



Family Justice Council Meeting

Monday 20 January 2025

Attending:

Chair: Mr Justice Keehan
Sir Andrew McFarlane, President of the Family Division
Jenny Beck, Private Law Solicitor
Matt Clayton, ADCS
Rebecca Cobbin, HMCTS
Vince Cowell, Parent and Family Rep
Louise Duckett, Public Law solicitor
Angela Frazer-Wicks, Parent and Family Rep
Ruth Hay, Family Mediator
Dr Andy Hayward, Academic
HHJ Rachel Hudson, Circuit Judge
DJ Stewart Hughan, District Judge
DJ Julian Hussell, District Judge
Beatrice Longmore, Office of the Children's Commissioner
Bernadette MacQueen, Legal Adviser
Louise MacLynn KC, Silk
Mrs Justice Morgan
HHJ Madeleine Reardon, Circuit Judge
Simon Rowbotham, Barrister
Natalia Schiffrin, Magistrate,
Lindy Stephens, Public Law Solicitor
Dr Fiona Straw, Consultant Paediatrician
Luke Taylor, MoJ
Barry Tilzey, Cafcass
Kate Thomas, Cafcass Cymru
Dr Sheena Webb, Child Mental Health Specialist

Apologies:

Ms Justice Henke
Amy Shaw, CJC

Agenda item 1: Welcome and Announcements

1. The Chair announced that Natalia Schiffrin will be stepping down from the role of Magistrate after nearly 10 years. Natalia has agreed to continue her role on the Council until the end of her term in July 2025, while we recruit a new Magistrate member. We are very glad she can continue until July.

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 the agenda.
4. Of the actions not covered:
 - i. Ruth Hay updated that the Family Mediation Council had a meeting, but did not discuss non-court dispute resolution programmes. She is also in contact with a group looking at the FM5 to update the Family Procedure Rules Committee. She agreed to follow up at the next meeting or by email in the meantime.
 - ii. Dr Sheena Webb had not yet had a conversation with Dr Jamie Craig about how to disseminate guidance more effectively to experts but will take this to the next experts WG meeting.
 - iii. Lindy Stephens updated that there were no actions from the Nuffield meeting.

Agenda Item 3: Family Justice Board Update

5. Luke updated that the FJB met in December. Firstly, they reviewed the progress against collective priorities set for the system at the start of the year. The FJB continues to monitor collective progress on average case durations in private and public law, and cases taking over 100 weeks. They discussed what could be achieved in the last quarter. Regarding next year's priorities, the FJB wants to make sure their targets are visible to stakeholders and to have more expansive conversations about domestic abuse and other key themes, as well as keeping the drive forwards on delay.
6. The President agreed with those headlines and added that the next year will see more bespoke targets for different regions to reflect the extent to which they've reached their targets this year. The FJB has also been asked to focus on intra-familial sexual abuse as there is a concern that this is going under the radar. Everyone at the meeting agreed that these were high-quality discussions, and that the meetings should be held more often.
7. The Chair asked Luke for any updates on working with the FJC Domestic Abuse group.
8. Luke noted that the FJB is currently doing work in the context of priorities for next year to get to a better place on measure for DA survivors, and this will be a helpful time to pick up that thread.

Agenda Item 4: Business Plan Progress

Activity 1: Covert Recording

9. The Chair said the aim was to publish the Covert Recordings guidance in February. Natasha Watson is in the process of giving it one final read through.

Activity 2: Comms and Website Working Group

10. This will be covered in agenda item 7.

Activity 3: Domestic Abuse

11. The Chair noted that there are four ongoing workstreams:
 - i. Mapping the landscape of domestic abuse activity in the family justice system since 2020.
 - ii. Preventing abusive cross-examination.
 - iii. Disclosure of fact-finding judgments.
 - iv. Access to justice in Family Law Act applications.
12. Barry added that he and Dorothea met with the previous chair, Rosemary, and agreed that this would be a good moment to consider whether the group should be looking at any new items in addition to those four.

Activity 4: Experts working group

13. The Chair updated that the group are looking at:
 - ii. **Training:** the group had their last Symposium in October 2024 with the next due for June or October 2026. Newly appointed judges continue to receive training on treatment of experts, led by Williams J.
 - iii. **Experts Handbook:** this is being progressed by a separate working group.
 - iv. **Reducing family court delays:** SIHIS pilot. About 40 cases have been referred to the SIHIS pilot across the three areas, with the vast majority being in Sheffield. Very few have got to court, so it is too early to understand the impact.
 - v. **Payment of experts.**

Activity 6: Alienating Behaviours

14. The Chair noted that the guidance has been received positively. The plan is for the group to be inactive for a year and then come back to review if there have been any significant developments.
15. Jenny was delighted about the reception the guidance received and thanked the President for the foreword he included. She noted that the advanced communications successfully ensured that the publication went smoothly.

Activity 7: Financial needs working group

16. The Chair said that the updated 'Guidance on Financial Needs on Divorce' will be published shortly, in accordance with the publication plan. The group will remain in existence but inactive.

Activity 8: Medical Treatment

17. The aim is for the Medical Treatment guidance to be published in March. This group will then end.

Activity 9: Disclosure to Children and Young people

18. The group will next meet in early February with a view to finalise the narrative and flows charts.
19. Barry has asked someone in his team to work on making the documents more user-friendly and accessible. The group has agreed that the information isn't suitable for most children to read on their own, perhaps excepting some older children. Therefore, the narrative and flowcharts will be adapted for a professional to have as a resource to go through with children. The narrative material includes examples and comments from the FJYPB members. Barry has shared the documents with Vinice and will receive her feedback before sharing with the group. The group should be in a position in the February meeting to decide on next steps.

Activity 11: Neurodiversity

20. The Chair updated that the guidance will be published on 30 January, following publication of the President's guidance on intermediaries in w/c 20 January. The President will be asked to provide a quote or foreword to accompany publication.
21. Judge Hussell updated that he and HHJ MacLachlan have been working to produce the judicial version of the guidance which they hope to deliver to the group for review in February.

Activity 12: Diversity & Inclusion Working Group

22. Kate updated that the group has had some useful discussions about making FJC recruitment more accessible, specifically advertising the roles more widely. The group are also looking at the FJC Conference agenda. Kate planned to meet Beverley Barnett-Jones of the Racial Justice Family Network later this week.

Activity 13: Voice of the Child Working Group

23. The Chair noted that the group had agreed on two workstreams, one to review the Guidelines for Judges meeting Children (previously noted as activity 10), and a second to review the 2015 report of the dispute resolution advisory group.

24. Jenny noted that she and Kate had their first meeting as co-chairs the previous week and believe they have a clearer idea of where the group is going.

Activity 14: Trauma Informed approach in the Family Justice System Scoping Group

25. Sheena updated that the group had had some useful discussions and are proposing a two-phased approach, starting with guidance, before considering what a longer-term journey towards a more trauma-informed family justice system might look like. The group proposes to draft guidance for professionals in the Family Justice System, with the aim of increasing awareness about trauma, looking at what best practice is already available, and producing some initial advice that could realistically be implemented without major changes to the way things are set up. The group propose to engage with those with lived experience when drafting the guidance, given the importance of co-production. The group propose that they work to a 12-month timetable. They will bring the Terms of Reference back to Council for sign-off after further consideration.
26. Judge Reardon raised that the group may need involvement from HMCTS, because so much of the experience of the system is based on interaction with the court.
27. The Chair noted that we have Rebecca as the permanent representative of HMCTS on the Council, and that it is possible to co-opt people onto working groups if needed.
28. Rebecca noted that HMCTS are currently doing some work on special measures and would be very happy to be involved in this working group.
29. Natalia asked whether a generic template could be produced for working group terms of reference, to improve consistency and focus.
30. The Chair noted that a proposed timeframe is helpful but ultimately the most important thing is to get the guidance right.

Activity 15: Hair Strand Testing – Scoping Group

31. The Terms of Reference will go back to the group for consideration before they are brought to the Council for sign-off.
32. The Chair noted that the concerns are about the interpretation of hair strand testing, which was also a concern raised by Peter Jackson LJ in the Court of Appeal. The President had received an open letter from Birth Companions, signed by a group of practitioners, highlighting these concerns. The group will scope out whether guidance is needed in this area.
33. Sheena agreed that there would be an initial phase of work to understand what might need to be done. She summarised three levels of interpretation currently, done by the pharmacologist, the local authority/clinicians/experts, and then by the court. There is also the issue of instruction.

34. Lindy noted that some hair strand testing currently happens in the pre-court space, so the instruction is not under a part 25 application. The group will need to consider the pre-proceedings.
35. The Chair highlighted that any guidance should make clear the need for caution around any over reliance on hair strand testing alone.
36. The President recalled that Judge Ian Bugg had been part of a group led by the MoJ that had started drafting guidance on Hair Strand Testing, it may have been with regards to the criminal justice system. The secretariat would contact the MoJ to see if they have any information on that working group.
37. Jenny asked whether nail tests would be in scope. Sheena thought that this would be out of scope for guidance but might be mentioned in the wider context.
38. Judge Hughan noted that there are disputes between different testing companies about cut off levels. The Chair noted the importance of the Council not being seen to be endorsing one provider over another.

Potential new working groups

1) Women in prison

39. The Chair recalled that the Council has agreed that they would like to pursue a new workstream on women in prison, arising from the research of Dr Shona Minson and the work of Camilla Baldwin. He raised the topic with the Judicial College as a training need, and they are keen to look at training regarding the those in prison and the family courts. This would run alongside the FJC work stream which would likely include guidance for judges and professionals to ensure people in prison who are engaged in private and public law proceedings are able to engage effectively in family justice, and would likely include input from Shona and Camilla.

2) Intrafamilial sexual abuse

40. The Chair noted that the President is keen for the FJC to consider intrafamilial sexual abuse. This was a recommendation out of The Child Safeguarding Practice Review Panel Report, *"I wanted them all to notice": Protecting children and responding to child sexual abuse within the family environment*, which invited the President to consider the findings of the review and what actions are needed to support judicial decision making in this area.
41. The President noted that he considers this to be a very important issue which risks going unnoticed. Knowledge was built up in the 1980s and 1990s, but newer social workers and barristers might not be as aware of it.

42. Jenny raised a concern about the difference between the ability to get findings in public and private law proceedings. However, an estimated 10% of children in private law cases have experienced sexual abuse.
43. Matt suggested asking someone from the Centre of Expertise on Child Sexual Abuse to be part of this work.
44. Sheena suggested approaching The Lighthouse, which is a multidisciplinary service for children which gathers evidence as well as supporting children and families. From an expert's point of view, this is an area that requires real specialism.
45. The Chair suggested that the Council should agree which members will sit on the working group, and they can take away decisions on which external people to invite to join.
46. Secretariat requested clarification on whether this group would be looking to produce guidance for judges and practitioners on this topic.
47. The Chair agreed; it would be helpful to draw together information about what signs there might be and where to go for further information.

3) Standing group to monitor Department for Education Children's Wellbeing and Schools Bill 2024

48. The President said it would be helpful to have a standing group monitoring the progress of the DfE Bill. This would be a matter of setting up a group and waiting in case there is work to do.
49. Jenny volunteered to be involved, noting that she is already trying to embed matters relating to neurodiversity on the back of this bill, particularly in relation to DoLs.

4) Reunification of children and families

50. The Chair shared that another new workstream had been proposed by Matt and Jenny on the reunification of children and families, which he and the President agree is a good idea.
51. Matt noted that this ties into the DfE Children's Wellbeing and Schools Bill with the focus on family solutions. The government has just announced they want some practice guidance for social workers and practitioners, but we think it's important to think about it from a family justice point of view.
52. Jenny agreed that the time is right for this work and Vinice volunteered to join this group.

Timescales and capacity

53. The Chair noted that the permanent secretariat team is only two people, with two others providing part time support on a short-term basis. With four new groups proposed and the recent additions of trauma-informed and hair strand testing, as well as an annual conference, annual debate, and biannual experts conference, the secretariat cannot feasibly support this number of workstreams. The Judicial Office cannot provide more resources.
54. The Chair explained that when he ran the Public Law Working Group they had a young member of the Bar who acted as a secretary of the group, and this was highly successful. The question is therefore whether any FJC members might have a training solicitor or a young barrister who might enjoy assisting the FJC? We could attach one junior lawyer to each group to cover some of the secretariat work. We may also have to stagger introduction of new groups depending on the capacity we're able to borrow.
55. Jenny suggested that we might need to create a template pack to show what outputs are needed.
56. Simon asked whether this would be open to applications. He would be happy to put forward his pupil.
57. The President noted that a public EOI process might result in time-intensive application and sifts which would defeat the objective of lightening the burden on the secretariat.
58. Lindy noted she has four pupil barristers who might be interested and do family work.
59. Natalia noted a potential problem with turnover. We may need a standard expectation that solicitor/barrister members put forward pupils on a routine basis every 6/12 months.
60. Secretariat will work up a proposal and template documents to enable external support for working groups.

Agenda Item 6: Department for Education, Children's Wellbeing and Schools Bill 2024

61. The Chair thanked policy representatives from the Department for Education for coming to talk to the Council about the Children's Wellbeing and Schools bill.
62. The DfE provided the Council with an overview of the Bill, which builds on the the Independent Review of Children's Social Care 2022, the Independent Inquiry into Child Sexual Abuse (2022) and a report on children with disabilities in residential settings (2023).
63. The Bill was introduced on 17 December and passed its Second Reading on 8 January. It is ambitious and wide-ranging, covering 20 measures on children's

social care, as well as measures on children and schools. It goes into committee stage this week.

64. They also covered a specific measure in the bill for children with the most complex needs, which includes Deprivation of Liberty Orders (DoL). The government is investing capital funding in creating new provision.
65. Jenny welcomed a conversation with the DfE policy lead on DoLs. She noted that a large majority of children subject to DoLs are likely to be neurodiverse, but the people working in these environments don't have an obligatory module on working with neurodivergent children and young people. This Bill seems like an ideal opportunity to address this.
66. DfE policy noted that they are working with the DHSC on the needs of this cohort and training will be central to the next phase of this work. The government is also looking at researching best practice and drawing together a better evidence base for what these young people need and neurodiversity will be a strong part of this.
67. Sheena noted that these provisions rely on collaboration with health, but it can be difficult to get trauma-informed support and provision is often gatekept based on diagnosis, which can exclude children involved in care proceedings from accessing the support they need.
68. The DfE policy official recognised these themes, particularly the thresholds such as diagnosis. They are talking regularly with DHSC colleagues about mental health support and closing any gaps.
69. Kate asked about the recruitment and retention of social workers. DfE policy official agreed that many provisions rely on championing the social care workforce.
70. Beatrice asked whether there would be secure children's home for DoLs, or provision within existing homes, and what happens to children under section 20, which is quite a large cohort under the inherent jurisdiction.
71. DfE policy official noted that a lot of the practical details would need to be set out in the secondary legislation that will follow.
72. The Chair thanked the DfE official again for coming, noting that further conversations would be helpful.

[DfE officials left the meeting]

Agenda Item 5: Events

73. The Chair noted that the FJC's annual debate was held on 5 December 2024, with the motion, 'has the time come to widen the scope of legal parentage?'. A vote was taken in-person and online, with the result overwhelmingly in favour.

There was positive feedback from attendees about the topic and the value in being able to explore it.

- 74. The President agreed that the debate was a great success. He expressed his gratitude to the speakers, particularly those who spoke on the side they weren't personally in favour of.
- 75. Jenny shared that she invited some young people who thought that it was inspirational.
- 76. The Chair reminded the Council that the annual Conference will be held in Birmingham and Judge Sapnara will give the Bridget Lindley Memorial Lecture. It will focus on diversity and cultural issues. The D&I group have assisted with some of the content.

Agenda item 7: Communications strategy

- 77. The Chair noted that the secretariat are aware that the website is not always easy to navigate and needs work to improve accessibility and stay up to date. This is work in progress, and any assistance from the Council members would be very much welcomed.
- 78. The President noted he was impressed by the East London Family Justice Board who set up their own website. In general, there may be people who are tech-savvy that we can ask about what might be possible.
- 79. Judge Reardon asked if it is a policy not to publish draft guidance on the FJC website. Secretariat confirmed that we do not publish draft guidance to avoid people referring to guidance which isn't finalised. The exception is when we do public consultations.
- 80. Jenny suggested that the Council could use LinkedIn to talk about new workstreams.
- 81. Matt asked whether the Council should continue to use X/Twitter. It was agreed not to use the platform X.
- 82. Sophie noted that the FJC is able to post through the Judicial Office social media accounts and already use LinkedIn.

Agenda Item 7: Research update

- 83. Andy reiterated that new and existing working groups are welcome to get in touch if they want advice on who to approach for academic input. He is also talking with the secretariat about inviting someone to the April FJC meeting.
- 84. In terms of new research, there is an article coming out in the Family Law Journal about trauma, which he will share with Sheena. Following Jenny's comments in the previous meeting, he noted that neurodiversity at the bar is a hot topic, and one of the key points emerging from the literature ensuring that interview/job adverts wording is inclusive to neurodiverse applicants. This

could be discussed with the D&I group regarding FJC recruitment. There is also an NFJO study commissioned by the President on data in the Family Justice System. Finally, it is worth noting Cafcass's domestic abuse policy guidance.

- 85. Barry updated that Cafcass have made some revisions to their domestic abuse policy following feedback. The new version will be published on the website on 28 January.
- 86. Simon raised that the Medical Treatment Information Sheet to accompany the guidance was quite colourful with different fonts, it might be worth checking whether this is accessible for someone with neurodivergence before publishing.
- 87. Jenny noted that she showed the neurodiversity guidance to a professor at AT- Autism to look at the formatting and font and he provided a lot of helpful feedback on things like getting the language and breaks between sections right. People already have tools to manage colours if needed on an individual basis.

Agenda Item 8: AOB

- 88. The Chair asked for any advice or thoughts on how to advertise FJC vacancies more widely. We will be advertising for a legal adviser and a magistrate this year.

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