

SHADOW FAMILY JUSTICE BOARD ADVISORY GROUP

Minutes

The eighth meeting of the Advisory Group took place on 22nd November 2023 at 4.00pm via Webex Video Conferencing.

Attendees:

Debbie Maclam (LCJO) Chair
Julie McMurray (LCJO)
Joan Davis (Family Mediation NI)
Dr John McCord (University of Ulster)
Steven Allison (DoJ)

Secretariat: Michelle Hanna (LCJO)

Welcome

1. The Chair welcomed everyone to the meeting and thanked members for their attendance.

Apologies

2. Apologies were noted from Eilis McDaniel (DoH), Mairead McCafferty (NICCY) and Karen Ward (NICTS).

Minutes of the last Shadow Family Justice Board – Advisory Group Meeting

3. The minutes of the last meeting held on 29th March 2023 were agreed and will be published.

Business Continuity, Recovery and Modernisation

Lady Chief Justice's Office (LCJO) Operational Update

4. The Chair advised members that the Lady Chief Justice's Office issued new [guidance](#) on the Judiciary NI website on 6 November 2023. The guidance reflects the recognition that physical attendance is necessary, unless otherwise directed, to serve the interests of justice.

Current data shows signs of business recovery, provisional figures for April to June 2023 are shown [here](#).

The figures show that during the quarter there were:

- 479 sittings (1,351 hours).
- 1,199 Children Order Applications received and

- 1,135 Children Order Applications disposed.

In relation to waiting times the average waiting time for applications disposed was:

- 57.9 weeks for public and
- 34.9 weeks for private law.

In comparison with the same quarter in 2022 this was a decrease of 1% in public law (from 58.2 weeks) and for private law a decrease of 8% (from 37.9 weeks). There was also a decrease of 6% in the number of sitting days, from 509 in the same quarter in 2022, to 479 in 2023.

Children Order	Apr - June 2021	Apr - June 2022	Apr - June 2023
Applications received	1265	1022	1199
Applications disposed	1342	1192	1135
Average waiting time for disposal - public law (weeks)	63.1	58.2	57.9
Average waiting time for disposal - private law (weeks)	36.9	37.9	34.9

Judicial Modernisation

Vision 2030: Judicial Advisory Group

5. Mrs McMurray updated members that the Judicial Advisory Group subgroups chaired by Mr Justice Huddleston have looked primarily at high level civil and family business. The agreed judicial expectations, assumptions and priorities were communicated at a series of competitive dialogue workshops over the summer to the three short-listed suppliers and will help inform how the new processes are developed once the contract is awarded in early 2024. The chair is meeting with the NICTS in November for next steps.

E-Bundles

6. Mrs McMurray 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 the Court of Appeal, Undefended Divorces, and Extradition. 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 first monitoring period:

- 43 e-bundles were received during the period March – August 2023
- 44% (19) of these were **not** compliant in format with PD2/22
- 49% were confirmed as used by judges (NB not all have yet heard/staff may not know in all instances)
- Potential savings in hard copy pages was just under 26,000; 33% of which were for Court of Appeal; 51% for Judicial Reviews; 12% for Office of Care & Protection

Judicial Portal & App

7. Mrs McMurray advised members that the new judicial intranet – the 'Judicial Hub' – is due to launch this month. The Judicial Hub will provide access to Library resources and will also feature new functionality including registration for training events. The planned delivery timescale for the app remains on track for launch on 31st December 2023.

Modernisation Update

Service Modernisation Programme Update

8. In Mrs Ward's absence members were referred to the summary provided stating that the main focus of the Programme has been the completion of Phase 1 of the competitive dialogue which has been carried out with the 3 shortlisted suppliers for the Themis project. Seven dialogue sessions were completed with each supplier and requirements updated. Detailed solutions have been submitted and are currently being evaluated. Phase 2 is due to commence in January 2024 with award of contract still planned for July 2024. The new case management system for OSO/OCP went live in September 2023 following extensive user acceptance testing, data migration and training. Work on the discovery exercise for Enduring Power of Attorney remains paused due to resource constraints and will resume once additional resources become available. Work is also progressing on the implementation of a new judicial portal and app, planned for the end of October and December respectively and a project is commencing shortly to scope out potential technical options to enhance our video hearing solution in courts.

Estates Programme Update

9. Members were referred to the summary provided by Mrs Ward stating that work has progressed on the development of the Outline Business Case for the RCJ Services Upgrade and it is anticipated that it will be approved by the end of January 2024.

The North West Accommodation Project is to be known going forward as the Bishop Street Courthouse Modernisation Project. Engagement has taken place with the Historic Environment Division and a workshop held with the Ministerial Advisory Group (MAG) who endorsed the proposed development of Bishop Street Courthouse.

Four workshops with the NICTS Estate Strategy Advisory Group (ESAG) comprising key stakeholders and justice partners have been completed and the outcomes from these have been reflected in the final draft of the Estates Strategy. The Strategy was agreed by Agency Board in September 2023 and it is anticipated that it will be published in early November 2023.

Problem Solving Courts

Family Drug and Alcohol Court (FDAC)

10. Mr Allison updated members that next steps still remain subject to consideration by both incoming Ministers and budgetary constraints.

DoJ Expert Witnesses Pilot Scheme

11. Mr Allison advised members that the evaluation on the DOJ expert witness pilot scheme is now complete. Analysis indicated:
 - 98% (204/209) of experts appointed under the terms of the pilot scheme were appointed without the need for an application for prior authority;
 - 58% (10/19) psychologists who were active in FPC cases in year prior to the pilot were involved in cases under the pilot with 1 other new psychologist was involved in cases under the pilot;
 - 38% (5/13) psychiatrists who were active in FPC cases in year prior to the pilot were involved in cases under the pilot with 2 other new psychiatrists were involved in cases under the pilot; and
 - Experts who were not involved in cases in the FPC during the pilot period, but had done reports previously, did not do significant amounts of reports.

Qualitative evidence indicates that there is a potential ongoing and future issue with availability of experts in family cases, and that there are a range of factors underlying this issue, including a significant issue around the timing of payments to experts. The Department will consider whether this issue should be invested further and whether the arrangements should become permanent and rolled out to other court tiers and case and expert types as part of the recently launched foundational review of civil legal aid.

12. The Chair advised members that she was aware that the call on time with experts is not only in the family sector but also in the criminal sector. She advised that pressures were across the board and that experts are being torn in many directions.
13. Mr Allison suggested to members that an approach of paying experts close after the work has been carried out might be beneficial and push progress on.

Resolutions Outside Court

Department of Health (DoH) & Department of Justice (DoJ) Private Family Law Early Resolution Action Plan

14. Mr Allison updated members that good progress continues to be made with a number of tools for separating parents, including unrepresented litigants being readied for launch. Consideration continues to be given to what might be achieved next in the context of current budgetary constraints.
15. Mr Allison advised members that money has been found in the department's budget to progress things further. He confirmed to members that Ms O'Reilly will be in reaching out to sectors to see what can be done.
16. Ms Davis & Dr McCord both agreed that there has been a lack of research and attention, so they welcomed the approach to progress.
17. Mr Allison thanked members for their patience and help with the progress so far.

Public Law Systems

Children's Court Guardian Agency Resources

18. In Ms McDaniel's absence members were referred to the summary provided stating that the pressure on the Children's Court Guardian Agency continues. At Monday 16th October the number of unallocated cases on the waiting list was 138 cases in respect of 223 children and young people. The agency continues to triage the cases and currently they have 74 which are regarded as top priority and urgent.

At the previous sFJB meeting on the 1st March 2023, the agency gave an update on their workforce issues, at that time they had four vacancies. They had tried to alleviate the pressure by increasing hours for some of their existing part time staff and they recruited to three full time Guardian posts to bring them to their usual Full Time Equivalent compliment of Guardians within the Agency. The three new Guardians have commenced into post, have completed their induction, and have started to take cases. It will take some time for them to build to a full case load.

The agency continues to have a higher than usual level of long-term sickness absence within the Guardians. Currently they have 4 staff off on long term sickness which results in them having to transfer cases to existing Guardians to try and meet the court deadlines, which increases the pressures on their staff.

In addition, they are still subject to ongoing industrial action which commenced in December 2022, this is continuing through until at least the end of December 2023.

The agency continues to monitor and review the situation over allocation, including transfers, on a daily basis to try and ensure they meet the most urgent of situations. The Agency has not been immune to the regional recruitment issues experienced within Social Work across Northern Ireland. As part of their transformation agenda and as a response to the ongoing pressures they have introduced an entry level Guardian post which should assist in the difficulties they have had in recruiting staff with the right level of experience into the Agency. The Agency is pleased to report, that following the required consultation processes with staff and the Unions, they have been able to progress this. In addition, because of the transformation strategy within the Agency, they have secured additional funding which will enable them to recruit an additional six Guardians at this new level. The Agency had an excellent response to the recruitment and are now in a position to offer posts to six individuals who were successful at interview. It is hoped the new staff will commence before the end of December 2023, depending on the notice period they are required to work.

Whilst this will not have an immediate impact, longer term this will substantially improve the capacity within the Agency and should enable the agency to provide a much better service to children and families who are subject to public law proceedings.

Children's Court Guardian Agency Solicitors Panel

19. Members were referred to the summary provided by Ms McDaniel stating that the agency had recently met with the Law Society as they also had

concerns about the lack of Guardians and the potential impact on their members in these circumstances. The Agency has agreed that a short guide which outlines the requirements in cases for solicitors would be helpful for all concerned. A draft of this has been agreed by the panel and has been signed off and disseminated to solicitors, guardians and the family court judiciary to provide clarity on expectations of the roles.

CCGANI Annual Report and Five Year Strategy

20. Members were referred to the summary provided by Ms McDaniel stating that since the last meeting of the Shadow Family Justice Board, the Agency has produced its Annual report and Accounts and the new Five Year Strategy. These were sent to members prior to today's meeting.

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

21. The Chair updated members that the CCGANI Review Pilot will be considered by the sub-committee on delay at its next meeting on Monday 4th December 2023 and will report to the Board and Advisory Group thereafter.

Social Worker Resources & Reports

22. Members were referred to the summary provided by Ms McDaniel stating that the Social Work Workforce Implementation Board (SWWIB) continues to meet quarterly to oversee the delivery of the recommendations arising from the Social Work Workforce Review. An action plan which aims to increase the pathways into Social Work training, improve HSC recruitment practices and take steps to retain social workers in post has been developed, and progress of the plan will be monitored by the Implementation Board.

Since 30th June 2023, the Department of Health policy is now that there should be no recruitment agency social work use in HSC Trusts. Ending the use of agency social workers has helped to create a more stable and sustainable social work workforce and complements other measures taken by Trusts to improve the recruitment and retention of social workers. The majority of social workers who had been working in an agency capacity have chosen to apply for HSC posts and most have been successfully appointed to a position in a Trust. A targeted campaign has also been very successful in recruiting the June 2023 cohort of newly qualified social workers into HSC Trusts without delay. However, 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 stabilise the workforce. Additional training places for social work will also be required to meet the demands of 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.

Under the auspices of the SWWIB, the Department of Health has instigated a safe staffing for social work project. The project, established earlier this year, will progress an evidence base for safe staffing guidance, which will be followed by safe staffing legislation. The work is jointly led by social work academics from Ulster University and Queen's University Belfast, and Professional Social Work Officers in the Department of Health. This first year of the project is looking at social work in children's services, mental health services and older people's services with projects on other programmes of care to follow in year 2. This first phase will report in December 2023. Departmental guidance will follow thereafter. However, implementation of any guidance will be heavily dependent on funding and availability of social workers.

Registration of social workers with Coru in the Republic of Ireland, for those NI social workers whose practice may take them over the border, remains challenging. The process is reported as lengthy and complex. The Department of Health, HSCs and the Northern Ireland Social Care Council continue to engage with Coru to try to sort out the difficulties. The Department is also liaising with the Department of Health in the Republic of Ireland to try to address the issue. It has been agreed 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 Children's Order Advisory Committee (COAC) Best Practice Guidance

23. Members were referred to the summary provided by Ms McDaniel stating that 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 facing all departments in 2023/24. It is the intention to complete the draft business case as soon as possible, to enable consideration and agreement of the preferred option to progress the Review during 2024/25, subject to the necessary resources.

Criminal Investigations Working Group

24. The Chair advised members that the working group involving the PSNI and the legal profession have focused on issues arising from criminal investigations related to Children Order cases in particular issues with the existing protocol for requesting information from the PSNI. The group

prepared the following documents, which were rolled out to stakeholders to commence on the 30 September 2022.

- PSNI Disclosure Schedule
- Pathway regarding PSNI Disclosure Protocol for Concurrent Care and Criminal Proceedings in Family Courts
- Guidance to Practitioners Regarding the PSNI Disclosure Protocol for
- Concurrent Care and Criminal Proceedings in Family Courts

25. It was agreed with members that this can be removed from the agenda of the next meeting.

ACTION: item to be removed from agenda of next meeting

Private Law System

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

26. Mr Allison updated members that Department continues to monitor uptake and operation of the section 28 waiver of financial eligibility limits for victims of domestic abuse to inform decisions of other evidence which might be used to demonstrate eligibility and identify potential opportunities to maximise usage.

The Department is considering the draft section 29 Report. The Report will be subject to Ministerial consideration before being laid before the Assembly.

The rules of court to enhance the availability of special measures to victims of abuse in family proceedings and ensure they can give their best evidence came into force in November. Work is ongoing to implement prohibition of cross-examination by perpetrators.

27. Mr Allison advised members that he was 'stumped' as to why the levels are so low and confirmed that awareness needs to be increased. Mr Allison advised members that the Law Society are not shy in raising awareness and is unsure how the low level of uptake can be resolved. He confirmed that the resource is not being used and there needs to be a higher level of advertising to raise awareness.

28. The Chair asked Ms Davis and Dr McCord about their experience regarding awareness on the Legal Aid Waiver.

29. Dr McCord confirmed that it is difficult to get people invested and advertising on bus stops etc wont push things on so the department needs to

try and find other methods to progress further. Dr McCord confirmed that he too is quite surprised on the lack of uptake.

30. Ms Davis advised members that Family Mediation NI is an advice agency, so they are unable to advise on the waiver. In her view the Law Society should be the main body to flag it up. Ms Davis advised members that Family Mediation NI refer people to legal representatives for legal advice.
31. Mr Allison asked members that if they had any suggestions that they would be welcomed by the department, and that the evaluation report will be shared with members once received.

ACTION: members to share any suggestions regarding the waiver with the department

Litigants in Person (LiP)

LiP Reference Group

32. Mr Allison advised members that the Reference Group and its work continues to evolve. A number of new LiP members have joined the Group, who have experience of a number of different areas of the justice system, widening its perspective. The Group is currently considering a new prospective work programme, including establishment of a subgroup to consider new support / advice mechanisms. Following the success of the Groups webinar in March on supports for LiPs in England and Wales a further event is being planned for Spring 2024. As usual, members of the profession and the judiciary and others who provide support to LiPs are likely to be invited to attend.
33. Mr Allison confirmed that Mr Allamby, the Chair of the LiP Reference Group, met with the Lady Chief Justice.
34. The Chair confirmed same with members and advised that it was a successful meeting. The Lady Chief recognised that every LiP is very different, so it is difficult to have one size or solution that fits all. The Chair said that the Lady Chief Justice is not against guidance being issued but feels that a Practice Direction may not be the appropriate way forward.
35. Dr McCord agreed that guidance would be useful.
36. Mr Allison confirmed that simple pragmatic changes are required and simple, clear forms could be quickly achieved.
37. Dr McCord advised members on forms which he has produced that contain simple questions. Dr McCord advised members that he would share these forms with members.

ACTION: Dr McCord to share forms with members.

Regional Care and Justice Campus Programme

38. Members were referred to the summary provided by Ms McDaniel stating that the work of the Regional Care and Justice Campus Programme is focused on 2 key areas – the harmonisation of care across Lakewood Secure Care Centre and Woodlands Juvenile Justice Centre and the prevention of admission (or readmission) to a secure facility.

In relation to the harmonisation of care across the secure facilities, additional resource has been secured to enable the establishment of a new primary care nursing service across the 2 sites. It is hoped that this service will be in place by Spring 2024 and will work alongside the ACORN therapeutic service that is now operational across Lakewood and Woodlands. The first phase of a project to share vocational training facilities at Woodlands was successful and the project is now being expanded. Young people from Lakewood are now using the swimming pool within JJC on a regular basis. Work on the development of shared standards for secure care is also continuing.

In terms of prevention of admission to secure care, implementation of the Northern Ireland Framework for Integrated Therapeutic Care (FITC) in residential care continues to progress focused on 6 specific areas – individual health and wellbeing planning; workforce development; reflective governance; staff support; lifestory work and alignment of the HSCT peripatetic services. The FITC is being implemented initially in Lakewood and Woodlands and in a small number of children's homes.

Open Justice

39. The Chair advised members that the sFJB is maintaining a watching brief on the Transparency Implementation Group in England and Wales and members have been kept up to date with developments. The pilot is still running until January 2024 and an update should be available by the next meeting.

Cross Border Protocol for Judicial Protocol Regulating Direct Judicial Communications Between Scotland, England and Wales, and Northern Ireland in Children's Cases

40. The purpose of the Cross Border Conference Group is to promote better judicial co-operation between England and Wales, Scotland and Northern Ireland. Northern Ireland will host the next meeting of the Cross Border Conference Group on the 16th and 17th April 2024.

41. Mrs McMurray confirmed that the Lady Chief Justice is attending the conference and Mr Justice McFarland is taking the lead at the event. She

advised that the list of attendees is impressive and that members of the ROI Judiciary have been invited to attend.

42. Dr McCord confirmed that this is an interesting area, and it will be interesting to receive the update at the next meeting.

Northern Ireland Section to existing Handbook

43. The Cross Border Conference Working Group published the final version of the handbook on family law to include children in Northern Ireland in July 2023.

44. Any potential updates will be considered during each of the annual conferences.

Professor Jones Report

45. The Chair advised members that the review by Professor Jones was formally commissioned by the then Minister for Health with Terms of Reference prepared within the Department of Health. The review started in February 2022 and was to be completed within sixteen months.

The [report](#) was published in June 2023..

The majority of the recommendations are for the Department of Health to take forward, but it also encourages progress on the recommendations made by Sir John Gillen and these are to be considered.

46. The Chair confirmed to members that the Advisory Group will be updated of any items being progressed.

Disclosure Practice Direction

47. Mrs McMurray updated members that as agreed at the Shadow Family Justice Meeting held on 1st March 2023 work has commenced to produce a draft Practice Direction along the English lines for Northern Ireland in line with Gillen recommendation FJ124.

48. Mrs McMurray advised members that a working group is to be formed and progress will be reported at the next meeting.

49. The Chair suggested to members that operational colleagues should be involved in the process.

Child Abduction Recommendations

50. Mrs McMurray updated members that some scoping work had commenced with a view to taking forward the recommendations relating to child

abduction [FJ100-FJ113]. A working group is to be formed and progress will be reported at future meetings.

51. The Chair suggested to members that operational colleagues should be involved in the progress.

Next Meeting

52. It was agreed that the date of the next meeting would be held on 19th June 2024 at 4pm via Webex Conferencing.