

SHADOW FAMILY JUSTICE BOARD

Minutes

Minutes of the Eighteenth Meeting of the shadow Family Justice Board (sFJB) held on 28th February 2024 at 4.15pm in Judicial Assembly Room and via WebEx video conferencing.

Attendees: Mr Justice McFarland (Chair)
Judge Crawford
District Judge (Magistrates Court) Prytherch
District Judge Logue
Master Sweeney
Master Wells
Eilis McDaniel (DoH)
Steven Allison (DoJ)
Michael Foster (DoF)
Dawn Shaw (CCGANI)
Bláithin Cleland (Family Bar Association)
Janice Spence (Law Society)
Debbie Maclam (LCJO)
Kim Elliott (LCJO)
Roisin McCabe (LCJO)

Secretariat: Michelle Hanna (LCJO)
Julie McMurray (LCJO)

1. The Chair welcomed members to the meeting and took the opportunity to welcome Master Wells as a member of the Board for the duration of her membership of the Mental Capacity Act (NI) 2016 Judicial Liaison Group.
2. The Chair recorded his thanks to Julie McMurray for her contribution to the work of the Board and welcomed Roisin McCabe who is replacing Julie McMurray as LCJO Head of Civil and Family Reform.

Apologies

3. Apologies were noted from Karen Ward (NICTS), Paul Andrews (LSA) and Tom Cassidy (HSCT).

Minutes of the sFJB meeting on 8th November 2023.

4. The Board approved the draft minutes of the previous meeting for publication.

Business Continuity, Recovery & Modernisation

LCJO Operational Update

5. Mrs Maclam provided an update on business recovery for the period October-December 2023, based on NICTS quarterly statistics bulletin.
6. The Chair asked if it was possible that the data comparison is extended to a yearly comparison as that would provide a broader representation of the business levels.

ACTION POINT: LCJO to extend the statistics to show a quarterly and year to date comparison at the next meeting.

Judicial Modernisation

Vision 2030: Judicial Advisory Group (JAG)

7. Mrs Elliott advised members that the Judicial Advisory Group chaired by Mr Justice Huddleston has paused pending award of contract to the successful supplier for the new Themis digital IT system and operating model. In the interim, the views of the judiciary and JAG are being communicated during competitive dialogue workshops with the three prospective suppliers by Mrs Elliott for the Lady Chief Justice's Office. These have been running throughout January and February. Evaluation of Best and Final Offers will be undertaken by Vision 2030 between March and May 2024.

E-Bundles

8. Mrs Elliott advised members that the Lady Chief Justice encourages Judges and Masters to make greater use of e-bundles in specific areas to include authority bundles in defended divorces. The Lady Chief Justice's Office and court staff are monitoring and reporting the use of e-bundles to determine how compliance can be improved. During the current monitoring period 3rd January 2024 to 19th February 2024 69% (18) were PD2/22 compliant and 8 were not compliant.
9. Mrs Elliott updated members that the costings were confirmed by Lee Burns. He confirmed that the cost is £10 per unit of time, and it is taking 20 minutes per unit so the cost per bundle is £20.
10. The Chair suggested that an approach of striking out petitions if e-bundles are not lodged might be required.
11. Ms Cleland noted the use of e-bundles needs to be encouraged and informed members the Family Bar Association had facilitated two programmes of training to date with family barristers.
12. The Chair advised members that the number of documents lodged in family proceedings and the different formats used makes it very difficult and time consuming to scan the documents.

Judicial Portal & App

13. Mrs Elliott informed members that the new judicial intranet 'Judicial Hub' launched in December and the associated app went live in February 2024.

Modernisation update

Service Modernisation Programme Update

14. Mrs Maclam updated members with the summary provided by Karen Ward confirming the timescales for the Themis project provided by Mrs Elliott earlier in the meeting. The new judicial portal went live on 6th December and the associated app went live 12th February. Ms Maclam informed members a project has been initiated to undertake scoping work to identify an alternative video conferencing solution to Sightlink and Webex to facilitate remote and hybrid court and tribunal hearings and discovery meetings have already commenced with business areas in the NICTS and other jurisdictions. This project must be delivered by December 2024 as Sightlink will become unsupported from January 2025.

15. Ms Shaw raised interest on the work around the alternative remote solution and asked, if possible, to provide some positive feedback on the current provision and the scoping discussions from the Childrens Court Guardian perspective.

ACTION POINT: Mrs Maclam to provide Ms Shaw's contact details to NICTS.

Estates Programme

16. Mrs Maclam informed members the Outline Business Case for the Modernisation of the RCJ has been approved at the Programme Board, and it is anticipated that it will be approved by the Department of Finance by the end of March 2024. The first meeting of the Bishop Street Courthouse Modernisation Project Board was held on the 7th February 2024. Work was continuing on the procurement strategy for this project and engagement has taken place with HED archaeologists to determine the extent and appropriate timing of archaeological site investigations which will be required to inform the procurement documentation. The final version of the Estate Strategy 'Making the Place for Justice' was published in December 2023, and following this there will be continued engagement with the Estate Strategy Advisory Group, comprising representatives from key stakeholder groups, that will assist the implementation of the strategy. The Chair advised members that Bishop Street is of interest with the Family Court users and queried if input was being sought from practitioners, Mrs Maclam confirmed that input was being sought.

The Mental Capacity Act Judicial Liaison Group.

17. Master Wells updated members that the Mental Capacity Act (NI) 2016 Judicial Liaison Group had its second meeting on 31st January 2024.

The next meeting is scheduled for Wednesday 26th June 2024 at 4pm.

Master Wells advised members that the group is informed of developments of implementation of the Act. Master Wells updated members that the project is likely to take approximately 3 years to set up and the envisaged realistic timescale for completion would be October 2027 or beyond, depending on budgets and everything being delivered on time.

Master Wells suggested that the Act would be out of date by the date of finalisation in 2027 or beyond.

18. The Chair advised members that it is positive that the Department of Health and the Civil Service are working closely together to get a package and since the Ministers are now in office this might be looked at soon.

19. The Chair confirmed the groups and members involved in the Judicial Liaison Group can be published.

ACTION: LCJO to publish the Mental Capacity Act Judicial Liaison Group members.

Problem-solving courts

Family Drug and Alcohol Court (FDAC)

20. Mr Allison advised the Board that after the competition of the evaluation the next steps would include consideration by Ministers, subject to budgetary constraints. Mr Allison advised members a meeting with the Minister is scheduled on 21st March 2024.

DoJ Expert Witnesses pilot scheme

21. Mr Allison updated members that The evaluation on the DOJ expert witness pilot scheme is now complete.

22. Mr Allison advised members that the pilot is to remain in place for the foreseeable future. He confirmed that subject to the department will be asking for a call of evidence to see what the barriers are to the justice system. Mr Allison advised that there will be 2 questionnaires, one for practitioners and one for citizens. These are being used to try and form a development of options. The questionnaires will then be taken to the Minister to encourage progress.

23. The Chair enquired if the call of evidence could be sent to the Judiciary. Mr Allison confirmed that this can be done.

Resolutions outside court

DoH & DoJ Private Family Law Early Resolution Action Plan

24. Mr Allison updated members that the Department is focusing on developing a small number of discrete additional tools for separating parents from a small amount of funding made available from within the EAJD Divisional budget at year end. Consideration continues to be given to what might else might be achieved within current budgetary constraints and will be subject to Ministerial consideration in due course.
25. Mr Allison confirmed that the department is pulling together small products to keep the momentum going.

Public law system

Children Court Guardian resources

26. Ms Shaw advised members that the pressures on the Agency have continued and referred to a paper that had been provided to members. She highlighted that funding for 6 additional Children's Court Guardians had been provided, they have been recruited and will commence with the Agency this month. The impact of this will take some time as they are inducted into the Agency and take on cases.

This increase in numbers of children coming to the attention of the court has increased and is reflected in the ongoing pressures which the Agency is experiencing. The Agency have had a consistently high level of unallocated cases over the last 3 years and at the 12th February there were 140 cases in respect of 241 children and young people.

27. Ms Shaw said sick leave levels remain high and additional hours had been offered to part time staff to try and alleviate the situation. She said the Agency continues to monitor and review allocation, including transfers, on a daily basis to try and ensure they meet the most urgent of situations. The allocation process is very intense, balancing the newly received cases alongside those which they had for some time. Ms Shaw advised members that although it was recognised that the allocation issue was important it was also relevant to reflect on the positive work that is being done and focus on what the agency is achieving - that 664 live cases have been allocated to guardians.

Children's Court Guardian Agency Solicitors Panel

28. Ms Shaw advised members that following an approach from the Law Society, about concerns about the lack of Guardians and the potential impact on their members, a short guide was jointly produced. The Solicitor reference panel, the Law Society and the Children's Court Guardian Agency jointly agreed the guide. This was disseminated at a joint Legal issue training session and shared with Guardians, Solicitors and with the Judiciary. The Guide which was shared with

members, provides clarity and expectations of the roles of the solicitor and the Guardians in situations when the Guardian has not been allocated at first hearing. There has been positive feedback from solicitors on the guidance.

29. An issue was raised about solicitors engaging directly with older children in the absence of a guardian. Ms Spence confirmed that she would raise the concern with colleagues and report back to Ms Shaw.
30. The Chair noted legal advice had been given in that judges can appoint a named guardian directly as long as the guardian is still on the list. It was agreed that further discussions would be left until the annual CCGANI meeting in May 2024.

ACTION POINT: Ms Spence to raise concerns with colleagues regarding solicitors for children aged 15 years and report back to Ms Shaw.

Shadow Family Justice Board Sub-Committee on Delay in Public Law Children Order Proceedings

CCGANI Review Pilot

31. Judge Crawford advised members that the CCGANI Review Pilot draft report was to be considered with Principal Practitioners at a meeting scheduled on Monday 19th February 2024. The report will be presented to the sub-committee on delay and considered at its next meeting on Tuesday 14th May 2024 and will report to the Board thereafter.

Working Group on Disclosure

32. Judge Crawford updated members that the Working Group on Disclosure has been formed with Her Honour Judge Crawford as Chair. The Working Groups 1st meeting has been scheduled on 19th March 2024 and the Board will be updated at the next meeting.

Social Worker resources

33. Ms McDaniel updated members that the Social Work Workforce Implementation Board (SWWIB) continues to meet quarterly, their next meeting would be to focus on an action plan on pathways into social work training, recruitment, and retention of social workers.

A targeted campaign to recruit the qualifying June 2024 cohort of newly qualified social workers into HSC Trusts will take place again this year, as all Trusts are still reporting significant vacancy rates and it is anticipated that a further 2-3 years of the same approach will be required to more fully stabilise the workforce. Additional training places for social work will also be required to address vacancy issues and meet the staffing demands created by new legislation and policy developments. This includes the demand created by the Adoption and Children Act, forthcoming adult protection legislation, the inclusion of social

workers in multi-disciplinary teams in GP practices and the introduction of safer staffing legislation. Additional training places will require additional funding.

The Chair raised the issue of Cross Border Working of social workers. Ms McDaniel advised those NI social workers whose practice may take them over the border, registration with the regulator, Coru, in the Republic of Ireland remains challenging - the process is lengthy and complex. The Department of Health, HSCTs and the Northern Ireland Social Care Council continue to engage with Coru, and some progress has been made. The Department is also liaising with the Department of Health in the Republic of Ireland to further explore the possibility of bringing in an arrangement for temporary and occasional practice and/or for a humanitarian arrangement for cross border social work.

Delays in Children Order Cases/Performance Monitoring

Review of the COAC Best Practice Guidance

34. Ms McDaniel advised members that there has been no change to the status of the review of the COAC guidance since the last meeting. Work to develop a draft business case to progress the Review has been delayed due to other competing priorities and in the context of significant budget constraints.
35. The Chair queried when the business case would emerge. Ms McDaniel advised that there is no timescale available.

Private law system

Introduction of Domestic Abuse and Civil Proceedings Act 2021 in Northern Ireland

36. Mr Allison updated members that The Department continues to monitor uptake and operation of the section 28 waiver of financial eligibility limits for victims of domestic abuse. EAJD is also working with a number of agencies who provide help and support to victims of domestic violence to identify those who would be content to act as an appropriate source of evidence for the purposes of the waiver and considering mechanisms for highlighting the waiver as part of the communication and engagement plan.

The draft section 29 Report will be subject to Ministerial consideration in the near future and will be laid before the Assembly thereafter.

Work is ongoing to implement prohibition of cross-examination by perpetrators and remains a priority for the Department.

37. Ms Spence advised that the Law Society members are very frustrated with the applications to the LSA as they are very difficult/cumbersome to finalise due to LSA chasing minutiae and in particular asking for evidence of transactions of monies spent – often as small as £5 or under. Ms Spence suggested that a media campaign would be beneficial to alert the public to the benefit of this scheme.

38. Mr Allison confirmed that the department are working with the press office to open a campaign.
39. The Chair didn't feel that a campaign would be beneficial as the people go to the legal representatives for advice.
40. Ms Spence advised members that it is the view of most solicitors that the applications are not worth effort.
41. Regarding the yet to be implemented provisions for appointments of Qualified Legal Representatives (QLRs) to cross-examine on behalf of prohibited persons the Chair referred members to the [judgement](#) by Sir Andrew McFarlane that was circulated. The Chair suggested that the department should look at the judgement.
42. Ms Cleland confirmed that the Family Bar Association had filed consultation responses regarding level remuneration, and they were understanding that the money comes from public funds. Ms Cleland advised that the FBA are concerned with the level of training of people who can apply for the scheme.

Litigants in Person

LIP Reference Group

43. Mr Allison updated members that the Reference Group and its work continues to evolve. The Group continues to consider forthcoming priorities. A further seminar is planned for Spring 2024. As usual, members of the profession and the judiciary and others who provide support to LiPs will be welcome to attend.
44. The Chair advised members that the Lady Chief Justice has asked the Chair and Mr Justice Kinney to develop personal litigant guidance for LIP' in the High Court. The Chair confirmed that this was still at the early stages and more progress would be reported to the Board at future meetings.
45. Ms Spence queried whether the LIP Reference Group had spoken to court staff as there had been some issues between staff and some personal litigants.
46. The Chair advised that he was aware of abuse to court staff, and he advised members that the abuse of staff can be dealt with as a contempt of court.
47. Mr Allison confirmed that this has not been raised to date, but he will pick this issue up with Ms Spence as it is an important point.
48. The Chair queried the issue of costs for cases involving a personal litigant who lodges numerous and lengthy reports/documents to the court and the other side have to go through them.

ACTION: Mr Allison and Ms Spence to liaise regarding issues that had arisen with court staff.

Other Business

Regional Care and Justice Campus Programme

49. Ms McDaniel advised members that there continues to be steady progress with the development of common standards which will underpin a more consistent provision of care across the Regional Secure Care Centre at Lakewood and the Juvenile Justice Centre at Woodlands. There are initial drafts of 8 of 11 standards which have been considered by the wider Advisory Group which is in place to assist with drafting and refining of the standards.

Arrangements to support young people from Lakewood to use the swimming pool and vocational training facilities within Woodlands are now in place, and there have been positive impacts for those who have participated. Recruitment for a new nurse manager is progressing well, to support a future shared nursing team, and to complement ongoing work of the ACORN therapeutic service which is now well embedded across both centres and bringing benefits to both young people and staff.

Implementation structures are in place to support the introduction of the new Framework for Integrated Therapeutic Care within Lakewood, and staff training is underway. It is intended that a similar approach will be progressed in the Juvenile Justice Centre when current staffing challenges ease. More widely, and despite pressures across the system, the introduction of the Framework in community settings is continuing well. A showcase event was held in December to celebrate success and share learning.

50. Ms McDaniel confirmed to members that sharing a site is not possible for legal reasons after 134 responses to the consultation and that the recommendation of sharing has been brought to an end.

Any other Business

Open Justice

51. The Chair updated members that the sFJB is continuing to maintain a watching brief on the Transparency Implementation Group Review in England and Wales.

The reporting pilot, allowing court access to the media to report on family cases, was rolled out to 16 more courts across England on Monday 29th January 2024.

Since the commencement of the pilot at the end of January 2023 there has been groundbreaking coverage of both public and private law cases. The aim is to roll out the pilot to more courts to further explore the impact of reporting on the

courts system and judges themselves, on those involved in family proceedings, and on the media.

Legislative change, to be taken forward by DOJ, will be required to allow such access in Northern Ireland. You will be aware that the media can have access to the Magistrates Courts for observation only in NI. A pilot ran initially in the Family Division of the High Court in 2019 to allow pre-approved media representatives to attend and report on cases listed for hearing and judgment in the family courts. This however was discontinued as Rules changes were required around what information (case details) could be shared with the media representatives in advance.

Since the Assembly has returned there is some interest in this subject. An assembly question [AQW 6987/22-29](#) has been submitted to the DoJ and the answer is due on 6th March.

52. The Chair confirmed that the matter needs legislative change with a consultation and pilot to allow pre-approved media representatives to attend the courts. The Chair advised that the definition of what and who is a media representative would need to be defined.
53. Mrs Maclam advised members that a reporter, Eve Rosato, attended a family proceedings court on Tuesday 27th February 2024 in Laganside with the permission of District Judge Meehan (MC). Mrs Maclam advised members that the same reporter is interviewing the Lady Chief Justice in March 2024.

Cross Border Protocol

54. The Chair updated members that preparations for the next meeting of the Cross Border Conference is well underway. NI are hosting this meeting on the 16th and 17th April 2024. The Chair advised that representatives from the Republic of Ireland have been invited to attend as liaison with Dublin makes sense as children flow between the North and the South of Ireland normally.
55. The Chair advised members that the protocol is in place and to date there have been no requests to implement it.

Delay of GP notes and records from GP practices

56. Ms McDaniel advised members that an update has been sought from the Director of Primary Care, SPPG, on the General Practice issues raised. Unfortunately, that hasn't yet been received.
57. Ms McDaniel suggested a conversation with Louise McMahan, Director of Primary Care and sought a contact.

ACTION: contact to be provided to Ms McDaniel

Child Abduction Recommendations

58. Mrs McMurray updated members that given the work being carried out by the Cross Border Conference Group it has been considered that this may be an appropriate time to progress recommendations in the Gillen Review relating to child abduction. Further research will be required and engagement with the legal unit will be necessary in respect of those recommendations that require rules changes.

Some scoping work has commenced with a view to taking forward the recommendations [FJ100-FJ113] and progress will be reported at future meetings.

Non-Molestation Order: Amendment to Children (NI) Order 1995 or The Family Homes & Domestic Violence (NI) 1998 HSCT to permit HSCT to be the Applicant

59. Master Wells updated members of the purpose of the meeting held on Wednesday 21st February 2024 which was to consider a loophole in the law – currently a Health and Social Care Trust can be an applicant in a non-molestation application (to seek protection for the relevant child) if the Trust has an Emergency Protection Order or an Interim Care Order. Currently there is no legislative provision to permit the Trust to be the applicant in a non-molestation application if the Trust holds a Care Order. For cases in which the public law proceedings are concluded and there are no live family proceedings in which the Judge could of his/her own motion make a Non-Molestation Order and Exclusion Zone pursuant to Article 20 (2)(b) of the 1998 Order, this can weaken the protective powers of the Trust as Statutory Parent.

It would strengthen the Trust's protection powers if it could be the Applicant after a final Care Order has been granted.

The representatives at the meeting from the government departments appreciated the problem but pointed out the resource issues with trying to get a consultation process off the ground.

Matters have been left with Eilish McDaniel (DoH) who has agreed to take soundings from the five HSCT's regarding the usefulness of legislative change.

60. Ms McDaniel advised members that implementation of 2 further sections on the Adoption Act is due to complete on 6th March 2024 and will commence on 1st April 2024. Firstly Section 116 to add proceedings for Female Genital Mutilation Protection Orders in NI and secondly Section 118 that a residence order in respect of a looked after child will last until the child has reached 18 years old.

Question to the Minister of Finance - No Fault Divorces

61. Mr Foster advised members that a question was to be asked to the Minister and later withdrawn prior to being asked regarding no fault divorces. A pre-brief had been provided to the Minister and the Minister has an interest in the matter and Mr Foster felt it would be helpful to get a sense of appetite for consideration.

62. The Chair advised that progressing no fault divorces in Northern Ireland may be difficult and may raise political sensitivities.
63. Ms Spence advised members that no fault divorces could reduce costs significantly and she felt they would be a good idea. She advised members that the topic is very popular on forums.

Next Meeting

64. It was agreed the next meeting of the Shadow Family Justice Board would take place on the 5th June 2024 at 4:15pm.