

**Call for evidence: HL Select Committee on the Children and Families Act 2014**

The Family Justice Council is a non-statutory, advisory body, which promotes an interdisciplinary approach to family justice. The Council is pleased to respond to the call for evidence by the House of Lords Select Committee on the Children and Families Act 2014.

The FJC is mindful that the Children and Families Act 2014 is a wide-ranging piece of legislation which addresses a plethora of related and unrelated topics arising in relation to children’s services. The Council is unable to comment on social care planning and other processes referred to in the Act outside the Family Justice system.

The FJC does not seek to substitute its views for the abundance of reports produced over recent years. The FJC is aware that several Parliamentary Groups are reviewing the Family Justice system from a variety of perspectives; all of which are relevant to the functioning of a cohesive system.

To assist the Committee in understanding the complexity of the matters covered within the Act it may wish to consider the following body of work;

Reports:

* Family Rights Group, Care Crisis Review (2018)
* Judith Masson et al, ‘Reforming Care Proceedings’ project – series of reports 2018-2020
* Report of the President’s Public Law Working Group (2021)
* Pereira et al, The Varying Paths to Justice: Mapping Problem Resolution Routes for Users and Non-Users of Civil, Administrative and Family Justice (Ministry of Justice, 2015)
* President’s Private Law Working Group, First Report (2019), Second Report (2020)
* Family Solutions Group, What About Me? Reframing Support for Families Following Parental Separation (2020)
* Ministry of Justice, Assessing Risk of Harm to Children and Parents in Private Law Children Cases (2020)
* The work of the Nuffield Family Justice Observatory
* Barlow et al ‘Mapping paths to Family Justice: Briefing paper and report on key findings’ (2014) and Mapping Paths to Family Justice: Resolving Family Disputes in Neoliberal Times (Palgrave Macmillan, 2017)
* Ministry of Justice, Call for Evidence on Dispute Resolution in England and Wales: Summary of Responses (2022)

The Committee may also wish to consider the following contextual factors which have impacted implementation of the Act.

a) Changes in legal aid through the LASPO Act 2012 – has been linked to the reduction in the take up of MIAMs and mediation through the referral pipe line of legal aid solicitors.

b) The costs of attending a MIAM are linked to eligibility for public funding. Although the recently-introduced voucher scheme addresses this to some extent, MIAMs and mediation starts are not rising. The screening for MIAMs at court centres is variable.

c) The number of unrepresented parties in private law proceedings has increased with consequent challenges for informed and speedy disposal through the family courts.

d) Cuts to local government budgets in social care and welfare services have seen an increase in the number of children being referred to social care and increases in the number of pubic law Children Act Proceedings. The increased number of public law applications against a backdrop of reduced resources has impacted the ability of the courts to conclude matters safely within 26 weeks

e) The pandemic – which resulted in more online proceedings. This created challenges around access to justice for those who are unrepresented. The family courts have worked throughout the pandemic in an attempt to manage the demand for court time and hearings, but the logistics have been challenging. Furthermore, the challenge of convening panels of family justices has led to delay in the processing of private law family cases

f) Cafcass resourcing and resourcing of HMCTS has been impacted by budgetary constraints

The FJC notes two ongoing processes relevant to the Committee’s inquiry. In response to the Harm Panel’s recommendations, the Ministry of Justice is undertaking a review of the presumption of parental involvement introduced by the Children and Families Act 2014. The review commenced in November 2020 and is due to report in Autumn of this year. Also in response to the Harm Panel’s recommendations, the Family Courts are currently looking at how the private law processes can be improved for children and parents with a pilot called The Pathfinder Programme. Within this programme, an early child impact assessment will be prepared which will recommend either a court-based solution or a referral to an out of court service for the family. The programme is being piloted in two areas, Dorset and North Wales. The pilot began on 1.3.22 and will run for 2 years. Among other things, the evaluation of the pilot will include consideration of the process of signposting to mediation. This evaluation will fall to be considered against the public consensus in favour of judicial process over dispute resolution noted in the call for evidence on Dispute Resolution held by the Ministry of Justice.

**Family Justice Council**

2nd May 2022