

SHADOW FAMILY JUSTICE BOARD

Minutes of the Tenth Meeting of the shadow Family Justice Board (sFJB) held on 8th February 2021 at 4.30pm via Webex video conferencing.

Attendees: Mrs Justice Keegan (Chair)
Judge Kinney
District Judge (MC) Prytherch
Master Sweeney
Stephen Martin (DoJ)
Eilis McDaniel (DoH)
Michael Foster (DoF)
Paul Andrews (LSA)
Tom Cassidy (HSCT)
Marie Roulston (HSCB)
Maurice Leeson (HSCB)
Peter Reynolds (NIGALA)
Suzanne Simpson QC (Family Bar Association)
Suzanne Rice (Law Society)
Mandy Kilpatrick (OLCJ)

Secretariat: Kim Elliott (OLCJ)
Katharine McQuade (OLCJ)

1. The Chair welcomed everyone to the meeting and thanked members for their attendance. She extended a warm welcome to Maurice Leeson who was in attendance to update members on the implementation and outcomes of the Signs of Safety (SoS) approach to child protection practice.

Apologies

2. Apologies were noted from District Judge Collins and Peter Luney.

Minutes of the sFJB Meeting on 24th September 2020

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

Signs of Safety presentation – Maurice Leeson

4. Mr Leeson explained that SoS is a relationship-grounded, safety-organised approach focussing on the question “How can the worker build partnership with parents and children in situations of suspected or substantiated child abuse and still deal rigorously with the maltreatment issues?” The format for assessing both danger and strengths/safety is known as a mapping, consisting of three elements: what is working well, what child protective services are worried about, and what needs to happen to stabilise and strengthen a child and family’s situation.

5. Mr Leeson outlined both the broad aims of SoS and its implementation framework, highlighting the comprehensive training programme and the role of regional steering groups in promoting consistency. A five-year implementation programme for SoS commenced in 2018 with over 2000 social workers having received at least 2 days training by the end of 2020. As part of monitoring the effectiveness of implementation an annual staff and parent survey was undertaken in 2019 and 2020. In terms of the staff survey, the numbers of staff surveyed who have received some training in SoS rose from 83.6% to 93.4%. A substantial increase was also shown in those direct workers who have used SoS in their practice. The dominant message from parents continues to be positive: comments related to feeling listened to (79.8%), their worker doing what they say they will do (72.7%) and the worker being clear about their concerns about the family situation (85.4%). Mr Leeson also advised that two Northern Ireland Leadership Days are held each year. The next one is due to take place in March 2021 and will focus on sustainability over the next two years.
6. The Chair thanked Mr Leeson for a helpful presentation, saying she was supportive of rehabilitation and early intervention models in care planning, as long as outcomes were closely monitored and evaluated. She considered that for the court to have confidence in the framework it needs to be assured that all risks have been adequately dealt with when care plans are brought forward for approval. The Chair would welcome further engagement with the legal profession, and commended the DoH for the positive steps in rolling out this training. Judge Kinney said that he had early experience of the model and that very positive outcomes have been achieved through its practice. He observed however that overt references to SoS were now rarely presented in cases before the court and that the current report format does not lend itself to follow the SoS model. He also emphasised the need for the court to be included in the partnership between families and social services.
7. Mr Leeson welcomed the comments and noted the need for the model to be clearly signposted when used. He highlighted the importance of opening up an ongoing dialogue and confirmed that engagement sessions with the Bar and Law Society were being explored. He advised that, if the sFJB was agreeable, he would return and report back to the sFJB on the outcomes of the model. The Chair agreed that this would be useful and thanked Mr Leeson for attending and for his informative presentation.

Action: Mr Leeson to review issues raised around report format and signposting to court, and to report back to sFJB on SoS outcomes.

Mr Leeson left the meeting at this stage.

Covid-19: Business Continuity & Recovery

8. The Chair commended all the professionals involved for their collective efforts in ensuring that family business continued to be progressed under the current Public Health restrictions, and for adapting to different ways of working and the rapid introduction of Remote Courts. She highlighted the contributions of the legal profession, social workers, court staff and judiciary. The Chair informed members that the Lord Chief Justice (LCJ) had established a Judicial Digitisation Steering Group which was planning pilots to test using e-bundles in a small number of cases to inform future judicial requirements for digitalised courts, and identify if any short-term solutions can be established during Covid-19.
9. In Mr Luney's absence, Mrs Kilpatrick reported that NICTS is continuing to upgrade courtroom technology at many court venues as part of its Modernisation Programme, and has installed video conferencing facilities into an additional 27 courtrooms to facilitate remote or hybrid court hearings - with 83 Sightlink licences now being used across the estate. Mrs Kilpatrick advised that work was in hand to set up contingency platforms for remote hearings in the event of Sightlink failure. She explained that the new ways of working will be reviewed when exiting the restrictions to determine which aspects have been successful and should be retained and which less so. She informed members that NICTS continues to monitor recovery across all business types and, in relation to family business, the disposal rate has fluctuated from 0.8 to 1.2 since early November. In order to provide some additional capacity NICTS has taken a lease of the International Convention Centre. Mrs Kilpatrick said that the LCJ is keen that the venue is also used to provide waiting /consultation facilities for people attending Laganside Courts and the Royal Courts of Justice.
10. The Chair referred members to the Ulster University Report on the Impact of Covid-19 on Family Courts in NI ('the Report'). She noted the Report's finding that access to justice was not yet being delivered through remote hearings and acknowledged that not all cases were suited to being dealt with remotely. She considered that remote hearings were a default contingency position necessitated by the Public Health restrictions to permit business to continue while restrictions were in place and to avoid unnecessary delay, and that a return to normal physical hearings would be very much welcomed when safe to do so. The Chair encouraged others to come forward with ideas or suggestions to achieve or improve fair and timely hearings during this period. The Chair advised that in her experience the success of remote hearings involving Litigants in Person (LIP), was variable and that it was important that assumptions were not made about their availability, or ability, to use digital platforms. She confirmed that she had granted permission to Professor Grainne McKeever to observe cases in her court as part of the Ulster University LIP research project. No further observations, or suggestions, were made by members.

PROBLEM-SOLVING COURTS

Family Drug and Alcohol Court (FDAC)

11. Mr Martin said that the FDAC evaluation is being developed with pro bono support from Queens University Belfast (QUB), but has been impeded by the pandemic. The DoJ is continuing to liaise with QUB and will share the evaluation when finalised.

VOICE OF THE CHILD AND VULNERABLE ADULTS

Guidance and training

12. Mr Reynolds reported that the work of the Gillen Training Group (relating to serious sexual offences) was moving along quickly and that the Chair, Geraldine Hanna, has offered to attend a future meeting of the sFJB to provide a briefing on their work. The Chair welcomed this offer. Mr Reynolds also referred members to the high-level report on the Gillen Review Implementation noting potential areas of mutual interest to family practitioners, which had been circulated with the meeting papers.

Action: Ms Hanna to be invited to attend the next meeting of the sFJB to brief members on the work/deliverables of the Gillen Training Group concerning areas of mutual interest.

RESOLUTIONS OUTSIDE COURT

DoH & DoJ Private Family Law Early Resolution Action Plan

13. Mr Martin reported that the DoH/DoJ action plan had been endorsed by both the Minister for Health and the Minister for Justice and it was anticipated that it would be launched before Easter. It is a rolling plan that encompasses a range of tools, such as mediation, to support separated parents in narrowing or resolving issues regarding children at an early stage, and hopefully avoid the need to go to court. The evidence base will inform future investment in such initiatives. The Chair hoped that the plan would take into account the varied needs of those it aimed to support, for example, assistance with communication, assimilation of information and sign-posting access to services. She considered that in order to gain traction the support structure of health and social work professionals in the family law arena should be engaged in a consultative capacity.

PUBLIC LAW SYSTEM

NIGALA and Overview of Article 56 Appointments

14. Mr Reynolds said that the issue of Article 56 appointments was a long-standing item on the sFJB agenda. Prior to the impact of the Covid-19 pandemic the Trusts had agreed an approach, through the Assistant Directors forum, to address

regional consistency in Article 56 appointments, however due to the pandemic work in this area has not progressed as much as hoped.

15. DJ(MC) Prytherch commented that in her experience reports were not being received back from the Trusts within the statutory eight-week timeframe. She advised that such orders were generally only made when necessary, but felt that they were being utilised in cases where implacable hostility was an issue - while these cases were unlikely to result in public law orders, there was no alternative. The Chair agreed that Article 56 orders may be being used too liberally, and should only be deployed as a last resort, but felt they were an important tool to identify issues that may otherwise be missed during Covid while schools were closed.
16. The Chair noted that Mr Justice O'Hara's judgment on Article 56 appointments accorded with the legislative position that appointments did not have to be made immediately. She considered that the involvement of a Guardian Ad Litem (GAL) was a useful resource for the judge however she would not expect the GAL to complete a full formal report on every occasion, such as when a short focussed (possibly oral) update to the court would suffice. Mr Reynolds said that a significant amount of time was spent by GALs writing reports and this indication of shorter / oral reports would be helpful. The Chair said that the provision of oral reports also extended to social workers. The Chair acknowledged the current pressures and resource implications and suggested that the issues could be addressed in the planned review of the COAC Best Practice Guidance. She asked Mr Reynolds to inform her if NIGALA experienced any influx of Article 56 cases and she would see what interim measures could be taken to relieve pressures, noting that confidence would need to be built before changing the system, but she was open to discussion.

Action: Article 56 appointments to be included in the review of the COAC Best Practice Guidance

NIGALA Subject Access Request Protocol

17. Mr Reynolds explained when NIGALA receives a Subject Access Request (SAR) this includes court reports prepared by the GAL, which require the permission of the judge to release. Mr Reynolds said that the chair of the NIGALA Information Governance Committee, Gillian McGaughey, suggested it might be helpful to have an agreed process/protocol to streamline the process of managing SARs. There was discussion surrounding confidentiality issues and the need for careful scrutiny of reports. It was agreed that a mechanism to expedite the request would be useful and the Chair proposed that Ms McGaughey be invited to provide a draft protocol document for the sFJB to consider.

Action: Mr Reynolds to contact Gillian McGaughey and request that a draft SAR protocol, between NIGALA and the judiciary, be drawn up for the sFJB's consideration.

DoJ Expert Witnesses pilot scheme

18. Mr Martin confirmed that the scheme had launched on 25 January 2021. Mr Andrews said that by the time of the next sFJB meeting more evidence should be available to update members on progress.

Action: Update to be provided at the next meeting.

PRIVATE LAW SYSTEM

Introduction of Domestic Abuse and Civil Proceedings Bill 2020 in Northern Ireland

19. Mr Martin reported that the Bill had passed the Final Stage in the Assembly on 18 January 2021 and is expected to receive Royal Assent by March 2021. He noted commencement of the provisions around the new offence, is expected by December 2021, and that the Department will be liaising with the Office of the Lord Chief Justice regarding the drafting of the required court rules on special measures for victims of domestic abuse in family proceedings, for consideration by the Rules Committee.

Action: Update to be provided at the next meeting.

Other Areas - Action Points from last meeting

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

20. Judge Kinney confirmed that the sub-committee had met on 11 January 2021 and that the draft minutes had been circulated to sFJB members. The sub-committee had agreed that their focus should continue to be upon the causes of chronic delay existing prior to the onset of the pandemic, but this required manual interrogation of a dataset of cases by Trust and NICTS staff which could not yet be undertaken due to current pressures. Judge Kinney hoped that plans for NICTS Digital Modernisation would provide better and more accessible information in the not-too-distant future. He also reported that the sub-committee was looking at delays arising from criminal investigations and was liaising with the PSNI to revise the existing protocol for requesting information.

21. Review of COAC Best Practice Guidance

Judge Kinney informed members that the sub-committee considered that a substantial over-arching review of the COAC Best Practice Guidance was required and that the matter should be referred back to the sFJB. Ms McDaniel confirmed that Mr Luney had agreed to take a lead role in progressing the

review, and that DoH would work alongside NICTS and DoJ. It had been agreed that a group of stakeholders should be identified in the first instance to determine which areas of the guidance required updating. Ms McDaniel explained that the second stage of the project would then be to consider resource and procurement issues and to explore options as to how the required work could be carried out. The Chair emphasised that the involvement of the legal professions in this work would be important. Ms Simpson confirmed that a nomination for a Bar representative was being sought.

Action: Progress update to be given at the next meeting.

Litigants In Person (LIP)

22. Mr Martin informed members that the LIP Reference Group, sponsored by DoJ, Ulster University (UU) and the Northern Ireland Human Rights Commission, last met on 8 December 2020. A representative has joined the NICTS Modernisation Portfolio Stakeholder Advisory Group which aims to gather views on the plans for modernisation. The UU Research Advisory Group also met on 3 December. Work on its projects has been impeded to an extent by the pandemic however good progress has been made with development of support materials including a navigation tool to help parties to identify the most appropriate option for resolving family disputes. Material will be accessible through a website funded by the DoJ which is due to launch by March 2021. Mrs Kilpatrick said she was very impressed by early demonstration of the tools developed. The Chair agreed that this was a positive step.

Open Justice

23. The Chair explained that this item had been tabled at her request following discussions on the subject with colleagues in England & Wales (E&W) where a review of transparency, led by the President of the Family Division, was underway. She acknowledged that the position regarding media access to family cases had previously been debated and piloted by the sFJB, and that a legislative impediment had been identified to sharing listing information with journalists and permitting them to report on matters observed during court proceedings. The Chair suggested that there may however be scope to allow media reporting of patient's cases which are in the public interest, and that the issue should be put back on the sFJB agenda in light of the ongoing debate in E&W. The Chair asked members for their views on the matter.

24. Mr Reynolds said that this was an emotive issue concerning the protection of both children and vulnerable adults. He thought that, while it may be too early to form a view on the matter in this jurisdiction, if the issue is being explored in E&W it would be useful to keep it on the sFJB agenda and monitor developments. Master Sweeney advised that during the Review of Civil and Family Justice there had been much discussion on the subject and the Northern

Ireland Children's Commissioner had expressed significant concerns, but noted that Financial Relief cases were not anonymised notwithstanding the involvement of children. Mr Andrews cautioned the potential ramifications of bringing these cases into the public domain, for instance the impact this might have upon the approach taken by the Legal Services Agency to responding to Freedom of Information Requests concerning family cases.

25. Mrs Kilpatrick explained that when the subject had previously been explored the sFJB had come to the view that progress was dependent upon the Minister taking a policy decision and that the matter had therefore formally been passed to DoJ. Mr Martin said he understood that primary legislation was required to progress the Open Justice recommendations and that there was no vehicle to take this forward in the current Assembly mandate. The Chair said that in the meantime the matter should be kept upon the agenda to monitor developments in E&W.

Action: Item to stay on the agenda to monitor developments in E &W.

Any Other Business

DoJ Consultation on Domestic Abuse and Protection Notices and Orders

26. The Chair advised that the shadow Board had been invited to respond to a public consultation on enhancing legal protections for victims of domestic abuse through a proposal to establish Domestic Abuse Protection Notices and Orders. After general discussion about the challenges of achieving a collective response to consultations which were generally issued by one of the members, it was agreed that the shadow Board would only formally respond to consultations where its members held a clear collective view on the issue, and members would otherwise respond on behalf of their organisations as appropriate.

DoH and DoJ consultation on proposals for a Regional Care and Justice Campus

27. Ms McDaniel referred members to the paper, which had been circulated to raise awareness of the proposals for a new Secure Care Centre. It is proposed that young people will continue to be admitted to the Secure Care Centre by the traditional routes e.g. where the criteria set out in Article 44 of the Children Order are satisfied or where they are remanded or sentenced by the authority of a court. The purpose of the proposals are threefold:

- (i) to prevent children from entering secure accommodation in the first place;
- (ii) if a child cannot safely remain in the community, to ensure that a secure placement is for the shortest appropriate time and that better outcomes are delivered for the child; and

(iii) to support the child's successful reintegration into the community and prevent re-entry to secure accommodation at a future point.

28. The Chair welcomed the proposals and commented that traditionally concerns regarding secure accommodation centred upon the availability of places and the lack of an exit plan to appropriate step-down facilities. District Judge (MC) Prytherch also highlighted the current lack of therapeutic services for individuals who are repeatedly admitted where the threshold is met and the court has no alternative, and expressed a keen interest in the proposals put forward. Ms McDaniel confirmed that the work of the Secure Care Centre will be supported by satellite provision, which will include a step-down unit on the site of the Secure Care Centre, and community-based satellite provision in each of the five HSC Trust areas. She explained that key to the success of the project will be locally based provision which will support the delivery of meaningful transitional support into local communities, as well as potentially preventing admission into the Secure Care Centre and reducing the need for readmission. She advised that other multi-agency pilots were underway that would be brought together in the near future to oversee improved services on a statutory basis.

29. The Chair considered that multi-disciplinary training for the social and legal profession would be useful to highlight the available options and alternatives once these are in place. Mrs Kilpatrick advised that OLCJ has been liaising with the Youth Justice Agency (YJA) on some related changes on the criminal side proposed for bail and remand legislation and she would arrange for an update to the judiciary about these plans before the next sFJB meeting. The Chair welcomed this suggestion. She also said that an update on options and alternatives to secure accommodation/juvenile justice be provided as a priority to the sFJB once available.

Action: Mrs Kilpatrick to arrange for update the judiciary on developments regarding bail, remand and secure accommodation.

Action: An update on progress of Secure Accommodation/juvenile justice and alternatives to be provided as a priority to the sFJB.

MoJ Consultation re the Divorce, Dissolution and Separation Act (DDSA) 2020

30. Members noted the consultation and agreed not to issue a collective response to the consultation.

Family Justice Board (E&W) Statement - Priorities for the family justice system

31. The Chair referred to a statement produced by the Family Justice Board summarising the priority actions it intends to pursue in response both to immediate pressures, and to bring about longer-term reform in E&W. Members

noted the priority areas highlighted, which were broadly reflected in sFJB priorities, and will keep a watching brief on initiatives as they are developed.

sFJB Advisory Group - suggested priority areas

32. The Chair reported that the sFJB Advisory Group members had proposed prioritisation of areas across the spectrum such as digitisation, delay, case management and contact disputes. The sFJB welcomed these suggestions and expressed its gratitude for the responses received.

Next Meeting

33. The date of the next meeting was agreed as **Monday 17th May 2021 at 4.15pm.**