

SHADOW FAMILY JUSTICE BOARD ADVISORY GROUP

Minutes

The sixth meeting of the Advisory Group took place at 4.00pm on 7th November 2022 via Webex Video Conferencing.

Attendees:

Mandy Kilpatrick (PPS to LCJ) Chair
Julie McMurray (LCJO)
Dr John McCord (Ulster University)
Karen Ward (NICTS)
Natalie Whelehan (NSPCC)
Eilis McDaniel (DoH)
Bronagh O'Reilly (DoJ)

Secretariat:

Catherine Di Maio (LCJO)
Michelle Hanna (LCJO)

Welcome

1. Mandy Kilpatrick welcomed everyone to the meeting and thanked members for their attendance.

Apologies

2. Apologies were noted from Judith Brunt (HSCNI), Mairead McCaffrey (NICCY), Joan Davis (Family Mediation NI) and Steven Allison (DoJ).

Minutes of the last Shadow Family Justice Board – Advisory Group Meeting on 6th June 2022

3. The minutes of the last meeting were agreed and should be published.

Disability

4. The Chair noted that Nuala Toman representative for Disability Action had attended the last meeting of the Shadow Family Justice Board Advisory Group and had updated members on disability issues. A report entitled; Progress Towards the Implementation of the UNCRPD in Northern Ireland, was shared with members. The Chair advised members that the findings in the report were not positive, progress had been limited and there continued to be barriers for deaf/disabled people accessing services. It has been

confirmed that there have been no further updates since the last meeting. In relation to the issues arising in the remit of the sFJB & sCJC, Ms Nuala Toman has joined the NICTS Stakeholder Group as a representative of Disability Action and has been invited to their next meeting scheduled on 15th November 2022.

Business Continuity, Recovery and Modernisation

Lady Chief Justice's Office (LCJO) Operational Update

5. The Chair advised members that the LCJO issued updated guidance on the Judiciary NI website on 22 June 2022. Whilst social distancing has been reduced to 1 metre, pressures on accommodation remain.

The Chair advised that current data shows some signs of recovery, provisional figures for April to June 2022 show that during the quarter there were 509 sittings (1,659 hours), 1,022 Children Order Applications received and 1,192 disposed. In relation to waiting times the average waiting time for applications disposed was 58.2 weeks for public and 37.9 weeks for private law. For public law cases this was a decrease of 8% from 63.1 weeks and for private law there was an increase of 3% from 36.9 weeks compared to the same period in 2021. There was also a decrease in the number of sitting days from 610 in the same quarter in 2021 to 509 in April-June 2022 a decrease of 17%. The Chair noted that figures for 2021 may not provide the best comparison and so figures for the same period in 2019 show that there were 1,233 Children Order Applications received during April to June 2019. The average waiting time for applications disposed was 48.1 weeks for public law and 26.4 weeks for private law. Timeliness of case progression as a consequence of Covid continues to be kept under close review.

Judicial Modernisation & E-bundles Update

6. Mrs McMurray updated members that Practice Direction 2/2022 was issued on 1 June 2022 and aims to standardise the submission and format of e-bundles received regardless of source to include the requirements of the judges using these. As noted at the last meeting, the use of e-bundles will largely be limited to those areas within the High Court where they are allowed for within existing practice directions or with the permission of the judge. A remote e-bundles training session for High Court judiciary and Masters took place on 14 September. The training was facilitated by the Bar Library's Optimised Brief & Bundles Service (OBBS) team and while it focused specifically on OBBS the skills demonstrated are largely transferrable to electronic bundles produced by other products.
7. Mrs Ward updated members that arrangements have now been agreed for the retention and storage of e-bundles and instructions have been issued, Mrs

Ward advised that NICTS will be using content manager. It was noted at the most recent meeting of the Shadow Family Justice Board that e-bundles have been used in Hague Convention Cases. Dr McCord commented that Litigants in Person may not have the ability to use the software. The Chair noted that this point had been raised at the Shadow Civil Justice Council Advisory Group meeting and that there would be engagement with Litigants in Person as E-Bundles continue to evolve. Mrs Ward advised members that Pamela Reid was leading on a series of workshops in relation to the future core solution and that the Litigant in Person Reference Group would be invited to participate in the workshops.

8. Mrs McMurray updated members that a draft Electronic Discovery (e-discovery) Checklist was circulated for targeted consultation during the summer recess. Following receipt of responses, a final version was submitted to the Lady Chief Justice for approval. The checklist has now been added to Practice Direction 1 of 2022 (PD 1/22) as a new appendix (Appendix H), effective from 26 September 2022, and is intended as an aid to those considering the approach to discovery in accordance with Paragraph 28 of PD 1/22 which encourages practitioners to agree a discovery plan which focuses on a collaborative and proportionate approach to discovery which is both time efficient and cost-effective. This includes consideration of e-discovery within the principles of Order 1, Rule 1(A) and Order 24 to the Rules of the Court of Judicature (NI) 1980 (as amended). It was noted that at this stage, e-bundles will not be extending beyond the High Court.

Judicial Advisory Group

9. Mrs McMurray updated members that nominations to join the Vision 2030 Judicial Advisory Group have now been received and it is anticipated that the first meeting of the group will be arranged in the coming weeks. The group will inform the design and development of the major programme of work to modernise courts over the next decade. Nominated members will represent the judiciary across all tiers (including the Chairs of sCJC and sFJB to align priorities and work focus), the Bar and Law Society, including the Young Bar and Young Solicitors Associations, and Vision 2030, reform and operational leads from NICTS and the Lady Chief Justice's Office.

Modernisation Update

Digital Programme

10. Mrs Ward updated members that the Courtroom Refresh Project has upgraded the audio and visual technology within 64 courtrooms. The remaining three will complete once stock becomes available and access to the courtrooms can be secured thereafter. The next phase of this Project will focus on the installation of Public Information Displays across court venues and work has commenced with the supplier to agree delivery plans.

Work has continued over the summer period to engage with staff and stakeholders to capture the high-level system requirements for the new Future Core Solution which will incrementally replace the NICTS line of business systems and provide a public facing portal for improved online services. This solution will be implemented between 2025 and 2029. The business case has been approved by the Department of Finance (DoF) and the NICTS who are now focusing on preparation to begin procurement in coming months.

The NICTS Research into Remote Technology

11. Mrs Ward updated members that following engagement and agreement with a range of stakeholders, the NICTS has commissioned the Northern Ireland Statistics and Research Agency (NISRA) to conduct independent qualitative research to help us learn from our experiences of using remote technology during the pandemic. This research will help us understand what has and has not worked well, and to inform future technological and process improvements. Findings will also be shared with the LCJO to help inform their ongoing work regarding the types of business where a remote or hybrid approach could work well. Invitations to participate in the research were issued to a number of stakeholder groups and individuals, and the research took place during June and July. NISRA have evaluated their findings and a draft report has been shared with the NICTS but has not yet been finalised, this is expected imminently.

Service Design

12. Mrs Ward updated members that work has continued in relation to the development of a new case management system for the Official Solicitors Office and the Office of Care and Protection and this is now due to be implemented by the end of March 2023. Due to a delay it did not go live in October as planned. The NICTS are also just about to award a contract for a new case management system for the Parole Commission. The new Planning Appeals Commission and Water Appeals Commission case management system and public portal has also recently gone live.

Estates Programme

13. Mrs Ward updated members that the NICTS has revised the guidance in relation to COVID mitigations and have increased capacity within courtrooms to reflect the reduction in social distancing from 2m to 1m. This has also enabled the NICTS to move staff out of ancillary spaces and to free up consultation spaces again within court venues. Work is progressing well on the Royal Courts of Justice Infrastructure Upgrade Project. The Integrated Consultancy Team and the NICTS Estates Modernisation Team have

captured design requirements and have undertaken a number of focus groups with staff, the judiciary and key stakeholders.

In addition, work is underway to restart the North West Accommodation Project, which will include a revision of the Strategic Outline Case in the first instance. Early work has begun in regards to the Estates Strategy and the NICTS will engage with stakeholders as this work develops.

14. The Chair noted the latest update from the Minister for Health regarding visiting rules in hospitals. Mrs Ward confirmed that the Minister's guidance would not impact courts as the NI Civil Service workplace guidance on social distancing still remains at one metre. Mrs Ward advised that any issues that arise are considered on an individual basis.

Problem Solving Courts

Family Drug and Alcohol Court (FDAC)

15. Mrs O'Reilly updated members that the work to finalise the FDAC evaluation is reaching completion. The pilot was a joint Department of Justice, Department of Health initiative and next steps will be subject to consideration of both departments. Mrs O'Reilly confirmed that nothing else could be added until the report is ready.

Single Tier System

16. Mrs O'Reilly updated members that the civil justice reform programme is intended as an evolving exercise. The single tier system is not likely to be something the Department of Justice can progress in the near future but priorities, particularly those with significant legislative or financial implications, will be a matter for an incoming Minister.

Voice of the Child and Vulnerable Adults

Registered Intermediaries (RI)

17. Mrs O'Reilly updated members that the Department of Justice's consultation on the extension of Registered Intermediaries support to Civil and Family proceedings closed on 14 June 2022. Work to determine next steps is ongoing. In the interim, the Department continues to provide Registered Intermediaries on a case-by-case basis, subject to an assessment of need and a direction of the court with the intention that interim provision will help inform policy development.

Resolutions Outside Court

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

18. Mrs O'Reilly updated members that good progress continues to be made on the Action Plan. Tools for separating parents including 3D tours of a courtroom at each tier; a parenting agreement template and explanatory animation; a co-parenting guidance document and associated animation; and videos for Litigants in Person attending family court for the first time are complete or are being finalised. Consideration is now being given to what might be achieved in the context of current budgetary constraints Mrs O'Reilly confirmed that the departments tools have not been launched as they need approval from stakeholders. Plans already passed can continue but budget might not stretch to next stage action plan. Dr McCord advised that he would update members with tracking analytics but in the interim noted that the website appears to be getting a lot of hits. Dr McCord also advised that a report would be released early next year.

Public Law Systems

Guardian Ad Litem (NIGALA) & Social Worker Resources & Reports

19. Mrs McDaniel advised members that following NIGALA's meeting with the Family Court Judges standardised approach for the Guardian's reports was welcomed. An annual meeting between the Family Court Judiciary and NIGALA would review progress to ensure the initiative positively impacted case progression.
20. The number of cases waiting to be allocated to a Guardian, at 14th October was 54. The cases continue to be triaged and those most urgent cases where removal is required are allocated as a priority.
21. Mrs McDaniel advised that NIGALA's Board met with Professor Ray Jones, the Independent Chair of the Children's Services Review, which is currently underway in NI. At that meeting there was discussion around how best to assist understanding of the processes for children who are subject to public law proceedings. Arrangements for Professor Jones and the Review team to meet with different members of the sFJB are in preparation.
22. The social work Workforce Implementation Board met again in September 2022 and continues to oversee the delivery of the recommendations arising from the social work Workforce Review. Six workstreams have been established, involving all of the relevant stakeholders. Mrs McDaniel noted that an action plan which aims to increase the pathways into Social Work training, improve Health and Social Care (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.

23. The Department of Health has also reached agreement with the Trusts that by June 2023, the use of recruitment agencies to employ social workers will cease. The primary motivation for this policy is to provide more stability for the HSC social work workforce and thereby improve social workers' capacity to build meaningful and purposeful relationships with service users, in particular with children and families who require assistance. Work has already commenced to transition those social workers currently employed by recruitment agencies into HSC employment. Plans are also in place to showcase the benefits of providing social work services in Trusts in order to attract a large number of newly qualified social workers into HSC employment in June 2023. Mrs McDaniel confirmed that vacancies are still an issue especially with children services but there are a range of measures in place for these vacancies to be filled. Mrs McDaniel advised members that the Health Minister has ceased all agency social workers.

Department of Justice (DoJ) Expert Witnesses pilot scheme

24. Mrs O'Reilly updated members that the evaluation of the first stage pilot is ongoing. The feedback from key stakeholders to date has been fairly positive in terms of the General Authority speeding up access to justice. Extension of the General Authority to other court tiers will be considered as part of the evaluation.

Private Law System

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

25. Mrs O'Reilly updated members that the section 28 waiver of the usual financial eligibility limits for civil legal aid for victims of abuse came into force on 22 February 2022. The Department of Justice continues to monitor uptake and operation so as to identify means of maximising access and to allow future refinement of the evidence which can be used to demonstrate a victim's eligibility.
26. The Department has made good progress on the report under section 29 on reducing the financial burden of Article 8 proceedings on domestic abuse victims. Subject matter experts appointed after a tender exercise have submitted a draft report which the Department is considering in advance of laying before the Assembly early next year.
27. The Department also continues to make progress on implementation of the prohibition of cross-examination by perpetrators with work to consider the legislative and operational implications ongoing. The Department has a potential framework for fees which it hopes to be able to discuss with the

profession in the near future. Dr McCord commented that he is interested to see how the scheme will work in cases involving Litigants in person.

Family Resolution Hearings

28. The Chair advised members that a Family Resolution Hearing pilot was set up in September to run for one year. Resolution hearings will be convened in the High Court with the primary objective of improving the welfare of the children who are the subject of proceedings before it. The purpose is to achieve resolution of disputes in a timely fashion. One day a month (the last Friday of each month or an alternative day in the event of that Friday not being regarded as suitable) will be set aside for the exclusive listing of cases for the Resolution Court, with up to four cases per day. The Chair advised that work is still ongoing to identify suitable cases for the pilot.

Delays in Children Order Cases/Performance Monitoring

Review of the Children's Order Advisory Committee (COAC) Best Practice Guidance

29. Mrs McDaniel updated members that the subject matter experts appointed to undertake the scoping phase of the COAC best practice guidance review completed their work and presented it to the steering group on 31 May 2022. Although the two subject matter experts took different approaches to the scoping exercise, some common themes emerged. Both experts pointed to the review and updating of the guidance as a potentially significant undertaking and identified common core components which any future guidance should include (i.e., public law, private law, domestic abuse, international dimensions and data protection). Both agreed that the format and presentation of any revised guidance should support ease of access and future review/update. Both experts also recognised the potential for a review of the guidance to have a positive impact in terms of ensuring professionals and practitioners have access to reliable and up-to-date advice. The potential for more collaborative training and participation across professional/practitioner boundaries was noted, as well as improved standards of practice.

30. As part of the scoping phase, a short questionnaire was also circulated to legal and social work professionals to establish the extent of awareness of, and application of, the existing COAC Best Practice Guidance. A total of 104 responses have been received including from members of the judiciary, barristers, solicitors, social workers, and Guardians ad Litem. Overall, there was a high level of awareness of the Guidance amongst the majority of respondents, with 84 people (81% of respondents) indicating that they were aware of the guidance and 65 people (68% of respondents) indicating that

they referred to the Guidance either regularly or occasionally during the course of their work. The vast majority (97%) of those respondents who use the Guidance regularly or occasionally agreed that it was a helpful resource. However, of the 20 respondents who indicated they had not previously been aware of the guidance, 18 were social workers (equating to 47% of social workers who responded). 24 social workers (63% of social work respondents) indicated that they never refer to the Guidance.

31. The Steering Group agreed that a business case should be prepared to appraise the options to progress the review of the COAC Guidance and to further define the benefits, cost, risks associated with each. The completion of the business case is being led by the NICTS, with input from the Department of Health and is due to be submitted at the end of the month and will also be shared with Steering Group members for their consideration. Mrs McDaniel added that it is a major piece of work and the challenge will be to establish the guidance into a format that will allow for future reviews to be carried out. The Chair added that it would also be important for the revised guidance to link in with the Future Core Solution.

Sub-committee on Delay in Public Law Children Order Proceedings

NIGALA Review Pilot

32. The Chair updated members that NIGALA's review pilot, designed to inform a collective understanding of the factors contributing to delay, commenced in December 2021 and that the collection of baseline data is still continuing. This will be considered at the 300 day stage when a pro-forma will be completed to identify the sources of delay. Patricia O'Kane (NIGALA) and Catrina Brown (Northern Health and Social Care Trust) are working collectively with the five Trust leads in reviewing the data at a monthly meeting where they discuss the findings and the data received.

Criminal Investigations Working Group

33. The Chair updated the 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 and 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.

- The PSNI Disclosure Schedule
- Pathway regarding the 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

Litigant in Person (LIP)

LIP Reference Group

34. Mrs O'Reilly advised members that the latest meeting of the LiP Reference Group took place in September when the Department of Justice was able to confirm it has agreed to fund the maintenance of the tools developed by the University of Ulster. The first Chair of the Reference Group, Sinéad Mulhern has recently stepped down and has been replaced by Les Allamby who will Chair his first meeting in December.

Establishment of a Regional Care and Justice Campus

35. Mrs McDaniel updated members on the joint Department of Justice and Department of Health Programme Team leading on the development and implementation of an integrated Care and Justice Campus for Northern Ireland. As part of implementing the recommendations for the Review of Regional Facilities, the focus of the Regional Care and Justice Programme Team is currently upon the harmonisation and sharing of services, facilities and spaces across the two sites at Lakewood Secure Care Centre and Woodlands Juvenile Justice Centre as well as better co-ordinated and connected services in the community, with work being informed by consultation with both young people and staff across both facilities.

This phase of Programme implementation includes:

- Development and implementation of a new Framework for Integrated Therapeutic Care across Lakewood and Woodlands (the Northern Ireland Framework for Integrated Therapeutic Care (NIFITC)), to complement planned implementation of the Framework for all services for looked after and adopted children;
- Establishment of a new multi-disciplinary health and therapeutic service (MDS) which will operate across both Lakewood and Woodlands from late 2022 under Dr Ruth Fleck as the recently appointed Service Lead. The MDS will complement and support wider shared health and care service provision across both sites;
- The development and implementation of a consistent model of education and training in both Lakewood and Woodlands, which is being led by the Department of Education; and
- Development of a common set of operating standards which will apply across both Lakewood and Woodlands and will be used to guide joint inspections.

Inspire Pilot

36. Mrs McMurray advised members that Her Honour Judge Bagnall has engaged with Inspire over the last number of months to take forward a pilot to provide advocacy services to family court users. Inspire works with people living with mental ill health, intellectual disability, autism and addictions. The pilot will be established in the family courts in Laganside and will be subject to an initial review after 6 months. It has been agreed that Inspire will collate the data to inform the review at the end of the 6 months and this will be shared with the LCJO. Funding will be provided by the Department of Health (DoH).
37. The service will operate each Tuesday from 10am until 12.30pm commencing on Tuesday 29 November 2022, followed by a review meeting at the end of May 2023 to reflect on the strengths and challenges of the pilot. Mrs McMurray advised that the 'Advocacy for All Team', Inspire, will use a consultation room located on the 2nd floor, beside court 8 within Laganside Courts. Funding is available for the next 2 years from DoH should the pilot be a success. It will provide open access to referrals for people requiring support via advocacy, advocates who are focused on supporting people impacted by poor mental health and/or addictions.
38. The role of the advocate is to provide information, guidance and support to people, helping them access services and supporting them by signposting them to appropriate services. Information leaflets to help inform organisations of the referral pathways will be made available within Laganside and online for the benefit of relevant court users. A presentation by Inspire for the Judiciary and legal profession is scheduled for 23rd November 2022.

Open Justice

39. The Chair advised members that the Family Division's Transparency Review in England & Wales report was published in October 2021. The Transparency Implementation Group (TIG) is responsible for the management, piloting and evaluation of the implementation of the recommendations of the report, minutes from the group are available [here](#).
40. The most recent update from the Press attendance and reporting (Pilot) sub-group notes that the legal framework, training requirements and process of evaluation have all been agreed. The proposed scheme will permit reporters and legal bloggers not only to attend but to report on proceedings otherwise conducted in private in the Family Court, subject to maintaining confidentiality of the parties and children. The plan is to pilot the scheme in three courts in England and Wales starting in November. The start date is subject to confirmation of funding and the final identification of the three courts. It is hoped that the outcomes may assist the Department of Justice in developing Open Justice recommendations for NI.

Oversight Paper from Julie Stephenson (DoH) on the Adoption and Children Act

41. The Chair referred members to the oversight paper which was shared at the 15th Meeting of the Shadow Family Justice Board held on 24 October 2022 and asked them to provide any comments through the secretariat.

AOB

42. Mrs McMurray advised members that there was a meeting scheduled with Judges this month to review current priorities for the Board.
43. Members agreed that that the summary of agenda items in advance of the meetings is very helpful and it was agreed that the summary would be provided to members in advance of the advisory group meetings going forward.

Next Meeting

44. It was agreed that the next meeting would take place on 29th March 2023 at 4pm.