

## SHADOW FAMILY JUSTICE BOARD

5 June 2018

### **Attendees:**

Mr Justice O'Hara (Chairman)  
His Honour Judge Kinney  
District Judge Gilpin  
Master Sweeney  
Laurene McAlpine (Department of Justice (DoJ))  
Peter Luney (Northern Ireland Courts and Tribunals Service (NICTS))  
Paul Andrews (Legal Services Agency (LSA))  
Michael Foster (Department of Finance (DoF))  
Eilis McDaniel (Department of Health (DoH))  
Kelly Breen (Law Society (LS))  
Peter Reynolds (Northern Ireland Guardian Ad Litem Agency (NIGALA))  
Grainne Murphy BL (Family Bar Association (FBA))  
Mandy Kilpatrick (Principal Private Secretary (PPS) to the Lord Chief Justice)  
John Growcott (HSC)  
Martin Quinn (HSC)

**Apologies:** District Judge (Magistrates' Courts) Prytherch

**Secretariat:** Gary Quail (NICTS)

### **Minutes of the meeting of 8 March 2018**

The minutes of the last meeting were approved with one amendment namely under the section Single Tier System, the words "Magistrates' Courts (MC)" are to be inserted after the words - Presiding District Judge.

### **Review of Action points**

#### **Early Educative Programme and Mediation**

Laurene McAlpine provided an update on the scoping exercise. She advised that funding may be available subject to a detailed business case being completed by DOJ. A tender exercise may also need completed or there is the possibility of it being an addendum to an existing contract. Things are progressing but there is more work required.

Mandy Kilpatrick undertook to ascertain the position with the DVD production.

**ACTION: Mandy Kilpatrick to provide an update at the next meeting.**

### **Journalist Accreditation**

Mandy Kilpatrick provided an update to the Shadow Family Justice Board (SFJB). A meeting is planned with the Editors Liaison Group (ELG) on 21<sup>st</sup> June 2018. There is no formal accreditation process at present. It was noted that the ELG may be able to provide assistance on determining suitable arrangements for accreditation. The board noted the arrangements in England & Wales which may provide a basis to begin to develop a Northern Ireland model. Implementation by practice direction would also be desirable. The Chairman requested that the matter be kept on the agenda.

**ACTION: Secretariat - to include Journalist Accreditation as an agenda item for next meeting.**

### **Single Tier System**

The Chairman advised that he had contacted the Recorder and Judges to alert them to delay in the transfer of cases between court tiers. One of the issues is that the file does not physically transfer, and there are also delays in the order being made and placed on file. It has been agreed that the transferring Judge contact the receiving Judge to alert to the transfer of a case. Paul Andrews noted that when a family case transfers, a fresh legal aid application will often be required. He noted that any measures to speed up transfer needed to take account of all related interdependencies. Speeding up grant of Legal Aid in family cases generally is currently under active consideration. The Chairman noted that this will also involve access to the relevant court order.

Kelly Breen advised the board there has been no significant improvement in transfer times.

### **Registered Intermediaries (RI)**

Feedback from Judicial training sessions was that there were still issues to be resolved around the use of RI in the Crown Court.

Judge Kinney advised that there remained some issues following the implementation of the statutory scheme in the Crown Court. These include establishing the potential need for an RI at an early enough stage, and ensuring ground rules hearings are not arranged close to trial. It has not always been straightforward in implementation. The statutory scheme only applies to the Crown Court. There is no such statutory scheme in the Family Courts. The SFJB were also advised that the RI service did not always meet individual/case specific needs. The Chairman noted that there were not many cases where an RI would be required within the family court and support was currently addressed through the Official Solicitor/Bryson/family member or friend and in that context he was not convinced it should be prioritised.

Laurene McAlpine advised the group that setting up a scheme for family courts could be an expensive exercise. The Board suggested it was not an issue to be prioritised at this stage.

Judge Kinney raised a side issue around the availability of Interpreters particularly how they are booked, the lack of interpreters for a particular language and the availability of sign language Interpreters.

Paul Andrews advised the SFJB that he was unaware of this issue from the Legal aid perspective but had heard previously of difficulties particularly in some court venues.

It is to be noted that Registered Intermediaries are not currently available in Family Courts and the discussion around the subject of Registered Intermediaries was about their wider use.

**ACTION: Paul Andrews - to follow up on the issue of Interpreters with the Presiding District Judge (DJ) (Magistrates' Courts) (MC) and NICTS.**

### **Reorganisation of Family Care Centre (FCC)**

The Chairman referred to the Proposals for Reorganisation of Family Care Centre Business in Northern Ireland paper noting that it was for information for the SFJB rather than for formal response. Discussion took place regarding Londonderry and Omagh.

Grainne Murphy acknowledged that proposals were still very much work in progress and that meetings had already taken place with the Recorder and Judge Kinney.

Judge Kinney advised the board that all responses were to be carefully considered and that respondents had raised a number of issues about the proposed arrangements for the West of the province.

### **Divorce Paper**

The Chairman thanked Michael Foster for the provided paper. Michael Foster discussed with the group his paper on “Review of Family Justice – Recommendations on Divorce Proceedings in Northern Ireland.” He indicated that meetings had already taken place with Laurene McAlpine and Peter Luney to discuss options. He noted that the absence of Ministers prevented reforms being progressed at this stage but he re-iterated that this was likely to be a politically contentious issue in any event.

Peter Luney advised the board that NICTS would be looking at the possibility of digitising aspects of the current divorce process as part of the NICTS transformation programme.

### **Shadow Family Justice Board Information Sessions**

The Chairman reported that feedback was positive and further sessions are being considered for those who were unable to attend.

Eilis McDaniel noted that the event went very well and discussion took place on the potential role for the SFJB Secretariat to organise CPD events. Peter Luney noted that discussion would take place regarding the Secretariat function going forward but that CPD was outside of the role of the Secretariat.

Paul Andrews suggested that it may be a good idea to have future events branded as “sponsored by the SFJB”.

### **Use of Experts**

Peter Reynolds provided the SFJB with an update. There are a number of issues to be addressed and there may be longer term recommendations. There is also a plan of action being taken forward that included a review of current guidance. The Chairman advised the SFJB that there was still a lot of good COAC guidance available, although some parts required reviewed, but the overall issue requires

funding. The Chairman noted that should funding be approved, the issue should be given due priority.

Discussion took place as to whether the SFJB might issue guidance. The Chairman advised that it was an option worth considering, however a LCJ Direction might carry more weight.

### **Personal Litigants**

The Chairman noted that the Human Rights Commission report on Personal Litigants is due to be launched in September.

### **Waiting Lists/Appointment of Guardians**

Peter Reynolds provided an update to the SFJB. Additional funding has now been secured. Article 56 cases and those particular outcomes had been considered. Meetings have taken place with the Trusts and Department and structural issues are being looked at. There is a need to engage further with the Trusts and the Judiciary. A recruitment process has commenced but it is protracted and cumbersome process. Attempts are being made to understand cohort cases.

### **Residential Accommodation beyond existing Children's Homes**

Eilis McDaniel advised the board that there had been a review of regional specialist facilities and some work had commenced, including plans to establish a Project Team in September 2018 to take forward the implementation of recommendations. The potential for European Funding was opening up and there may be a chance of developing an initiative on an all- Ireland basis.

### **Any other business**

#### **Deirdre Mahon**

Discussion took place regarding the launch of "Signs of Safety" and an overview of how cases might be presented to court and the use of danger statements. It was noted that a number of the SFJB members were likely to be attending the launch through their other responsibilities. It was agreed that a presentation to the SFJB might be appropriate at a later date.

The Chairman advised the board that the issues should be re-visited in the autumn.

**ACTION: SFJB - to revisit in autumn**

### **MLA Correspondence**

The Chairman raised a matter relating to correspondence received from Doug Beattie MLA relating to non-compliance with Court Orders and the consequences for those who breach and whether aspects of the recommendations might be prioritised. Discussion took place on the recommendations from Lord Justice Gillen's Review and the considerations behind each. It was noted that a number require changes to legislation.

It was noted that this was an issue with the potential to incur increased legal costs with some clients who were not legally aided unable to continue due to the financial costs of proceeding.

Judge Gilpin identified the recent judicial Guidance for Contempt of Court and in concluding the discussion the Chairman advised the SFJB that he considered this was an issue to be given priority. The Chairman undertook to review judicial guidance and training and Peter Luney indicated that recommendation FJ32<sup>1</sup> would be progressed by NICTS.

**ACTION: Chairman to liaise with Judicial Studies Board on relevant training and NICTS to progress FJ32.**

### **Shadow Advisory Group**

Discussion took place on the merits of setting up a Shadow Advisory Group to the SFJB and the options by which contributions could be meaningful. It was noted that Ministers would want to consider whether the Advisory Group should attend the Board, be available for specific issues or have a distinct meeting with Terms of Reference and Chair set by a Board member.

It was also noted that there may be difficulties in managing expectations given the constraints on what the SFJB can achieve.

The Chairman requested that the matter be a substantive agenda item for the next meeting and for the members to consider the options.

---

<sup>1</sup> "An emphasis on swift, priority driven references back to court when breaches are observed"

**ACTION: Secretariat - include Shadow Advisory Board on Agenda for next meeting.**

### **Date of next meeting**

The next meeting will take place on **Tuesday 16<sup>th</sup> October** at **4.15pm** in the Judges' Assembly Room, Royal Courts of Justice.