

SHADOW FAMILY JUSTICE BOARD

Minutes of the First Meeting of the shadow Family Justice Board held on 13 December, 2017 at 4.00 pm in Judges' Common Room, Royal Courts of Justice, Belfast

Attendees: Mr Justice O'Hara (Chairman)
District Judge Gilpin
District Judge (MC) Prytherch
Laurene McAlpine (DoJ)
Peter Luney (NICTS)
Paul Andrews (Legal Services Agency)
Michael Foster (DoF)
Eilis McDaniel (DoH)
Martin Quinn ((HSCB)
John Growcott (HSCT)
Terence Dunlop (OLCJ)

Apologies: His Honour Judge Kinney
Master Sweeney
Grainne Murphy BL (Family Bar Association)
Maura Campbell (PPS to the Lord Chief Justice)
Julie McGrath (OLCJ)

In attendance: Wendy Murray (Secretariat)

1. The Chairman welcomed everyone to the meeting and expressed his thanks to the members for agreeing to participate in the work of the shadow Board. Members were asked to introduce themselves. The apologies recorded above were noted.

2. The Chairman advised that the shadow Board will supersede the Children Order Advisory Committee (COAC) and, hopefully, be a more wieldy body. With the Family Justice Review and Care Proceedings Pilot concluding recently and recommendations arising from them both the Chairman advised that he was very keen to maintain the momentum created and ensure progress is made.

Terms of Reference for the shadow Family Justice Board [FJB (17/01)]

3. The Chairman invited members to agree the proposed terms of reference for the shadow Board.

4. Members agreed:

(i) the proposed Terms of Reference;

- (ii) the proposed Remit;
- (iii) the shadow Board should meet once per term (three times per year) or more often as the Chair may require in order to progress 'quick wins'.

Allocation of Recommendations from the Family Justice Report [FJB (17/02)]

5. Mrs McAlpine confirmed that DoJ were generally content and had worked with OLCJ, NICTS and DoH on the allocation process. Mrs McAlpine didn't think FJ77 was for DoJ to lead on but will investigate and report back at the next meeting. Mrs McAlpine queried if perhaps FJ7 and FJ91 were repeating each other as both recommend the creation of a single family court.

6. Mr Andrews suggested that the Legal Services Agency be included as an interested Department/Body to a number of recommendations. Mr Andrews suggested that FJ90 was beyond the competence of the LSA as it is unable to accredit experts. In relation to FJ11, legal aid does not cover the services mentioned as they are 'treatments', not diagnostic services which can be funded. Ms McDaniel agreed that DoH should be lead department for FJ11.

7. Mr Luney suggested that some recommendations e.g. court listing and allocations are for the Judiciary and that OLCJ should be added as a co-lead. Mr Luney urged caution on recommendations that are prescriptive on time for implementation, for example FJ118, as significant funding may be required.

8. Ms McDaniel requested that FJ34 and FJ35 are amended so that DoF are included as leads, not just interested parties, and this was agreed.

9. Mr Andrews suggested that the solutions recommended in Stutt's Access to Justice 2 report could assist with implementation of some of the recommendations made in the Family Justice Report and he recommended that the two reports should be looked at together and aligned where possible. Mrs McAlpine confirmed that DoJ had already done some work on this and agreed to prepare a note for the next meeting.

10. The members otherwise agreed the proposed table of allocations with no amendments.

Prioritisation of Recommendations [FJB (17/03)]

11. The Chairman acknowledged that a phased approach to implementation will be required for a number of reasons, including the absence of a functioning Executive, financial constraints across the public service and the longer-term nature

of some of the Review recommendations. He suggested six priority areas to get the discussion started.

Open Justice

12. The Chairman provided some background to the 'Media in Court' memo which had been shared with members in advance of the meeting. He advised that the Family Bar Association had asked for some more time to consider their response to the memo.

13. The secretariat will circulate before the next meeting the note prepared by Jane Corr for the Review on any restrictions that might apply to the media / press attending and reporting on any court proceedings.

14. Mrs McAlpine will make enquiries with the DoJ Press Office about how they verify legitimate journalists.

15. The Chairman proposed, in the absence of objections from members, that he should meet with press representatives after the next meeting to agree a way forward.

Problem-solving courts

16. Mrs McAlpine advised that a 12 month pilot Family Drug and Alcohol court is commencing in Newry in the New Year. Funding was sought and gained from the Early Intervention Transformation Programme (EITP) by the Southern HSC Trust to pay for the dedicated, specialist multi-disciplinary team. This particular funding may not be available in other HSCT areas but if it can be demonstrated that the pilot is successful and making savings it may make the case for funding to roll out the scheme easier. Legal professionals will only be involved in hearings where decisions are to be made; otherwise they will receive a Minute of any meetings between the judge and the parent monitoring progress etc. Mrs McAlpine agreed to provide an update at the next meeting.

Single tier system

17. It was agreed that DoJ should advise the Minister, once appointed, that the introduction of a single tier system is regarded as a priority by the shadow Family Justice Board.

18. The Chairman gave an example of a case before him which had taken seven weeks to be transferred and queried with Judge Prytherch if something could be done administratively to make the process quicker. Judge Prytherch agreed and

advised that she had contacted colleagues to expedite cases she had been involved in.

19. The Chairman proposed, and it was agreed, that he contact the Recorder and Presiding District Judge (MC) to discuss introducing an informal, administrative process for transferring cases more quickly as a way of reducing delay in the meantime and absence of legislation.

20. Mr Andrews advised that he would be happy to be included in any discussions to ensure legal aid is in place in time to allow cases to proceed when transferred.

Voice of the child and vulnerable adults

21. Mrs McAlpine advised that it would be for the OLCJ, Bar and Law Society to take forward planning training for the Judiciary and professions. She agreed to prepare a paper for the next meeting on the NSPCC proposal to pilot a Young Witness Service in the Family courts and the extension of the Registered Intermediaries service to civil courts.

22. The Chairman advised that he was planning, with JSB, to organise a training session on communicating with children for all family judges early in the New Year as they had identified this as a training need. He had attended a recent NIGALA conference at which young people who had been involved in cases in the family courts had shared their 'top tips' for judges when meeting children, which he thought would be beneficial for judges, and they have agreed to participate in the training for judges. An update will be provided at the next meeting.

Divorce proceedings

23. Mr Foster advised that there were two broad options that could be considered but without a Minister in place and the political sensitivities around divorce the recommendations could be difficult to implement.

24. Mr Foster agreed that he could prepare a draft implementation plan and course of action paper, with the understanding that nothing could be done practically without a Minister in place, for the next meeting. Mr Luney agreed that a plan would be helpful when drafting the Digital Strategy tender documentation.

Resolutions outside court

25. Ms McDaniel confirmed DoH were content to be the lead department. She agreed that she could prepare a draft implementation plan and timeline, again with

the understanding that Ministerial approval would be required, for the next meeting.

'Quick wins'

26. Practice direction on trial bundles - The Chairman advised that he had met with Suzanne Rice, Suzanne Simpson QC and Cathy Meenan (HSCT) to discuss a plan to reduce the size of trial bundles and agreements had been made, for example, every renewal order will not be included. He also advised, in some cases, he had given directions that the expert's report should not be longer than 40 pages. A practice direction will require the approval of the LCJ and will only apply to cases in the High Court and FCC as there are no bundles in the FPC.

27. Delivery of papers to judges - The Chairman had been in communication with Judge Mullan who had experienced difficulties with only having access to case papers on the morning of hearing meaning she was unable to read and prepare in advance. Mr Luney agreed to contact both Judge Mullan and Judge Meehan to discuss their queries.

Care Proceedings Pilot - Update

28. The note on the Care Proceedings Pilot Recommendations was shared with members and Ms McDaniel provided a verbal update on six of the recommendations:

(i) Recommendation 5 (Volume of Documentation) - it was agreed that work had already commenced on reducing the volume of documentation in higher court tiers via the discussions the Chairman has had on a practice direction and the Digital Strategy.

(ii) Recommendation 3 (Protocol between NIGALA and HSCTs) - Mr Quinn advised that NIGALA and HSCTS would consider remit, roles and responsibilities. Discussions had already commenced and with input from the Directors and willingness to reach a resolution results will be achieved. Suggestions had been made that video link could be used for LAC reviews.

(iii) Recommendation 4 (Training/Awareness Raising) - It was agreed that the Legal Services Agency and DoH would work together with the Bar and Law Society to provide a CPD session/s on the following collection of issues; the lessons learned from the Care Proceedings Pilot Project, the value of adhering closely to the COAC Best Practice Guidance, the current practice on kinship assessments and the recurring mistakes in applying for legal aid which cause avoidable delay. JSB could suggest a speaker, perhaps Judge Magill, to talk about the results that can be

achieved by adhering to the Best Practice Guidance and delivering key messages to the professions.

(iv) Recommendation 2 (Practice Reviews) – The Chairman suggested that a half-day of JSB Family Judges training is organised to engage the District Judges (MC) and generate discussion between them on what can be gained from continuing the reviews, for example, maintaining focus on the duration of a case and bringing it down.

(v) Recommendation 9 (More Effective Use of Court Time) – Mr Luney advised that the ability to produce such reports will be included in the tender for the next IT provider.

(vi) Recommendation 1 (Data Collection) – Mr Luney suggested that further discussions would need to be held to confirm what will be expected of the data. He will discuss potential solutions with the current ICOS providers to see what can be done in the interim.

Problem-solving justice – information paper [FJB (17/05)]

29. Mr Dunlop advised that JSB is organising for Judge Gregory Jackson, who has chaired substance misuse courts in Washington DC Drug Court, to speak at a seminar for judiciary when he is visiting NI.

Any Other Business

30. The next meeting will take place on **Wednesday 7 March**, 2018, at **4.15pm** in the Judges' Assembly Room, Royal Courts of Justice.