



## **Family Justice Council**

### **Minutes of the Meeting Held on 24 October 2022 (11:00 to 14:00) (Hybrid meeting)**

#### **Member Attendees:**

##### **In person:**

Chair: Mrs Justice Theis [Theis J]  
Sir Andrew McFarlane, President of the Family Division  
Mr Justice Peel, High Court Judge [Peel J]  
Jaime Craig, Child Mental Health Specialist  
Karen Venables, Circuit Judge  
Bernadette MacQueen, Legal Adviser  
Fiona Straw, Consultant Paediatrician  
Natalia Schiffrin, Magistrate  
Angela Frazer-Wicks, Parent and Family Rep

##### **Remote:**

Jenny Beck, Private Law Solicitor  
Neal Barcoe, Ministry of Justice  
Maud Davis, Public Law Solicitor  
Rosemary Hunter, Academic  
Matthew Pinnell, Cafcass Cymru  
Mavis Amonoo-Acquah, Junior Barrister  
Melanie Carew, Cafcass  
Rebecca Cobbin, HMCTS  
Judith Crisp, District Judge  
Colette Dutton, ADCS  
Vince Cowell, Parent and Family Rep  
Leigh Shelmerdine, CJC

##### **Secretariat:**

Kim Webb  
Daphna Wilson  
Grace Hodges

##### **Apologies:**

Ruth Henke, Silk  
Natasha Watson, Public Law Solicitor  
Claire Webb, Family Mediator

### **Agenda Item 1 – Welcome and Announcements**

1. Angela Frazer-Wicks and Vinice Cowell were welcomed to the meeting as the new parent and family representatives.
2. Mr Justice Peel will be leaving the Council from January 2023 to join the Family Procedure Rules Committee; however, he will continue to chair the financial remedies working group. Mrs Justice Morgan will take over as the Family Division High Court Judge member.

### **Agenda Item 2 – Minutes of last meeting and matters arising**

3. Minutes were approved.

#### **Matters Arising:**

4. Most actions have either been completed or are contained within the agenda.
5. The new FJC website platform has gone live. Thanks, were given to Natalia Schiffrin, Rosemary Hunter and HHJ Karen Venables for their contributions towards restructuring the information on the website.
6. Thanks, were given to Maud Davis and HHJ Karen Venables for their work on drafting the consultation response on the procedure for police disclosure orders.
7. The Financial Remedies working group provided a short response to confirm the continuing support for the Pensions Advisory Group and the impending updates to the respective guidance.

### **Agenda Item 3 – Business Plan Progress**

8. FJC went through each of the activities for updates.

#### **Activity 1 – Use of covert recordings in family law concerning children**

9. Thanks, were given to Natasha Watson for her hard work on this guidance. Jaime Craig confirmed that the guidance, subject to some final checking is ready to be sent out to the practitioner groups for consultation. Jaime will agree the timetable for the consultation with Theis J and the secretariat outside of the meeting. The aim would be to bring an update on the responses received to January's Council meeting.
10. Jaime confirmed that he had met with the Family Justice Young Peoples Board, which was useful as they raised an element, which hadn't been incorporated.

#### **Activity 2 – Communication and dissemination of FJC work**

11. This will be covered under item 8.

#### **Activity 3 – Domestic abuse**

12. Rosemary Hunter confirmed that the working group has been reconstituted with new terms of reference to have an ongoing role in monitoring and intervening, as appropriate, in relation to domestic abuse in the family justice system. The working group is next due to meet on 14 November, where it will consider the plans for the next tranche of work.
13. Rosemary confirmed that the working group has ceased work on the best practice guidance. A draft statement was supplied as part of the papers. Rosemary suggested

amendments to the statement in order to accurately represent the reasons for ceasing work. This should include saying thank you to those who responded to consultations and acknowledge the value of how working on the best practice guide has raised awareness as well as the benefits for judicial training and changes to HMCTS practice.

14. The amended statement will be placed on the FJC website.
15. The President acknowledged the contribution made many people, in addition to the working group. He confirmed that the work would not be wasted and would be a resource that the Council may refer to in future.
16. Thanks, was given by the Council to Rosemary for the huge amount of work she put into working on the guidance.
17. Angela Frazer-Wicks is involved in a research project run by Sheffield university called 'Reimagining Domestic abuse in Child Protection' (R-DAC), which is looking to write a set of good practice guidance. She volunteered to join the DA working group going forward. The Council discussed providing the information developed and obtained via the working group to Angela. It was agreed that in order to avoid inadvertently publishing the best practice guidance, Angela will come back to the Council prior to R-DAC publishing any outward communications in this regard.
18. The President apologised to the DA group following his decision to, at short notice, ask Lady Justice Macur and a small working group to draw up some guidance on fact finding. He apologised for not having connected with the DA working group on this piece of work.

#### **Activity 4 – Experts in the family justice system**

19. Fiona Straw provided an update on the symposium, which was held in Birmingham on 12 October 2022. The recording is available on the FJC website.
20. Williams J will be writing up a note of the day to include actions being taken forward. The plan is to hold another symposium in two years to review progress.
21. The regional committees are up and running and working well. There will be a meeting in December with the leads of all the Royal Colleges regarding the NHS and Commissioners strand.

#### **Activity 5 – Death by suicide within family proceedings: awareness and support**

22. Colette Dutton confirmed that the group has got to the position whereby there is already guidance in place in HMCTS and the group is asking whether it can be amended to suit its purposes. The aim is to utilise what already exists.
23. The guidance needs to relate to what happens in court on the day and something the professionals can have at their fingertips. It should include advice around signposting and practical advice of what to do if the situation happens in court.
24. The group has identified a gap for private practice, whereby there is no support for barristers and solicitors in these situations. Unlike MOJ and social workers, which have in house support mechanisms.
25. The aim is to have a draft ready for mid-December, which can be sent to Council members for comments out of committee, with a view to final approval being given at the meeting in January 23.

### **Activity 6 – Responding to allegations of alienating behaviour**

26. HHJ Karen Venables confirmed the group is working on a flowchart to identify pinch point of those cases where alienating behaviours might be identified and then looking to craft a series of documents to help practitioners and the legal system manage those challenges as they arise. This is both in identifying the behaviours in the parent and the children and would also include case management and welfare options that the court has to deal with in those proceedings.
27. The working group remain on track to produce the draft guidance for January 23.

### **Activity 7 – Financial remedies**

28. Peel J confirmed the group had returned the response to the consultation for the pensions group, which will involve a major overhaul of their guidance.
29. The group is reviewing and updating the ‘Guidance on Financial Needs on Divorce’, which was last updated in 2018 and is aimed at practitioners. The other piece of guidance is ‘Sorting out Finances on Divorce’, which is aimed at litigants in person. The hope is that both pieces of guidance will be completed by the end of December 22.
30. The secretariat is planning to add more AdviceNow links on the website.
31. It was confirmed that it is now mandatory for any full or part time judge who wants to do financial remedy work to undergo bespoke training with the Judicial College. This includes a session on domestic abuse in the context of financial remedies, some of which Rosemary has delivered. Credit for this needs to be given to the DA working group, which first discussed this and then which resulted in a publication by Rosemary and DJ Judith Crisp and the introduction to the College.

### **Activity 8 – Medical Treatment cases**

32. Melanie Carew confirmed that this new working group has evolved from the medical mediation working group. It will look at best practice guidance on medical treatment cases looking at both the procedural issues but also the media with a view to trying to push mediation as something that would be of benefit.
33. The working group met in September. Melanie has committed to sending a draft to the working group in October. She confirmed that Claire Webb had met with the Medical Mediation Foundation about how to include useful information about mediation and how to promote it in the guidance.
34. The aim is to send a draft to the Council in early 2023 before sending out for consultation.

### **Agenda Item 4 – FJC Governance**

35. The Council was encouraged to comment on the paper provided in advance.
36. Rosemary noted a number of omissions from the governance paper and it was agreed that reference to the following would be added:
  - a. Membership to be updated to reflect all current names and roles
  - b. Executive – add names of members and how they are determined
  - c. Executive - consideration of which consultations need to be responded to, general horizon scanning and considering new working groups

- d. Working groups – add that the key role of the working groups is to produce guidance
  - e. The relationship between the Council and the President and how it is decided whether a working group will be an FJC one or a President’s one.
  - f. Clarify that the role of the FJC is to give advice to the Family Justice Board.
37. An updated paper will be brought back to the Council in January.

#### **Agenda Item 5: Potential New Work Stream**

38. The Council discussed the paper provided in advance. Mrs Justice Knowles suggested a new work stream which would look at any guidance that could be produced to be able to assist young people who have been the subject of proceedings being able to gain information and documents in relation to proceedings that have been about them.
39. The suggestion received broad support from the Council, although there was concern that it could be more complicated than first thought given that it may require a rule change. The Family Procedure Rules Committee has already considered this but is not currently able to consider this as a priority. Mention was also made of the parallels with mechanisms for people who have been adopted.
40. It was suggested that a small group carry out a scoping exercise to consider the proposal for both public and private law in more detail. This needs to tie in with Mrs Justice Judd who is looking at similar matters regarding accessing adoption records. This will be brought back to the Council in January.
41. The following members offered to be part of the scoping group:
- a. HHJ Karen Venables (Chair)
  - b. Vinice Cowell
  - c. DJ Judith Crisp
  - d. Jaime Craig
  - e. Melanie Carew
  - f. Mavis Amonoo-Acquah
  - g. Angela Frazer-Wicks
  - h. Matthew Pinnell
  - i. Maud Davis
  - j. FJYPB
42. Rosemary suggested that the DA working group could consider whether there is anything useful, which it could do on this topic.

#### **Agenda Item 6 – Family Justice Board (FJB)**

43. Neal Barcoe confirmed the next FJB is booked for 15 November. Subject to new ministers coming in with different priorities, the plan is to focus on the following:
- a. A more detailed family justice plan for both public and private law with a more simplified governance process at national level.
  - b. Local governance and accountability and LFJBs.
  - c. How data and insights drive all the work on governance with a local focus on timeliness in both public and private and regional variances.

44. The question about how the FJC interacts with the governance is still an issue. Mrs Justice Theis is attending an LFJB chairs meeting on 26 October to highlight the work of the FJC.

### **Agenda Item 7 – FJC Events**

#### **Debate**

45. The topic for this year's debate was confirmed - Should remote hearings continue to play a significant role in family cases? The planned structure is to have three speakers on each side; one at judicial, practitioner and parent with lived experience level.
46. The aim is to get the topic to move away from looking at whether remote hearings are good or bad but to bring out different perspectives on the various advantages and disadvantage of the format in which they are appearing.
47. The date for the debate has subsequently been confirmed for 6 December and will be held at the RCJ. Members were encouraged to promote the event.

#### **Annual conference**

48. The next annual conference will be in London in March 2023.
49. The Council gave support to HHJ Karen Venables' suggestion for a topic, which looks at the role of trauma informed work.
50. Angela added that she has been involved in work following the born into care and separation at birth of young children from parents. Angela emphasised the need to involve people with lived experience.
51. The following members agreed to be part of the working party, which will consider the topic in more detail including speakers:
  - a. Theis J
  - b. HHJ Karen Venables
  - c. Angela Frazer-Wicks
  - d. Bernadette MacQueen
  - e. Jaime Craig

### **Agenda Item 8 – Communications Strategy**

52. As further outreach work, Theis J mentioned that she would be talking to the ALC conference in November and that the President had agreed to present at the FLBA national conference on 5 November.
53. Members were encouraged to deliver the PowerPoint presentation slides at any possible opportunity to promote the work of the FJC.
54. DJ Judith Crisp suggested a quarterly newsletter to appear in Family Law to reflect what the Council had covered in the previous three months. There could potentially be a generic piece to go in all the main publications.
55. Kim Webb gave an update on the main changes made to the website since the launch of the new platform in September. She invited members to feedback if they felt anything was now in the wrong place.
56. There remains an issue with the lack of quality analytical information around how many times guidance has been downloaded. Vinice Cowell suggested Hotmail (HTML) as

opposed to PDF documents however Rosemary pointed out that some of the long documents could not be consumed by HTML.

57. Natalia invited the Council to consider whether the website should just reflect its own information or whether it should be made broader. It was agreed that the Council would not have the resources to make it broader and will concentrate on making sure that the current information is up to date and laid out appropriately. Kim will find out from the JO comms team the policy on linking to outside organisations, but it was agreed that links to AdviceNow resources would be appropriate as the FJC often work with AdviceNow to produce some of the guidance.
58. It was suggested that working groups could look at their specific topics on the website to check that guidance is up to date and whether any further links need to be added.

#### **Agenda Item 9 – Research Update**

59. Rosemary presented her paper on recent research, which highlighted research from the Nuffield Family Justice Observatory (NFJO) and an article, which reinforces the literature around litigants in person and how they perceive their experiences in the family justice system as well as suggestions on how to improve this experience.
60. Rosemary updated the Council that the NFJO has produced its first report following the establishment of the national Deprivation of Liberty (DoLs) courts and that she would be expecting regular reports following that.
61. It was agreed that the following people would be invited to the January meeting as the guest presenters:
  - a. **Catherine Houlston**, et al., ‘Development and practical use of an emotional readiness assessment for support in family justice processes’ (2019) 57(3) *Family Court Review* 332.
  - b. **Abigail Millings**, et al., ‘Emotional adaptation to relationship dissolution in parents and non-parents: A new conceptual model and measure’ (2020) 15(10) *Plos One* e0239712.  
<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0239712> -

#### **Agenda Item 10 – AOB**

62. Maud Davis notified the Council of the sad death of Anne Hague, former co-chair of NAGALRO and co-chair of the Interdisciplinary Alliance for Children.

**Next meeting is on Monday 23 January 2023 - Hybrid**