



Family Justice Council Meeting

Monday 16 October 2023,

Member Attendees:

Chair: Mr Justice Keehan
Sir Andrew McFarlane, President of the Family Division
Mrs Justice Henke,
HHJ Karen Venables, Circuit Judge
Rebecca Cobbin, HMCTS
Vinice Cowell, Parent and Family Rep
Maud Davis, Public Law Solicitor
Colette Dutton, ADCS
Daniel Foster, DfE
Professor Rosemary Hunter, Academic
Bernadette MacQueen, Legal Adviser
Simon Rowbotham, Barrister
Natalia Schiffrin, Magistrate
Fiona Straw, Consultant Paediatrician
Luke Taylor, MoJ
Barry Tilzey, Cafcass
Kate Thomas, Cafcass Cymru
Dr Sheena Webb, Child Mental Health Specialist
Claire Webb, Family Mediator

Guests:

Ruth Hay, soon to be Family Mediator Member of FJC
Meana Alneami, DfE

Secretariat:

Bee Ezete
Sophie Gowans
Daphna Wilson

Apologies:

Jenny Beck, Private Law Solicitor
Angela Frazer-Wicks, Parent and Family Rep
Amy Shaw, CJC
Natasha Watson, Public Law Solicitor

Agenda item 1: Apologies and announcements

Announcements

1. The Chair welcomed the three new members to the FJC, Simon Rowbotham as Junior Barrister, Dr Sheena Webb as Child Mental Health Specialist and Ruth Hay as Mediator on the Council. Ruth's term does not formally start until November but she joined the meeting as a guest.
2. The Chair announced that the meeting was Claire Webb's last meeting as the Mediator member of the Council. The Chair thanked Claire for her contribution to the work of the Council since her appointment in November 2018. She had been an active member of several working groups, including on Child Protection Mediation, Medical Treatment and Responding to allegations of alienating behaviour. The Chair thanked Claire for increasing the profile of the Council's work through her engagement with the Family Mediation Council and Local Family Justice Boards.
3. Claire thanked the Chair and said she had really enjoyed her time on the Council.

Agenda item 2: Minutes of last meeting and matters arising

4. Minutes of the last meeting were approved by the Council.
5. Most actions have either been completed or are contained within the agenda.

Agenda item 3: Business Plan Progress

Activity 1: Covert recordings working group

6. The guidance is nearly in final draft form. The Information Commissioner's Office (ICO) provided comments on 6 July. The feedback was reviewed by the Chair of the Working Group, Natasha Watson. Natasha is drafting a data protection appendix based on the comments provided.

Activity 2: Comms and Website Group

7. This will be dealt with at agenda item 8.

Activity 3: Domestic Abuse

8. Rosemary provided a final version of the document that maps out the landscape of Domestic Abuse activity (research, policies, provisions etc.) in the Family Justice System, the paper was shared with the members.
9. The Council was asked to approve the mapping document being added to the DA Working Group page on the website. The President and Chair both expressed the usefulness of the mapping document. The Council agreed the final document.
10. The group had been discussing the following topics:

Family Law Act Non-Molestation Orders

11. The group has been discussing concerns about the way the new FLA guidance had been interpreted by some courts. Jenny Beck will be meeting with the President shortly to discuss concerns.

QLRs

12. The group were considering some qualitative research to find out how QLRs are being used nationally.
13. The President thought that this was a good idea. The MoJ had done some research on the statistics and it might be helpful if that could be shared with the FJC Working Group.
14. Maud noted that from anecdotal accounts solicitors are finding it difficult to access the training as the Law Society and Resolution are not currently offering training.
15. Simon said there were some questions at the Bar as to how the role of QLR overlaps with professional instruction, it would be useful to have some guidance on that point. Mr Justice Keehan suggested that Simon contact the Chair of the FLBA to raise this query.

Disclosure of fact finding outcomes in other proceedings

16. The group are preparing a note on the issue of fact finding hearings being available to Cafcass and the Court in further proceedings.

Activity 4: Experts working group – Addressed at Agenda item 9

Activity 5: Death by suicide

17. The final advice document was published on 9 October FJC website.
18. The Chair thanked Colette and the Working Group for preparing this useful document. This has been shared on Judicial Office social media and will be circulated to all practitioner groups.

Activity 6: Alienating Behaviours

19. The final draft guidance was approved by the Council and put out for public consultation on 24 August 2023. The consultation will close on Monday 16 October at 4pm. The Council had currently received 54 responses with the consultation closing at 4pm today (16 October). Responses were received from organisations and individuals including the CoCJ, ADJ, Magistrates Association, Refuge and Women's Aid.
20. Once the consultation closes, the responses received will be considered by the Working Group and then any revisions proposed by the group will be presented to the Family Justice Council for consideration.
21. Judge Venables said that it would take the group some time to go through the responses.

Activity 7: Financial needs working group

22. The Law Commission was undertaking a scoping exercise on Financial Remedies on Divorce project. [Financial remedies on divorce - Law Commission.](#)
23. They had asked to meet with the Family Justice Council. This was discussed at the Exec Committee on 9 October and it was decided that Keehan J and Peel J would have a preliminary meeting with the Law Commission in November to discuss how the FJC could assist in their scoping exercise.

Activity 8: Medical Treatment

24. Final draft guidance was signed off by the FJC, following consultation with Victoria Butler-Cole KC, Medical Mediation Foundation and Nuffield.
25. There had been a positive update to Legal Aid rules, that removed the Means test for legal representation for parents of, or those with parental responsibility for, a child (aged under 18) facing withdrawal or withholding of life-sustaining treatment. Maud kindly updated the guidance to reflect this change, at paper 5.
26. It was decided that we needed to confirm with the Legal Aid Agency whether the merit test had also been removed alongside the means test.
27. The document would need formatting, paginating and hyperlinks checking before publication.

Activity 9: Disclosure to Children and Young people

28. The group had been preparing useful flowcharts to give an overview of the routes for children and young people to be able to request disclosure. Mrs Justice Knowles reviewed the documents and provided some comments for consideration.
29. The group will review the documents in light of Knowles J's comments and provide updated versions. The group was due to meet in November. It was suggested that Mrs Justice Knowles be invited to attend the meeting in November.

Activity 10: PAUSED – Reviewing guidance on Judges meeting children.

Activity 11: Neurodiversity

30. The Terms of Reference were presented to the Council for discussion and approval. The Council agreed the Terms of Reference and Business Plan update that would be added to the Website.

Agenda item 4: Family Justice Board

31. Luke Taylor provided a verbal update on the work of the FJB. The Board last met on 28th June and will meet again on 6 November. Both Public and Private Law were seeing some positive signs with demand on the system reducing, however the timeliness targets had not significantly improved.
32. At the next meeting they will be looking at a deep dive on the timeliness data and update on the response to the consultation on early resolution.
33. The FJB were looking to increase engagement with Local FJBs, they were having roundtable meetings and will hold a national conference of LFJBs in November which the President will attend.
34. The FJB had been focused on the proposed expansion of integrated domestic court sites over the last few months, also known as Pathfinder Courts. It was hoped that new sites would be agreed shortly.

35. The President said that it was very good news that the national LFJB conference was taking place. The statistics on the PLO relaunch as of July were showing progress, we should have a further update shortly.
36. President asked whether the FJB had reviewed the Mutual Ventures report and if so, could this be shared with the FJC. It was a detailed time and motion study of Public Law proceedings commissioned by the DfE. Luke said that there would be a more substantial discussion on this topic at the November meeting. It was agreed that after the November FJB meeting the paper would be shared with the FJC.
37. The President championed the work of the Pathfinder Courts. It was the President's ambition that the pilot would be rolled out to a substantial number of courts but due to funding and resources it was only going to be two courts in the next phase. The President was disappointed that the roll out was limited to a small number.
38. Rosemary said that there would be a correlation between public and private law timeliness as they use the same judicial and court resources if one improves the other probably doesn't. Luke said MoJ and DfE are aware of the correlation.
39. Rosemary asked whether there was any update on the FJB sub-group improving the experience for users related to Domestic Abuse and whether there was anything the FJC DA group could be involved in. Luke said he would take this point away. The Chair noted that there was a Public Law Working Group sub-group looking at how to improve the experience of court users and victims.
40. Judge Venables asked whether the Board was looking at real time judicial resources, factoring in sick leave and Official Business etc. Luke said they were looking at all resources issues in the round and wanted to look more into what causes delay at a local level.
41. Natalia noted that in her experience, sitting as a Magistrate, there has been an increase in administrative errors in her area, causing some adjournments and delays. The President said that this was an experience shared by other areas of the system.

Agenda Item 5: FJC Events

Debate

42. The Debate has moved to 7 December 2023. The venue was confirmed as Court 4 at the RCJ. The format will be the same as last year with a Chair and three speakers For, and three Against.
43. The Chair thanked members that had provided possible questions for the Debate and provided comments on the possible for/against arguments. These were discussed at the FJC Executive meeting and it was considered that the following motion would work well: Should cohabiting couples have the same financial rights and responsibilities as those who are married/ In a Civil Partnership?
44. The motion was agreed.
45. The Chair asked for any suggestions as to speakers to be approached. The Council agreed that Dr Andrew Hayward (Academic) and Sir Paul Coleridge (Marriage Foundation) should be approached.
46. It was suggested that it would be good to have someone with lived experience. Dr Sheena Webb said she may be able to find someone with lived experience and will

come back to the secretariat. It was suggested that someone with a Chancery background could also be useful.

FJC Conference:

47. Proposed date was the 6 March 2024 [**NB** since moved to 5 March due to venue availability].
48. FJC secretariat was looking for suitable venues for a 1 day conference in the Midlands, somewhere within easy reach of a well-connected train station. There were options being explored in Nottingham and Birmingham. FJC secretariat welcomed any venue recommendations from the group.
49. The last three FJC conferences topics were:
 - 2023 – Trauma in the Family Justice System
 - 2022 - Private Law – a proportionate and safe approach
 - 2020 – Online seminars – Adoption in the 21st Century
50. The Council were asked to consider what theme/topic/question the conference could be based on this year.
51. The Exec came up with the following topics to be considered:
 - Domestic Abuse and its impact on children
 - A focus on babies and young children in the Family Justice System
52. It worked very well last year having a small working group to organise the Conference, we are looking for volunteers from the Council. The following FJC members volunteered to be part of the planning group: Henke J, Bernadette, Simon, Fiona and Sheena.
53. The FJC discussed possible themes. One suggestion was Voice of the Child, another suggested DA and its impact on Children, or a focus on babies and young children.
54. Colette said that in the North Manchester they were looking at the possibility of an adolescent focused court, which could be an interesting session.
55. It was agreed that the Conference would broadly be on Children and Young People in the Family Justice System. It could include both a focus on young and adolescent children and incorporate a focus on domestic abuse impact.
56. Maud suggested it would be good to cover the impact on Children in Public, Private and Financial Remedies cases to see the system as a whole.
57. The planning group would meet shortly to take this forward.

Agenda Item 6: Communications strategy

- Comms Activity feedback
- Update from the Comms and Website working group.

Comms Activity

58. A paper was shared of the latest engagement. The Chair noted that there had been a positive increase in recent activity.

FJC Website Data

59. The top 5 most visited pages on the website from 24 June to 24 September:

1. FJC Latest News (2512 views and 1738 users) [latest news includes the Alienating Behaviours consultation] [1,727 more views on Latest News than the previous 3 months)
2. FJC Homepage (1556 views and 1111 users)
3. Guidance on the treatment of pensions on divorce a guide for professionals (895 views and 658 users)
4. FJC Members (638 views and 476 users)
5. FJC Resources and Guidance page (462 views and 304 users)

60. Most visited Working Group page: Responding to allegations of alienating behaviour (403 views and 303 users)

Agenda Item 7: Membership of the FJC Executive

61. Discussion followed on from the Executive Meeting. The FJC were looking at ways to manage the rotation of FJC Members on the Executive while keeping a balance of different roles represented and level of experience.
62. The function of the Exec was set out in the governance document (paper 10). The Chair proposed that length of term on the Exec be extended to 2 years, as this would give opportunity for the individual to build experience. The Council agreed.
63. The Chair asked whether FJC members would be happy with a system where all members were eligible to be considered to join the Executive when a place becomes available unless they opt out. The Council agreed that all members would be eligible but with a balance of experiences needed.

Agenda Item 8: Research Update

64. The Chair thanked Rosemary for preparing the comprehensive research document covering the last 6 months.
65. Rosemary said that it covered a wide variety of subjects and hoped it provided the Council with an update on current research. She noted that we have used this in the past to identify speakers at future Council meetings.
66. The President said that it was a very useful document. He suggested that we may want to have a session next year on mothers in prison and the family. He noted that he was patron of the Charity Not Beyond Redemption whose work was included in the research paper.
67. The research referred to:
Shona Minson, 'Mothers in prison and the family court' [2023] Family Law (May) 476
 - Preliminary article from an ongoing research study on the ability of women in prison to participate in family court proceedings.
 - Aims to dispel a number of possible myths and assumptions about women who are in prison during family court proceedings, including statistics on the reasons why women are imprisoned (often on remand and subsequently found not guilty or not given a custodial sentence); the nature of offences they have committed (the great majority non-violent and resulting in very short sentences); and information on the very different approaches of criminal and

family courts to the separation of parents and children; and the barriers to participation in family court proceedings imprisoned women face.

68. The President suggested that the Council might hear from Shona and Not Beyond Redemption in a joint session. The Council agreed that this would be a good topic to hear more about.

69. The research presentation at the January meeting will be Dr Jon Symonds speaking about his research on Separating families: Experiences of separation and support (Nuffield Family Justice Observatory, November 2022) <https://www.nuffieldfjo.org.uk/resource/separating-families-experiences-of-separation-and-support>.

Agenda Item 9: Experts Working Group Update

- Proposed Experts Handbook

70. Mr Justice Williams spoke on this topic as Chair of the FJC Experts Working Group. The Group was looking to put together an Experts Handbook in accordance with one of the Recommendations of the Presidents Working Group Report. They seek the FJC's approval to present the attached proposal (paper 13) to Cambridge University Press (CUP) for a handbook which will be of assistance to all healthcare experts who assist the Family Court and / or the Court of Protection and also to the lawyers who instruct them.

71. The FJC's endorsement would give it important traction in the medical and legal communities. The aim was to update the original handbook from 2000. The Handbook deals with law and procedure for experts in Family and Court of Protection. It would include substantive chapters on the most common topics, such as radiology.

72. The Council supported the updating of the handbook and endorsed the proposal in principle. The Council would need to see the final version before providing its endorsement prior to publication.

Paediatric Multi-Disciplinary Team - Experts Pilot

73. One of the recommendations of the President's WG was to review how suspected abuse was assessed. Working with DHSC and commissioning groups the Group put together a proposal, which the DfE put into a bidding process for the Shared Outcome Fund, run by His Majesty's Treasury, about reducing delay within the Family Justice System. £10 million was granted for three pilots to explore ways to reduce delays in Family Court.

74. Over £3 million of the grant was for a pilot to trial a more streamlined process for suspected physical abuse in children. The aim is to use a standard medical template which would be used by all assessing clinicians, and to have more senior clinicians involved in court processes. This would encourage a greater degree of expertise in the paediatric field, lead to more, higher quality experts for the court, therefore reducing the need for requiring additional experts in a case and overall help to reduce the time that a child and their family might otherwise spend in the court system.

75. The President said it was astonishing that this money had been acquired with all credit to DfE Officials, the previous Minister and the Experts Working Group.

Agenda Item 10: AOB

Proposed new Working Group

76. Kate Thomas suggested that we have a group focused on Diversity and Inclusion in the Family Justice System.
77. The Chair agreed that this was an area that we should consider but it is a broad topic and the group would need to focus in on specific issues. It was agreed that a scoping group would be set up to identify the topics that should be considered and then bring that back to the Council in January. The scoping group will be chaired by Kate Thomas. The following FJC members volunteered to join: Rosemary, Natalia, Vinice and Judge Venables.

AOB

78. Sheena said that she would be having a handover meeting with Jaime tomorrow, so he can bring her up to speed on the different work streams.