

A View from The President's Chambers

April 2025

This View from the President's Chambers covers a lot of ground. It's been some time since the last View and the world of Family Justice has been, as ever, very busy. What follows includes important updates and positive news with respect to the following topics: PLO relaunch; Pathfinder; Transparency; Security; CAFCASS Domestic Abuse Guidance; Planning Together for Children and Working Together for Children programmes; Financial Remedy pilot; upcoming publications from the Family Justice Council; resources from the Family Justice Young People's Board; and new High Court Judges and a call for action with respect to the recent Safeguarding Panel report.

PLO Relaunch

Readers of The View will know that in November 2024 Mr Justice Keehan and I sought to inject fresh impetus into the project to bring all care cases back within the structure and timeframe of the Public Law Outline ['PLO']. I continue to be very grateful to all those involved in Public Family Law cases, in whatever role, for having accepted the need to turn the direction of travel around and move away from the normalisation of delay that had come to characterise the approach to cases at the time of the original PLO relaunch in January 2023. It was never going to be easy, but it is now clear that very real, and impressive, progress has been, and is being, made in most areas. For example, data published by the MoJ in March shows that 37% of public law cases were concluded within 26 weeks in the last quarter of 2024, the highest since before the pandemic. Case durations are the lowest since quarter 2 of 2020 at 38.4 weeks. Receipts are at their lowest since 2014 and management information shows a 4% reduction in outstanding public law cases between January 2024 and January 2025¹.

¹ <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-october-to-december-2024>

Unfortunately, the picture is not so rosy in London where the need to address very substantial backlogs is frustrated by a lack of adequate judicial and other resources. It has also become clear to the Family Presiding Judge for London, Macdonald J, and to me, that there is a palpable cultural difference between the way that children cases are approached in London, when compared to other regions. In November, MacDonald J, with my full support and that of the Lady Chief Justice, issued a Local Practice Note: *Ensuring Adherence to the Public Law Outline in London*². This initiative has been received in a positive manner by the London Family judiciary, local authorities, and I believe that the need for change has been accepted more widely across the board. I am grateful to the MOJ which has injected some additional sitting capacity for this financial year and next to address backlogs. At the same time, I continue to push for the recruitment of the full complement of CJs and DJs for London and the South East.

Pathfinder

There is common accord amongst the senior judiciary and Ministers that the way forward in Private Children cases is for all court centres to move on to the Pathfinder model of working. Rather than being litigant led, with the court only gaining some independent account of the issues and of the child's wishes and feelings some many months into the proceedings, no hearing is held in a Pathfinder court until CAFCASS or Cafcass Cymru have filed a full 'Child Impact Report'. This means that at the first hearing the court has a good deal of information, including, importantly, the voice of the child so that that hearing is very much focused on 'what are we going to do about this to make things better for your child', rather than on 'what is your dispute about?'

With the support of the MOJ, HMCTS, Cafcass Cymru and CAFCASS, the Pathfinder model is now live in North Wales, SE Wales, Dorset and Birmingham. All four areas report that their backlog of pre-Pathfinder cases has almost evaporated. The Pathfinder Pilot Management Information³ published in February 2025 shows that in North Wales,

² <https://www.judiciary.uk/guidance-and-resources/local-practice-note-ensuring-adherence-to-the-public-law-outline-in-london/>

³ [Pathfinder Pilot Ad Hoc Management Information - GOV.UK](#)

the average number of weeks from application to final order has reduced from 29 weeks in 2022 to 18 weeks in 2024. The number of open cases has reduced from 478 to 202 over that period. In Dorset the average number of weeks from application to final order reduced from 38 weeks to 27 weeks during the same period. The number of open cases has fallen from 511 to 246.

A recent very welcome announcement from the MOJ confirmed funding for Pathfinder to go live in Swansea and SW Wales in March and then in the Leeds DFJ area in early 2025/26. The inclusion of SW Wales means that Pathfinder is now live throughout Wales. In addition, there is some hope that funding may be available to extend the model to some additional DFJ areas during the 2025/26 financial year.

In an address that I gave in Jersey in October 2021, I identified the primary focus of the remainder of my time as President as being upon improving the resolution of Private Law disputes between parents with respect to the care arrangements made for their children post-separation and I described the imminent launch of Pathfinder, (the secondary topics of my focus were Transparency and delivering the digital Reform programme). Since then, the development of policy and then gradual delivery of initiatives by the MOJ, both before and after the recent election, to support separating parents without the need for court involvement has been most welcome. But the most dynamic development has been the realisation that Pathfinder (which grew from work by the President's Private Law Working Group) is even more effective than its originators thought might be the case. In particular, it is seen by domestic abuse professionals as being a better way of addressing issues of domestic abuse and protecting victims and children than our present system.

The questions of whether, where and when Pathfinder might be rolled out to the remaining English courts can only be answered once the result of the up-coming government Spending Review for the financial years beyond March 2026 is known. Although Pathfinder is unlikely to be significantly more expensive to operate than the current system once it is up and running (and, indeed, it may well cost less), there are substantial up-front costs to fund CAFCASS undertaking Pathfinder work at the start of new cases, whilst still running the open caseload under the existing system. But, in any event, much has been learned, particularly in Birmingham and Cardiff, about addressing

the existing backlog of Private law work and it is likely that we will be able to take that learning out to all other courts in the coming year.

These are important and potentially far-reaching developments. It is a decade since the last major reform of our approach to Private law with the introduction of the CAP (PD12B: Child Arrangements Programme). What is now in train is the establishment of a far more fundamental change in supporting separating parents to resolve disputes. It is a process that continues to be my primary priority.

Security

The issue of judicial security, particularly with respect to that arising from social media and other online sources, is one that is being taken very seriously by the Lady Chief Justice [‘LCJ’] and the senior judiciary. It is a matter of which I am keenly aware as, in common with criminal judges and immigration judges, the Family judges and magistrates can be subjected to unwanted and unwarranted targeting. The LCJ has been clear that security incidents are taken extremely seriously and stressed that all security incidents should be reported up the system so that appropriate action can be taken. Training, which will bring together all of the guidance and learning that has been developed since the incident at Milton Keynes, will be given to all of the Family judiciary in the Spring. The HMCTS ‘Potentially Violent Persons Protocol’ is being updated and will be reissued at the same time. Most importantly, the LCJ has established a new operational Judicial Security Taskforce, chaired by the deputy Senior Presiding Judge (Mrs Justice Yip). The Taskforce’s remit will be to look not just at physical threats to security in the courts and tribunals but also online threats and abuse, and threats to home and family. It will consider what arrangements are made for those in a similar position, for example MPs, and how these matters are addressed abroad.

When the training is rolled out, I would encourage all of those working in Family Justice to engage with it. Each of us needs to be confident that we know, ourselves, what to do in a potentially dangerous situation, but we also need to be confident that every other professional, judge, magistrate or staff member in the room/building is also fully up to speed with what is required.

Transparency

As will be well known, on 27 January the ‘Transparency Pilot’ ceased to be a pilot when provision for all Family Court centres to make Reporting Restriction Orders was established as part of normal business by the introduction of Practice Directions PD12R and PD14G. For those courts not previously in the pilot, the change will at first only involve public law and financial remedy cases and will not involve the magistrates’ tier. From 1 May 2025 it will extend to private law cases and on 29 September 2025 it will extend to the magistrates’ tier.

It is chastening to consider that the pilot only started in the first adopter courts in January 2023. For it to have been developed, taken up and now extended to all Family Courts in England and Wales in just two years is an indication of the impressive and sustained endeavour of Mrs Justice Lieven and Jack (now District Judge) Harrison, the acceptance and cooperation of many in the system and the fact that, so far, there have been no reported breaches of any RRO.

Other elements aimed at implementing greater transparency in the Family Court are also being implemented, including anonymisation of judgments, greater publication of more reliable data and establishing ready communication between local courts and the local media. Whilst the original call for change was made by me, all of the heavy lifting in terms of implementation has been achieved, and still being achieved, by others. I am most grateful to all involved, but I would in particular, in addition to Lieven J and DJ Harrison, thank HHJ Stuart Farquhar and HHJ Madeleine Reardon for all that they have done during the past three years.

CAFCASS England: Domestic Abuse Guidance

On 9 October 2024, CAFCASS England published a ‘Domestic Abuse Practice Policy’. Following receipt of feedback, CAFCASS has reissued the policy in a revised form on 28

January 2025⁴; the October 2024 version has been withdrawn. The policy is aimed at supporting and improving practice amongst the many CAFCASS Family Court Advisers and Children's Guardians. It sits within the wider context of legislation, case law, lessons learned from significant incidents and other sources and is to be used in supporting CAFCASS officers in undertaking their professional assessment in each case.

Separately, Cafcass Cymru are intending to publish new Domestic Abuse Practice Guidance in May 2025.

Planning Together for Children and Working Together for Children

With CAFCASS/Cymru in mind, I would draw attention to the *Planning Together for Children* and *Working Together for Children* programmes. These are courses for separating parents provided, respectively, by CAFCASS and Cafcass Cymru. These valuable resources can be recommended to parents during private family proceedings. In Summer 2021, CAFCASS/Cymru Family Court Advisors (FCAs) were given the authority to refer parties to these programmes, rather than relying on court-ordered attendance. FCAs are encouraged to make these referrals before the first hearing, as soon as they identify a suitable family and have increasingly been doing so.

In 2023/4, 20,167 parents began a parenting programme in England, 23% of these were through a CAFCASS referral with the remainder through a court order.

During the stress of the breakdown of a family, and when parents are facing that situation for the first time, confusion and bewilderment as to what to do for the best for one's child is likely to be a common experience. These courses can redirect focus, helping parents take practical steps to co-parent more effectively and potentially also avoid returning to court in the future. In the first six months of the *Planning Together for Children* course, 89% of parents completing the course reported having a clearer understanding of the impact of conflict on children. By making timely referrals early on

⁴ Cafcass: Our Policies: Working with Children and Families

in proceedings, parents can be encouraged to prioritise their children's needs during court proceedings, encouraging a swifter resolution. Whilst these programmes are not suitable for all, and particularly not victims of domestic abuse, I would urge consideration to be given to using this resource in appropriate cases.

Financial Remedy: Express Track Pilot

It is anticipated that the new express financial remedy procedure pilot will start on 7 April. It will be supported by a new Practice Direction [PD36ZH] which will come into force on that date. The identified pilot courts are in the Northern Circuit, the North Eastern Circuit and Birmingham. The intention is that all cases in the pilot courts where the assets appear to be under £250,000 net (excluding pensions) will enter the express procedure. The applicant will be expected to state on the Form A whether the assets appear to be under the stipulated figure. If he/she does so, the court will generate a Form C which sets out necessary directions to be complied with. The court will list the first hearing as an FDR, to take place up to 20 weeks after issue, and a final hearing, to take place up to 30 weeks after issue. I am enthusiastic about this pilot scheme, which has the potential to enable a large cohort of financial remedy cases to be dealt with more swiftly and economically than under the current system.

FJC publications

The Family Justice Council and its various sub-committees have been very productive. The following two guidance documents have been recently published:

- *Family Justice Council Guidance on Neurodiversity in the Family Justice System for practitioners*⁵; and

⁵ <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/family-justice-council/resources-and-guidance/neurodiversity-in-the-family-justice-system/>

- *Family Justice Council Guidance on responding to a child’s unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour*⁶.

In the next few months, the Council intends to publish the guidance on:

- Covert Recordings in Family Law Proceedings Concerning Children;
- “Financial Needs” on Divorce (Third edition); and
- Procedures for Applications for Medical Treatment Orders in Relation to Children, and an Information sheet for families.

These are to be followed later in 2025 by guidance on ‘Neurodiversity in the Family Justice System for the judiciary’.

FJYPB Practitioner Guide: ‘Safe Family Time’

The Family Justice Young People’s Board has continued its valuable run of short practice guides with the publication of ‘Safe Family Time’⁷. It seeks to enhance the delivery of Family Time that feels safe and is beneficial. It stresses the need for children and young people to be involved in planning the arrangements so that they can feel confident in their safety. It encourages parents to be flexible and to listen to their children’s views about how Family Time should best be spent. I would encourage widespread reading of this insightful document.

Judges Writing to Children Toolkit

The publication of the *Toolkit for Judges Writing to Children*⁸ is a most welcome event. The benefit of judges communicating with the child at the centre of proceedings has long been recognised, yet few judges have ever written to a child to explain the decision

⁶ <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/family-justice-council/resources-and-guidance/parental-alienation/>

⁷ <https://www.cafcass.gov.uk/sites/default/files/2024-08/FJYPB%20-%20Safe%20Family%20Time%20Guide%20for%20practitioners.pdf>

⁸ <https://www.judiciary.uk/wp-content/uploads/2025/02/Writing-to-Children--A-Judges-Toolkit-V1.7-1.pdf>

in their case. There is an understandable judicial reluctance in this regard partly because of the realisation that the letter will be important and there is a fear of saying the 'wrong thing'. In addition, judges may be worried that it will take a good deal of time to get the letter 'right', coupled with the well-known inertia that comes from staring at a blank page, without a template or previous experience to guide the writer.

As is made plain throughout the toolkit, by direct quotation from children, a child is entitled to be given an accurate and informative account of what was decided, and why, from the judge who made the decision. This will be important for the young person in understanding that their wishes and feelings have been taken into account by the court, and in supporting them to accept or make sense of the decision as they move forward with their life thereafter.

The Toolkit is very readable and does a great deal to break down the factors that may have inhibited judges in the past. To get past 'blank page' inertia, the content of a typical letter is built up, sentence by sentence, with suggestions, explanations and examples, and the whole is rounded off with worked up examples.

I am very grateful to all who have been involved in developing this most valuable resource, but I would particularly like to thank the young people who have contributed. Their endorsement of what is said here should give judges solid confidence that, if they follow these guidelines, they are likely to produce a message that will be of real and lasting value to the young person who has been the centre of their concern.

My hope is that, like many things, once judges have used the Toolkit and have written to children in a few cases, doing so will rapidly become the norm and no longer a task to be avoided. I would urge all judges to read the guide and to use it from now on in their cases. The publication of the Toolkit has the potential to change the culture and to make the sending of a short letter from the judge the norm in all substantive cases; I earnestly hope that it does indeed do so.

Crossing jurisdictions within the UK

For some years, the lead Family judges from England and Wales, Scotland and N Ireland have met (together with those from Ireland) to discuss cross-jurisdictional issues. Some of the fruits of these joint endeavours are soon to be published, they are:

- *A Handbook on Family Law for Children in Scotland and England and Wales* (an updated edition for use by judges in operating the joint judicial protocol regulating direct judicial communications between Scotland, and England and Wales, in children cases);
- *A Judicial Protocol regulating direct judicial communications between Scotland, England and Wales, and Northern Ireland in cases of adults who lack capacity*;
- *A Handbook on Adult Capacity Law in Scotland, England and Wales, and Northern Ireland* (for use by judges operating the judicial protocol).

Although, as their subtitles suggest, these useful documents are primarily aimed at supporting judges who are operating the relevant protocols, they will be published and publicly available on the Judiciary website. A joint, cross-UK, web-based launch event for these materials is planned for the end of June to which all comers will be welcome.

New High Court Judges

Since the last View was published, we have welcomed the appointment of no fewer than four new High Court Judges: Ms Justice Harris, Mr Justice Trowell, Mr Justice Garrido and Mr Justice Harrison.

John McKendrick KC has recently been announced at the 5th and final appointment in the current round to the High Court Family Division. Mr Justice McKendrick has practiced largely in cases in the international and commercial field, but in recent times he has appeared in many substantial Court of Protection cases and has been sitting as a deputy judge in the Division. His appointment is most welcome, and he completes a strong and professionally diverse team of new judges, who, between them, make up more than a quarter of the Division.

Child Safeguarding Practice Review Panel Report

In recent weeks, publication of an important report has given rise to a degree of concern in my mind. The report '*I wanted them all to notice*' is a national review into child sexual abuse within the family environment published in November 2024 by the national Child Safeguarding Practice Review Panel. The review analysed 136 serious child safeguarding incidents, and 41 related serious case reviews and local child safeguarding practice reviews. The report catalogues what the authors describe as 'very shocking things about the lives, distress and pain of children who had horrific abuse perpetrated on them' by adults in their family and the professional failure evident in those cases. The report says:

'What is even more disturbing is that safeguarding agencies were unable to listen, hear and protect these children. This report, and the evidence on which it is based, stands as both an invitation and a challenge to government and professionals, to respect and recognise the voices and experiences of the children at the heart of this review, so that children in the future might receive the help and protection that should be their undeniable right.

Forty years on from the publication of the *Cleveland Report* (1988), we must ask why the sexual abuse of children in the family environment provokes undoubted and profound professional unease, and in so doing, systematically silences and shuts out children from the protection and support they need. ...

Over the past 20 years or so, the light on the sexual abuse of children within families has gradually dimmed. We have witnessed a worrying evaporation of the skills and knowledge that professionals (leaders and practitioners) must have to work confidently and sensitively in this complex area of practice. This dilution of focus and expertise may be partly explained by the greater public and professional attention on the sexual abuse of children by institutions, by 'famous' people and on the sexual exploitation of children outside their home. This was urgently required, but it may also have drawn our eyes away from the more common experience for children, of sexual abuse in their families.'

The report is compelling reading. Over a third of the cases involved perpetrators who were already known to pose a risk of sexual harm; these 'known knowns', were however ignored, denied or deflected by professionals. It does not focus on individual failings, but upon failures that 'are systemic and of a multi-agency nature'. Tellingly, in 2022/23 just 3.6% of children on child protection plans were there because of a primary concern about child sexual abuse – a figure which is at its lowest for a very long time.

The Safeguarding Panel report calls for a national strategic response, led by the government, but the report also invites the President of the Family Division to consider the findings of the review and determine what actions are needed to support judicial decision making when children may have been sexually abused. This invitation is one that I have readily accepted. I have asked the national Family Justice Board and the Family Justice Council to take the issue up. I would urge each local FJB to consider holding some form of event to ignite local discussion on the issue and to consider what inter-disciplinary training might be undertaken locally.

I regard this as a major issue. If, as the research seems to suggest, child sexual abuse within the family has dropped off the radar we must continue to ensure that professional antennae are tuned to detect and react to it. *'I wanted them all to notice'* is a wake-up call to us all. It was the subject of a short lecture in memory of Katherine Gieve given on 10 April 2025.

And finally ...

My continued thanks go out to all involved in the delivery of Family Justice and I wish you a restful Easter break.

The Right Honourable Sir Andrew McFarlane

President of the Family Division

15 April 2025