wight, Plymouth & Torbay, Swindon, Taunton & Yeovil, Cornwall, North & East Devon)

Co-chairs: HHJ Melissa Barlow, Dr Michelle Cutland and Dr Louise Newbury

Contact: ExpertsSouthWest@ejudiciary.net

London

Co-chairs: HHJ Probyn and Dr Owen Arthurs

Contact: ExpertsLondon@ejudiciary.net

South East 1 - South (Thames Valley, Kent, Surrey, Sussex)

Co-chairs: HHJ Sarah Davies and Dr Lucy Love

Contact: ExpertsSouthEastSouth@ejudiciary.net

South East 2 - North (Norfolk, Suffolk, Essex, Cambridgeshire, Bedfordshire & Hertfordshire)

Co-chairs: HHJ Lewis and Professor Keith Rix

Contact: ExpertsSouthEastNorth@ejudiciary.net

The Groups are developing organically according to local conditions! Most have now recruited a small 'organising committee' and have identified things they would like to do. Some have held training events (South East South held a paediatric training event recently) or are in the process of organising them. One of the main areas where we thought regional groups might assist was in mentoring (informal probably) to enable experts to share experiences and discuss issues with other experts and legal professionals.

Feedback - Recent Cases

The President of the Family Division has published a Memorandum on Experts in the Family Court (<https://www.judiciary.uk/wp-content/uploads/2021/10/PFD-Memo-Experts.pdf>) which emphasises the basis of the instruction of experts in particular (but not limited to) in the field of parental alienation and reiterates the need for compliance with the Annex to Family Procedure Rules Practice Direction 25B.

Some observations on experts in judgments include the following:

"He gave his evidence in a measured, considered and reflective way whilst he was firm, he was not dogmatic. .. He acknowledged the limitations of science and engaged with the substance of criticisms which were put to him on the reliability of the methodology and was not defensive".

"He was careful and measured in his evidence, quick to point out when questions were being asked which were outwith his area of expertise and appropriately identified areas where he was reliant on the reports of others."

"Her evidence was illuminating and invaluable in terms of understanding the likely physiological process which ultimately led to death."

"He was measured and careful in his evidence identifying matters which were outside his expertise, where conclusions depended on evaluation of the parents or other evidence and were the remit of the court not him, to identify areas where it was not possible to base conclusions on medical research but rather on experience through practice or indeed through logic rather than science"

"His report was somewhat technical and made it difficult to digest but his oral evidence was much clearer as he was able to explain complex scientific or medical concepts in easy to grasp language."

"I need to come to my conclusions based not on general theories but about this particular child, what he is saying, and what the reasons are for it. [The expert] said that A's reasons for rejecting his father were 'spurious', but he does not have the evidence upon which to come to that conclusion. He did not spend any time with A to enable him to explore with A whether he has actually 'rejected' his father, and if so what the reasons for that might be. He had only two short informal meetings with A to introduce himselfbut he did not dig deeper into what he was saying about his father or why... . [the experts] conclusions from the observations of the sessions that A had with his father do not sit comfortably with the evidence of the sessions provided by [the experts] own detailed and comprehensive notes. ...[the expert] describes the nature of the attachment between the mother and A as unstable and postulates in his formulation that this is the driver to A's hyper-alignment with his mother. But he never observed A with his mother, and has not shown from what part of the evidence

he comes to the conclusion either that their attachment is marked by fragility, or that this is the driver of A's hyper-alignment. It appears that he has reached that conclusion by a process of elimination. He finds no good reason for A to reject his father and therefore concludes that the mother must be the root cause. This is unscientific. I found there was a tendency by [the expert] to fit the evidence to his cogent and coherent formulation, rather than standing back and testing it. Not just in terms of his conclusions about the mother, which I find to have been formed without a sound evidence base, but because he put a lot of focus on a dispute that arose between the mother and [the expert] himself."

Meet the Committee



Fiona Straw has been a Consultant Community Paediatrician in an inner city patch in Nottingham since 2003. She has a special interest in young people's health, in particular sexual health. Fiona was a designated doctor in safeguarding children and young people for Nottinghamshire until 2018 when she became clinical lead for the East Midlands Children and Young People's Sexual Assault Service. Fiona shares the role of the RCPCH Child Protection Companion Publication lead and sits on the RCPCH Safeguarding Children and Young People Standing Committee. In October 2020 she was appointed as Paediatrician to the Family Justice Council.

Forthcoming Events

8 December 2021: FJC Debate 'Should the age of majority be reduced to 16?' Contact: fjc@justice.gsi.gov.uk

5 January 2022: FJC Sub-committee meeting (5pm)

17 January 2022: Milton Keynes (Bucks) Local Family Justice Board training day

19 January 2022: Regional Groups Co-Chairs meeting. (5pm)

Spring 2022: Teeside Local Family Justice Board Training Day

March 2022: FJC Annual Conference (inc Bridget Lindley memorial lecture) - Bristol

1 April 2022: Berkshire/Oxon Local Family Justice Board Training Day

w/c 9 May 2022: FJC Experts Committee National Training Day (date and funding TBC)

