



## **Family Justice Council Meeting**

**Monday 29 April 2024**

### **Member Attendees:**

Chair: Mr Justice Keehan  
Sir Andrew McFarlane, President of the Family Division  
Mrs Justice Morgan, High Court Judge  
HH Karen Venables, Retired Circuit Judge  
DJ Julian Hussell, District Judge  
DJ Stewart Hughan, District Judge  
Jenny Beck, Private Law Solicitor  
Rebecca Cobbin, HM Courts Service (HMCTS)  
Maud Davis, Public Law Solicitor  
Colette Dutton, Association of Directors of Children's Services (ADCS)  
Angela Frazer-Wicks, Parent and Family Rep  
Ruth Hay, Family Mediator  
Professor Rosemary Hunter, Academic  
Beatrice Longmore, Office of the Children's Commissioner  
Bernadette MacQueen, Legal Adviser  
Simon Rowbotham, Barrister  
Natalia Schiffrin, Magistrate  
Fiona Straw, Consultant Paediatrician  
Luke Taylor, Ministry of Justice  
Kate Thomas, Cafcass Cymru  
Callum Worsnop, Department for Education

### **Apologies:**

Vinice Cowell, Parent and Family Rep  
Ms Justice Henke,  
Daniel Foster, Department for Education  
Amy Shaw, Civil Justice Council  
Barry Tilzey, Cafcass  
Natasha Watson, Public Law Solicitor  
Dr Sheena Webb, Child Mental Health Specialist

### **Agenda item 1: Apologies and announcements**

#### Announcements

1. None

### **Agenda item 2: Minutes of last meeting and matters arising**

2. Minutes of the last meeting were approved by the Council.

3. Most actions have either been completed or are contained within today's agenda.
4. Rosemary followed up with Williams J on the survivors of domestic abuse research. He confirmed that a chapter of the Experts Handbook will be on the experience of being assessed and the Experts Symposium will feature trauma informed practice.
5. It was noted that the scoping group on Mental Health for Children and Young People has not yet been set up, Exec to review.
6. There is no update from the group updating the Capacity to Litigate Guidance.

### **Agenda item 3: Recruitment Update**

7. The deadline for applications to join the Council closes later today, 29 April.
8. A healthy number of applications have been received for the role of Public Law Solicitor and Academic, less applications for the roles of Silk and ADCS representative.
9. The campaign to recruit a new Circuit Judge will launch in May/June.
10. There were questions from the members about the wording of the advert for recruitment and whether it could be more encouraging of individuals from diverse backgrounds. FJC to work with Judicial HR to see what could be done to make the advert more appealing and widen its reach.

### **Business Plan Progress**

#### Activity 1: Covert recordings working group

11. We have the final version of the guidance that needs to be proofread and formatted before publication.

#### Activity 2: Comms and Website Group

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

#### Activity 3: Domestic Abuse

13. The Working Group's (WG) latest update:
  - **The QLR scheme.** In the context of concerns about the efficacy of the QLR scheme, and particularly the unattractiveness of the scheme to relevant practitioners, the WG are considering research that might be undertaken to gain a national picture of how the scheme is operating. Researchers at Northumbria University, who are conducting research with QLRs, have been invited to present at the WG's next meeting.
  - **Disclosure of fact-finding judgments.** The WG has scoped the issues relating to disclosure of findings of fact made in private law proceedings for the purposes of subsequent proceedings involving one of the parties, or of safeguarding children or adults who may be at risk. It has produced a short discussion paper which has been sent to Knowles J for her consideration.
14. There was a discussion on disclosure of fact finding judgments. Rosemary shared that the group considered that there is an issue that fact finding judgments are not always

stored in one repository. The group were suggesting that fact finding judgments could always be disclosed to Cafcass/Cafcass Cymru and stored by them. Knowles J has suggested that this proposal could be referred to the Family Procedure Rule Committee (FPRC).

15. The Chair asked whether Cafcass and Cafcass Cymru has agreed this proposal. Rosemary said that they agreed with the idea but that there may be some logistics to work out before they could confirm endorsement.
16. Kate (Cafcass Cymru) said that there were two layers to the problem. Firstly, whether Cafcass Cymru/Cafcass received the fact finding judgment and then how it was stored on the records.
17. The President said that there has been an indication that the Police would welcome some mechanism by which, if a fact finding is made against a serving police officer that the force be notified or a mechanism for them to seek disclosure. This option could be considered by the Rule Committee.
18. Barry (Cafcass) said that they are committed to supporting the change but there would need to be some logistical points resolved about how the judgments were recorded on Cafcass's system and it would need to be clear who the information could be shared with.
19. The Chair asked what would happen if Cafcass were not involved in a Private Law case. Rosemary said that Cafcass would always undertake a safeguarding letter when a child is involved. The proposal was that when the Judgment is made the judge automatically orders disclosure to Cafcass, even if not substantially involved.
20. HH Venables said it would be beneficial to judges to know the findings of any previous fact finding about the parties.
21. The Chair asked the Working Group to put together a paper and draft Rule changes for the FPRC to consider. Working Group Chair agreed.
22. Beatrice asked whether referrals to Local Authority Designated Officer had been considered for fact finding disclosure. It was agreed this should be considered by the DA Working Group.

#### Activity 4: Experts working group

23. Three new members joined the Working Group: Dr Cecilia Essau (Psychologist), Dr Duncan Harding (Psychiatrist) and Nicola Cosgrave (Psychologist) have agreed to join the group.
24. Updates from the group:
  - **Reducing family court delays:** Piloting a new Multi-Disciplinary Team (MDT) creating a Suspected Inflicted Head Injury Service pathway (SIHIS). This is a joint project between DfE and DHSC. Funding secured through the Treasury Shared Outcomes Fund. The pilot sites are Manchester University NHS Foundation Trust; Birmingham Children's Hospital and Sheffield Children's NHS Foundation Trust. The pilot will include cases of children aged between 0-8 years old presenting with a suspected head trauma. The inception meeting with the Trusts is scheduled for 9 May and will be followed by engagement with stakeholders. The aim is to increase quality of reports and assist the court in identifying the

issues at an earlier stage, potentially reducing the number of court appointed experts considered necessary per case.

- **Proposal to set up a Judge shadowing medical experts scheme – HHJ Sharpe and Fiona** are looking at what would be needed for Judges to undertake shadowing, such as how to approach protected time requests.

25. At the October Experts Symposium there will be substantial time dedicated to hearing about the work of the pilot.
26. DfE will be sharing shortly who will be undertaking the evaluation of the pilot.
27. Jenny asked who in the Experts group was best to speak to about payment of experts. It would be regarding approaching the LAA about payment of experts for autism assessments. Jenny to speak to Maud.

#### Activity 6: Alienating Behaviours

28. The Working Group have reviewed all responses received and are deciding on which sections of the guidance need amending. A small group met in March and spent five hours deciding what areas needed amending or further consideration. The aim is for the final version of the Guidance to be published in the Autumn.
29. The President understood that the point around regulation of experts was being raised by the Government with the FPRC.

#### Activity 7: Financial needs working group

30. The Working Group met with the Law Commission informally to feed into the scoping exercise for [Financial remedies on divorce - Law Commission](#), on 6th February.
31. [The Sorting Out Finances on Divorce](#) updated guidance was published on 25 March.
32. The updated 'Guidance on Financial Needs on Divorce' to be published shortly.

#### Activity 8: Medical Treatment

33. The Guidance is near to being finalised. The group are drafting a short document summarising the guidance with a view to it being more accessible for family members.
34. Natalia has undertaken a first draft of the summary document. She asks for a lawyer on the Council to review the document. Simon agreed to review the summary document.

#### Activity 9: Disclosure to Children and Young people

35. The group are exploring how to make the flowcharts more interactive for young people with the FJYPB.
36. They will meet with the FJYPB on 30 April to get their feedback on the draft narrative and flowcharts.

### Activity 11: Neurodiversity

37. The group have created a first draft of the guidance for practitioners that was shared with the Council. DJ Hussell will lead on the judicial version when the practitioner guidance is complete.
38. Jenny will share the draft guidance with an autism charity to seek their views on the wording and its accessibility.
39. Asked the Council to provide any comments they have on the guidance and also helpful to note any differences that will be needed in the Judicial guidance.
40. Natalia praised the draft guidance. She asked whether the judges version should directly address what to do when there is a litigant in person (LiP). Also, she appreciated that this was best practice guidance but maybe it would be helpful to address any common mistakes/worst case examples. The guidance references that the first steps that the practitioner needs to do is undertake a screening exercise and is concerned what the court could do to screen a party when there is an LiP.
41. Jenny said she was very impressed with the demo from HMCTS of a prototype of the digital screening tool, a version of which is intended to be included in the future roll out of digital platforms. It doesn't require a diagnosis it talks about communication preferences etc. and would assist a practitioner or LiP.
42. Jenny agreed that we need to include further examples of good practice across the piece and agreed that maybe it would assist to include some examples of what doesn't work.
43. The Chair agreed that the point regarding LiPs would fit within the judicial guidance.
44. Rosemary agreed that it would be essential for the judicial version to address the LiP scenario. We may want to include something about not assuming that an intermediary will always be the solution, not always appropriate or possible. Noted that this point was made in two recent Judgments from Lieven J.
45. Simon suggested that one thing that might be helpful is to encourage applicants to make full use of the boxes on the current application forms. There is a box that deals with disability, he acknowledged that this may not be the best wording but it is a section of the form that could be used more effectively to assist those that are neurodivergent.
46. HH Venables said that if DJ Hussell would like any assistance, she knows a Circuit Judge that would be happy to assist.
47. The Working Group will continue to work on the practitioner guidance following feedback from the autism charity and HMCTS.

### Activity 12: Diversity & Inclusion Scoping Group

48. The Working Group Chair had shared a document with the Council in advance setting out the proposed work streams for the group which include, reviewing draft FJC guidance from a D&I perspective prior to publication, improving breadth of experience and knowledge in the FJC Working Groups etc.
49. The group may look to produce specific guidance in the future or undertake specific projects.

50. It was mentioned that D&I could be a theme for a future conference or FJC event.
51. The Council approved in principle the group being a Standing Group with the remit to review draft FJC guidance produced by other groups from a D&I perspective.
52. The final terms of reference for the group to be drafted and sent to the Exec Committee for approval.

#### Activity 13: Voice of the Child Scoping Group

53. At the last meeting it was discussed that one of the functions of the group could be to review upcoming FJC guidance from a Voice of the Child perspective.
54. To discuss the scope of the group further at the Exec in June.

#### **Agenda item 5: Family Justice Board**

55. Luke Taylor provided a verbal update on the work of the FJB. The Board last met at the end of March and agreed specific priorities and targets to reduce delay across the family Justice System. The Board agreed six priority targets by the end of March 2025. Including no open public or private law cases of over 100 weeks duration, reducing average time of care and supervision cases to 32 weeks (currently 43 weeks), a measure for setting the timescale for all new Care and Supervision cases to conclude within, reduce the number of private law case open by 10%, improve the experience of children and survivors of domestic abuse involved in private law proceedings.
56. There is a launch event on 30 April for the FJB priorities with the LFJB chairs to encourage action at a local level.
57. The reconfigured governance under the Board includes a policy delivery group with senior Judicial observers, the group will meet monthly. The FJB will do more work with the DFJ areas that have the biggest challenges and see what can be done to unblock issues. There will be more central support for LFJBs.
58. Judge Venables asked about the 32 weeks target and whether FDAC was identified as a resource within that? Luke said the MoJ would be very keen to see more use of FDAC but are aware of the funding challenges, which is something that the DfE are looking at improving.
59. Callum (DfE) said that FDAC is something that the DfE are keen to look more into. We recognise that some cases will take longer, we are invested in FDAC and are content if some of those cases need to take longer. The DfE have commissioned some work on supporting Local Authorities in how to make the case for local funding for FDAC.
60. Rosemary asked whether the Domestic Abuse Commissioners Office was connected with the work being done on the priority on improving the experience of those survivors of domestic abuse. Luke confirmed that they had a representative on that group.
61. Barry asked why the target for Public Law was set at 32 weeks when the statute refers to 26 weeks. Luke said that currently it is at 43 weeks nationally, although they have seen some improvements since relaunching the PLO. We are not giving up on the 26 weeks but we consider that aiming for a national average of 32 weeks by next financial year is a stretching but realistic target.

62. President noted that this is an England & Wales target. In Wales they are already at 32 weeks. The Board debated this and decided it was better to get the overall figure under 32 weeks.
63. Colette asked about how Pathfinder fits into this picture. Luke said Pathfinder is a new model for private law proceedings which has been tested in Dorset and North Wales. It is rolling out further to Cardiff today, and Birmingham at the end of May. We are seeing some real benefits to reducing delay in this model giving greater emphasis on voice of the child and support for survivors of domestic abuse. There are significant benefits to Pathfinder.

### **Agenda Item 6: FJC Events**

#### FJC Conference:

64. The verbal feedback received from the event was very positive. We had just over 100 in the room and up to 211 attending online for the Bridget Lindley Lecture. One attendee said it was the best conference they had attended.
65. The President said it was an excellent conference and was very grateful to the team and to Jacky Tiotto for delivering the Bridget Lindley Lecture.

### **Agenda Item 7: Proposing to update the [FJC/FMC Mediation Guidance](#)**

66. The Family Mediation Council and Ruth Hay (FJC Family Mediation Member) have drafted an update to the guidance in light of the Rule changes coming in at the end of April.
67. The previous version of the guidance had been endorsed by the then President, Sir James Munby. The President, Sir Andrew McFarlane, was asked whether he was content to endorse this new version. The President endorsed the updated version.
68. The Chair thanked Ruth and the FMC for the updated guidance. The Council Members were asked to review the guidance and provide any comments/endorsement by end of May.
69. It was noted that Knowles J would be providing an online training webinar on 2 May 2024 and the updated guidance had been shared with her. The FMC have offered to be involved in any training if needed.
70. Ruth noted that the new guidance is explicit on no reports being provided to the courts from child inclusive mediation.
71. At a recent practitioners meeting attended by Mr Justice Keehan it was raised that a Judge had ordered mediation and then ordered the mediator to provide a report on the best way forward for contact, which was not the purpose or remit of mediation.
72. The President said the Judge could not order mediation but could say that they think it would be a very good idea to explore that option and pause proceedings while investigated but cannot order them.
73. Maud asked what the numbers were like currently for trained child inclusive mediators. Ruth said she would pick that up with the FMC.

## **Agenda Item 8: Communications strategy**

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

### Comms Activity

74. A paper was shared of the latest engagement by Council members.

### FJC Website Data

75. The top 5 most visited pages on the website from 1 Jan to 1 April were:
- FJC homepage page (1929 views and 1261 users)
  - FJC Latest News page (955 views and 246 users)
  - FJC Members page (502 views and 423 users)
  - FJC resources-and-guidance page (433 views and 281 users)
  - Events page (375 views and 233 users)

76. Most visited Working Group page: Use of covert recordings in family law proceedings involving children (340 views and 245 users).

## **Agenda Item 9: Research Update**

77. Thank you to Rosemary for preparing the research summary. Rosemary summarised the research but none were highlighted as future FJC speakers.

## **Agenda Item 10: AOB**

### Pensions Advisory Group updated Survival Guide to Pensions on Divorce

78. Following on from the publishing of updated [PAG Guidance on Treatment of Pensions on the Divorce 2024](#), the survival guide aimed at LiPs has been updated. The PAG has asked the FJC to endorse the survival guide and have asked for a response by 14 May.

### Other AOB

79. Ruth raised some points about Legal Aid and mediation that fall under the remit of the MoJ rather than FJC. Ruth was asked to send the queries to the secretariat in writing.

80. Maud offered to share a link to research on a pilot court for migrant children.

81. Simon raised whether the FJC could do something on the guidance on use of schedules and the shift to referring to statements. The Chair thought that it may be more within the remit of the FPRC, the Chair will raise it with the FPRC secretariat.

## **Item 11:**

### **Presentations from:**

- **Shona Minson, speaking about her work on Mothers in Prison and the Family Court.**
- **Camilla Baldwin will speak about the work of the charity Not Beyond Redemption that support mothers in prison.**

82. The Council received excellent presentations from Shona and Camilla and the Council proposed to start a new work stream focused on practice guidance regarding family



cases where a party is in prison. This proposal will be added to the list of new work streams and considered by the Exec in June.