

SHADOW FAMILY JUSTICE BOARD

Minutes

Minutes of the Fourteenth Meeting of the shadow Family Justice Board (sFJB) held on 25th April 2022 at 4.15pm via WebEx video conferencing.

Attendees: Mr Justice McFarland (Chair)
Judge Crawford
District Judge Logue
Master Sweeney
Pamela Reid (NICTS)
Eilis McDaniel (DoH)
Tom Cassidy (HSCT)
Brendan Whittle (HSCT)
Paul Andrews (LSA)
Michael Foster (DoF)
Janice Spence (Law Society)
Dawn Shaw (NIGALA)
Julie McMurray (LCJO)
Helen McKenzie (SBNI)
Andrew Thomson (SBNI)

Secretariat: Catherine Di Maio (LCJO)

1. The Chair welcomed everyone to the meeting and thanked members for their attendance.
2. The Chair extended a warm welcome to Janice Spence who has replaced Suzanne Rice as the representative for the Law Society. The Chair recorded his thanks to Ms Rice for all her work as a member of the Shadow Family Justice Board and the associated sub-committees.

Apologies

3. Apologies were noted from, District Judge Prytherch, Mandy Kilpatrick (LCJO), Suzanne Shaw (Bar) and Karen Ward (NICTS).

Minutes of the sFJB meeting on 24th January 2022.

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

Presentation from Safeguarding Board for Northern Ireland (SBNI)

5. The Chair introduced Helen McKenzie and Andrew Thomson from the Safeguarding Board NI and thanked them for attending today, a report prepared by the SBNI was shared with members in advance of the meeting. Ms McKenzie discussed the report and advised the purpose for attendance at today's meeting was to explain the role and function of the Safeguarding Board for Northern Ireland within the context of child protection and safeguarding, and to ascertain if there are opportunities to share learning with the shadow Family Justice Board, through existing professional training and development mechanisms. The Chair thanked Ms McKenzie and Mr Thomson for their report and for attending the meeting to address members.

COVID - 19 Business Continuity, Recovery & Modernisation

LCJO Operational Update

6. Mrs McMurray advised members that on the 15 February, the Minister of Health announced the revocation of the remaining COVID 19 restrictions and face covering regulations, however placed a number of measures in guidance and stressed the importance that the public should continue to observe sensible measures to lower the spread of Covid-19 in the community. Mrs McMurray said that the Lady Chief Justice's Office issued updated guidance on the Judiciary NI website on 23 February 2022. The guidance sets out that Judges will continue to only require legal representatives and those involved in proceedings to attend in person where it is directed by the Judge. Social distancing will continue unless there are mitigations in place and it is anticipated that going forward "hybrid" arrangements will continue to be used. Mrs McMurray advised that to ensure the benefits of using technology are built upon the Lady Chief Justice is developing guidance, in consultation with the judiciary and practitioners, to assist in promoting consistency and predictability of approach to the question of remote or in-person attendance.

Judicial Modernisation & E-Bundles update

7. Mrs McMurray updated members on the progress of the third phase of the e-bundles pilot in the High Court, using Caselines, unfortunately again the case settled at the last minute at the end of March. As this has proved to be a recurring theme the legal profession involved, who had already prepared the bundle and undergone training, have kindly agreed to run a 'mock hearing' in the coming weeks. This will reduce further delay in the project and allow the lessons learned and training requirements to feed into future guidance. Mrs McMurray advised that the Judicial Digitisation Steering Group and LCJO are progressing actions following consultation on a draft practice direction which will aim to standardise the submission and format of e-bundles received regardless of source to include

the requirements of the judges using these, such as pagination and hyperlinks, ability to annotate and highlight etc. The responses received have been largely positive and helpful, and we are continuing to engage with respondents to understand any concerns and suggestions. One suggestion for a simple checklist to be added as an annex has been accepted and should benefit all users. The directions will deal with how a permitted e-bundle should be structured and lodged with the court. 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. Mrs McMurray advised it is not the intention that they will be mandatory, but it is hoped that that with greater use and confidence in using them, they will become a more familiar practice. It is hoped that the practice direction will issue mid-term to allow some bedding in time for preparation of e-bundles over the summer for hearings commencing next term. Mrs McMurray advised that NICTS are still exploring options for the secure storage of e-bundles, which will include a review of retention and disposal schedules for electronic documents. There are therefore no plans to extend the use of e-bundles beyond the High Court at this stage.

Modernisation update

8. Mrs Reid provided members with an update and advised that the Vision 2030 Portfolio, has continued to fully support the pace of change required to keep the administration of justice operational during Covid-19. There have been a number of changes and enhancements, which have been implemented since the last meeting on 24 January 2022. The Courtroom Technology refresh project has now delivered upgraded audio and video technology to 58 courtrooms to facilitate digital justice initiatives and Wi-Fi has been installed across the NICTS court estate. There has been a recent extension granted to the Coronavirus Act Legislation, which enables the continuation of remote hearings until September 2022, and the Department is considering how provisions could be taken forward for permanent legislation which would be subject to public consultation. The Chair queried if there would be a further extension in September and Mrs Reid confirmed the legislation can be extended 3 times for 6 months at a time.
9. Mrs Reid advised that NICTS Digital Strategy was published on 17 January 2022. Critical to the delivery of this Strategy is the procurement and implementation of a new core technology platform for courts and tribunals and a web portal to replace the NICTS' aging line of business systems, including ICOS, and online services. A Pre-Market Engagement exercise has been completed and work has commenced on the requirements, specification and business case with the intention to commence a competitive dialogue procurement later this year.

Family Drug and Alcohol Court (FDAC)

10. Mr O'Connor advised that work to finalise the evaluation of the FDAC pilot is continuing with pro bono support from academics at QUB with good progress being made, it is hoped the evaluation will be published by the end of May.

DoJ Expert Witnesses pilot scheme

11. Mr O'Connor advised members that positive signs continue to emerge from the Expert Witnesses Pilot scheme. Since the launch of the pilot in January 2021 the Authority has been used to appoint experts in 98% of relevant cases. Work has now begun on a formal evaluation and the Department hopes to shortly engage with the judiciary, professions, NIGALA, Department of Health and Health Trusts, and representatives of the experts as part of that process. The evaluation will help determine next steps including continuance and rollout to other court tiers and case types.

Registered Intermediaries

12. Mr O'Connor updated members that the Department issued a consultation on 23 March 2022 on the extension of Registered Intermediary support to civil and family proceedings. The consultation will close on 14 June. 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. That interim provision will be subject to evaluation to help inform policy development. The evaluation will be led by a PHD student from the London School of Economics who formerly practiced as a barrister in Northern Ireland. It is hoped members of the profession and the judiciary who have been involved in cases in which RIs have been provided will assist with that process. Mr O'Connor clarified that the Department will be responsible for identifying cases where a Registered Intermediary has been appointed.

DoH & DoJ Private Family Law Early Resolution Action Plan

13. Mr O'Connor advised that good progress continues to be made on the Action Plan. A number of products being produced under the Plan are complete or are being finalised, which includes 3D tours of a courtroom at each tier; a parenting agreement template and explanatory animation; a co-parenting guidance document and animation; and videos for Litigants in Person attending family court for the first time which will be available on the NI Direct Website and Litigant Voice website. Consideration is now being given to what might be achieved under the Action Plan in the context of the budget in the forthcoming business year.

Guardian Ad Litem (GAL) resources

14. Mrs Shaw advised that the waiting list remains around 50 cases, which is around 70+ children. The Cases are triaged and those most urgent cases where removal is required are allocated as a priority. There is mixed feedback from the Guardians on shorter reports and it will take time for this to be implemented by all the Guardians.
15. The Chair advised that the planned meeting with the judiciary to look at the NIGALA report templates which will hopefully assist in clarifying expectations to effect more change in streamlining the reports has been re-scheduled to the 24th May 2022.

Social Worker resources

16. Mr Cassidy advised members that serious pressures in regards to social worker shortages is continuing and it should be noted that these issues are replicated throughout all regions and across all court tiers. The DoH are aware of the resulting delays and informed members that the Trusts are examining the factors which are contributing to this. It is hoped that the NIGALA review will provide further substantial information. Mr Cassidy said in response to immediate workforce concerns, particularly in Children Services, the Chief Social Worker issued a workforce appeal to all social workers, social work students and social care staff on the NISCC register on 23rd December 2021. To date 1,289 individuals have responded to the appeal which was structured in a way that allowed people to offer even just a few hours of additional support for a few months and gave examples of the sorts of things people could offer that would be helpful to social work services. Mr Cassidy advised that there has been an excellent response to the appeal from across the five Health and Social Care Trust areas, however as many of the respondents are already working but are willing to work additional hours, the appeal may offer some additional support to services at this time but will not address longer term staffing issues. The Chair noted that the Department of Health would be required to provide appropriate funding to ensure that the continuing pressure is addressed and delays do not continue.
17. Mr Cassidy advised that a workforce review for Social Work in Northern Ireland has now been completed and is available on the DoH website. In addition to highlighting the need for additional student places, the report makes a number of recommendations to improve the commissioning, recruitment and retention of social workers. A Social Work Workforce Implementation Board has been established to oversee the implementation of the recommendations and action plan from the Review and provide leadership and accountability for the development and stabilisation of the social work workforce. Membership

includes Department of Health representatives, Senior Managers from the HSC Trusts, Probation, Education and Voluntary and Community sectors as well as key stakeholders, and staff representatives. The Board is chaired by the Chief Social Work Officer. The Board had its first meeting on 29 March 2022.

18. Mr Cassidy updated members that the Department of Health continues to work with the Universities, NISCC and other partners to ensure that newly qualified social workers are aware of the importance of building meaningful, longer-term relationships with service users, and the value that is placed upon continuity of care, particularly when working with vulnerable children and families. As part of that process, a HSC regional recruitment drive has taken place in the past two years to attract newly qualified social workers into working in Trusts. The Trusts are currently undertaking a revised regional recruitment drive in an effort to maximize the flow of newly qualified social workers into vacant posts.
19. The Chair noted that the Department of Health should provide appropriate funding to ensure that the continuing pressure is addressed and delays do not continue. Mrs McDaniel advised that some ideas for the retention of staff have been proposed and will be discussed at a meeting next week.

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

20. Mr O'Connor said that Section 28 of the DACPA, which provides a waiver of the usual financial eligibility limits for eligibility for civil legal aid, came into force on 22 February 2022. The Department expects learning from initial post implementation stages will enable the refinement over time of the evidence that can be used to demonstrate a victim's eligibility. Mr O'Connor advised that progress is also being made on development of the section 29 Report on reducing the financial burden of Article 8 proceedings on domestic abuse victims. A tender exercise has been launched to identify a subject matter expert to conduct research and stakeholder engagement and to advise on additional forms of support for victims of domestic abuse in private family law proceedings. The Department is in the process of selecting the successful consultant and expects to make an appointment shortly. Mr O'Connor added that work is also ongoing to consider the legislative and operational implications of the prohibition of cross-examination by perpetrators. The Project Group co-ordinating implementation continues to make good progress and is working towards a target implementation date of November 2022. Mr Andrews advised that the legal services agency is currently looking at the possibility of dealing with applications on a case by case basis. The Chair asked that Mr Andrews and Ms Spence set up a provisional sub-group and devise a template.

Action: Mr Andrews and Ms Spence to set up a provisional sub-group

Review of the COAC Best Practice Guidance

21. The COAC Best Practice Review is to be undertaken in four phases and overseen by a Steering Group. The Steering Group is co-chaired by NICTS and DoH, with members from NICTS, DoJ, NIGALA and DoH in attendance. As part of Phase 1 of the review, the Steering Group agreed to try to establish the extent of awareness of the COAC Guidance among professionals currently, and how often or widely it is used. To facilitate this a survey was held on Citizen Space from 18 February until 04 April 2022 and issued to relevant professionals. A total of 29 responses were received and responses are currently being analysed. A review of the current COAC Guidance was also conducted by subject matter experts from the legal and social work professions. Steering Group members from DoH and NICTS met with the subject matter experts week commencing 21 March to finalise this phase of the review

sFJB Sub-committee on Delay in Public Law Children Order Proceedings

22. HH Judge Crawford updated members on the progress of the NIGALA Review pilot which is designed to inform a collective understanding of the factors contributing to delay. The pilot commenced in December 2021 and the collection of baseline data is still continuing and 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 (NHSCT) 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.
23. HH Judge Crawford updated members on the work of the Criminal investigations working group involving the PSNI and the legal profession. The working group has 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 has prepared the following draft documents, PSNI Disclosure Schedule, Pathway regarding PSNI Disclosure Protocol for Concurrent Care and Criminal Proceedings in Family Courts and Guidance to Practitioners Regarding the PSNI Disclosure Protocol for Concurrent Care and Criminal Proceedings in Family Courts. The Chair asked members if there were any comments on the drafts and it was agreed that the target date for commencement would be the 1 June 2022.

LIP Reference Group

24. Mr O’Connor advised that the Reference Group continues to prove a positive forum for engagement and to be welcomed by LiPs. The latest meeting took place on 5 April. The focus continues to be on supports for LiPs in family proceedings but there is growing interest among LiP members for focus on McKenzie Friends. Mr O’Connor updated members that work on the tools developed by the University of Ulster with funding from the Nuffield Foundation for LiPs in

family proceedings, a pathfinder and website repository of information, has concluded, with a formal launch taking place on 13 April 2022. The Department is now in discussions with UU on funding for future maintenance and development when the Nuffield funding ends in July 2022. Mrs Reid added that the website had been signposted on the NI Direct website and Court Service Website. The Chair enquired whether LiP's were made aware of the website and asked if enquiries could be made.

Action: NICTS to confirm if litigants in person are made aware of the UU website when they attend court.

Establishment of a Regional Care and Justice Campus

25. Mrs McDaniel provided members with an update on the development and implementation of an integrated Care and Justice Campus for Northern Ireland. In line with the responses to public consultation, Ministers have now agreed to a governance arrangement, which will involve the Departments of Justice and Health co-chairing a Partnership Board to oversee the operation of the Campus. The Campus will be characterised by sharing of services, facilities and spaces across the Lakewood Secure Care and Woodlands Juvenile Justice Centres and better co-ordinated and connected services in the community. Mrs McDaniel said under the new arrangement, both Centres will continue to operate as separate entities and any child admitted to either Centre can expect to receive a consistent standard of therapeutic care, underpinned by effective therapeutic planning and equal access to health, education and other services. Children and young people with experience of secure care and juvenile justice will be engaged on a co-design basis throughout implementation.
26. Mrs McDaniel advised under the new Campus arrangement a new Framework for Integrated Therapeutic Care will be put in place across both sites. A consistent model of education and training will be developed and implemented across both sites. A new multi-disciplinary therapeutic service will be established and operate across both sites, managed by a Clinical Lead which will complement and support wider health and care service provision across both sites. Mrs McDaniel added that a common set of operating standards will apply across both sites and will be used to guide joint inspections.

Adoption and Children's Bill

27. Mrs McDaniel updated members on the progress of the Adoption and Children Bill which will reform the legislative framework and procedural arrangements governing adoption in Northern Ireland and introduce a range of new measures to give effect to the Department's policy and strategy relating to adoption.

Mrs McDaniel added that the Bill will extend and strengthen the provisions within the Children Order to improve outcomes for children and families in need, looked after children and care leavers, providing greater opportunities for children in care to experience permanence and stability, and placing greater focus on children and young people's rights. The Bill completed its Final Stage in the Assembly on 15 March 2022 and is currently awaiting Royal Assent. Mrs McDaniel advised that Implementation planning has now commenced. The Bill will be implemented on a phased basis over three years from 2023/24 onwards and a phasing plan is currently being drafted. Once this has been finalised, further briefing on the Bill, including timescales, training proposals and the implications for the courts, will be provided to the Board. The Chair said he hoped the Bill would be fully implemented by 2026 and asked that the phasing plan be shared as soon as it is ready.

Any other Business

28. No further matters were raised.

Next Meeting

29. It was agreed that the next meeting would take place on **Monday 24th October 2022 at 4:15pm.**