

Minutes

Minutes of the Thirteenth Meeting of the shadow Family Justice Board (sFJB) held on 24th January 2022 at 4.15pm via WebEx video conferencing.

Attendees: Mr Justice McFarland (Chair)
Judge Crawford
District Judge (Magistrates Court) Prytherch
District Judge Logue
Master Sweeney
Karen Ward (NICTS)
Eamon O'Connor (DoJ)
Eilis McDaniel (DoH)
Paul Andrews (LSA)
Michael Foster (DoF)
Suzanne Rice (Law Society)
Dawn Shaw (NIGALA)
Mandy Kilpatrick (PPS to the Lady Chief Justice)
Julie McMurray (LCJO)

Secretariat: Ashleigh Woods (LCJO)

1. The Chair welcomed everyone to the meeting and thanked members for their attendance.
2. The Chair extended a warm welcome to Judge Crawford as a new member to the group, and recorded his thanks to Judge Kinney for his contributions to both this group and the various working groups of which he was Chair.

Apologies

3. Apologies were noted from Kim Elliott (LCJO), Tom Cassidy (HSCT), Brendan Whittle (HSCB) and Suzanne Simpson (Family Bar Association).

Minutes of the sFJB meeting on 18th October 2021.

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

COVID - 19 Business Continuity, Recovery & Modernisation

LCJO Operational Update

5. Ms Kilpatrick said that in response to the Omicron variant, the Lady Chief Justice had issued revised guidance on 7th January following meetings with the presiding judiciary, legal profession, Director of Public Prosecutions, NICTS and the Criminal Justice Board. There was much goodwill and a common interest in trying to keep courts operating during the early weeks in January. With that in mind a number of steps had been taken to reducing any potential impact.
6. In acknowledging that the Executive's position would have an impact on court hearings and that the NICTS will have to review the footfall within their buildings the Chair asked about the potential for relaxation of restrictions within the court estate going forward. .
7. Ms Ward explained that the 2 metre social distancing has moved from regulations to guidance and remains in place across the court estate. In preparation for an eventual relaxation of social distancing regulations, a further review of the Covid Secure Risk Assessments will take place. Although the prevailing health situation remains uncertain, in light of the Omicron variant, this preparatory work will continue and will comprise a spatial assessment and a bespoke ventilation assessment developed by the Estates team.
8. The Chair said he understood staff were not at their full complement within the estate as many were working from home. Ms Ward explained that out of around 900 NICTS staff, approximately 600 are working from an office location within the court estates each day, with the remainder providing services either from home or on a hybrid basis. She reflected that the resourcing positioning remains fragile with some staff self-isolating, however NICTS continues to work closely with the LCJO in reassigning resources where required.
9. Ms Rice added that solicitors remain in a challenging position, as they must try to choreograph when parties can attend their offices and attend court. The judiciary are very alive to this situation and continue to work together successfully.

Judicial Modernisation Update

10. Mrs McMurray explained the NICTS launched its Vision 2030 Digital Strategy on 17th January. The judicial steering group was pleased to note that this reflected the priorities in the Judicial Modernisation Paper and judicial representatives will continue to work with the NICTS programme managers to help inform and develop the digital priorities to help achieve the joint vision. This work will further help modernise court processes to build on the good progress made with remote hearings, and re-designed case management processes, which started as contingency procedures during the pandemic.

11. She explained to members that the first two phases of the e-bundles pilot in the High Court, using the Bar's OBBS service and Bundlesdocs, have been largely positive, and any issues encountered are being taken forward by LCJO and NICTS. The next phase of the pilot is to test Caselines, but as the planned case before Mr Justice McAlinden on 20th January settled, work towards identifying a new case for hearing before Easter was in hand.
12. The profession have been encouraged to continue using e-bundles in appropriate cases beyond the pilot - where practice directions permit e-bundles to be lodged and with the permission of the court.
13. Mrs McMurray explained that the LCJO is finalising a draft practice direction which will aim to standardise the 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. This will be issued for a short targeted consultation - the directions will deal with how a permitted e-bundle should be structured and lodged with the court, and will be equally applicable to the provision of e-bundles by litigants in person. It will not specify any software packages for preparing the e-bundle which may be as simple as a PDF version of a bundle created on Word or a number of free packages available for occasional users.
14. She also clarified that consideration is being given to the secure storage of e-bundles, and to reviewing retention and disposal schedules for electronic documents. There are no plans to extend the use of e-bundles beyond the High Court at this stage.

Modernisation update

15. Mrs Ward explained that since the last update to the sFJB, the NICTS Modernisation Programme has been rebranded as the Vision 2030 Portfolio, reflecting the projected timescale for completion of the modernisation, which will be delivered through the Digital, Service Design, Estates and People Programmes. The Portfolio continues to fully support the pace of change required to keep the administration of justice operational during Covid-19. The following changes and enhancements have been implemented since the last meeting on 18 October:
 - Upgrade of the new courtroom technology (providing upgraded audio and video technology and wi-fi connectivity) continues with 55 courtrooms now complete and the remaining 14 courtrooms to be upgraded by August 22. Royal Courts of Justice (RCJ) Queens Bench (QB)

3 was upgraded week commencing 10 Jan 22 and RCJ Court of Appeal is planned for 25 April 22. Lack of courtroom availability may slow down final installs. [To note - 72 sightlink licences and 20 webex licences are in operation, and an additional 30 Video Conferencing Units installed in courtrooms and tribunal hearing rooms to facilitate remote and hybrid hearings in all operational courtrooms across the court estate.]

- 82K sightlink connections were made in November, which took the total to over 1 million since last March. In comparison at the beginning of this pandemic we had 22K sightlink connections, this shows the extensive growth of this scheme.
- The Department is taking forward a Statutory Instrument for debate in the Assembly during February, to which affirmative approval is required. Approval will enable the extension of the current Coronavirus Act legislation, thereby ensuring that we have legislation in place to continue using remote hearings. Ms Ward clarified that it is envisaged that to enable to protect the usage of sightlink the Sunset Clause may be reviewed on a 6 monthly basis, until there is a permanent solution via legislation.
- The Probate Portal went live on 14 June enabling applications for grants of probate and letters administration to be progressed online. The Portal continues to receive positive feedback from the public, solicitors and staff. As of 16 December, 1029 applications have commenced on the portal and 713 applications have been completed with 3353 documents uploaded and 646 grants issued. Further functionality to allow the addition and extension of caveats via the portal has completed and went live on 18th November 2021. Project closure, which will include any lessons learned reporting, is planned for the end of January 2022.
- The NICTS Digital Strategy was approved by the Strategic Oversight Group (on which the Lady Chief Justice, DoJ Permanent Secretary and NICTS Acting Director sits) at their last meeting on 2 November 21. The Digital Strategy was developed reflecting judicial digitisation priorities and feedback from stakeholders throughout its development. This has now been shared with the Justice Committee and was launched on 17 January 2022, and the 2022/23 delivery plan will be agreed with the Vision 2030 Board in February.

- A State of the Estate report has been completed and presented to the Strategic Oversight Group and Agency Board. Extensive work is required to address the findings of the report and will require significant resource and capital investment over a number of years. Work is currently underway to develop and agree the estates delivery plans for 2022/23.

Problem-solving courts

Family Drug and Alcohol Court (FDAC)

16. Mr O'Connor explained that the evaluation into the FDAC is being developed with pro bono support from the academics at QUB (Queens University, Belfast). Good progress is now being made and it is hoped the evaluation will be published before the end of the business year

DoJ Expert Witnesses pilot scheme

18. Mr O'Connor highlighted that positive signs continue to emerge from the Expert Witnesses Pilot scheme. Between the launch in January and November 2021, The General Authority was used 240 times, which represents 89% of cases. Just 30 cases, 11%, fell outside the General Authority. In most cases that seems to be because the expert was approved before the General Authority was introduced. In a few cases it appears the solicitor did not use the correct codes when applying but that can obviously be addressed through further communications with the profession and we are reassured that the work did in any event fall within the scope of the pilot in terms of hours and the hourly fee. The Department is now taking steps to progress the planned formal six-month review including qualitative analysis.

Voice of the Child and Vulnerable Adults

Registered Intermediaries (RIs)

19. Mr O'Connor explained that preparatory work for a consultation on the extension of RI support to Civil and Family proceedings is in train. In the interim, to inform policy the Department is continuing to develop evidence on scope and need by providing RIs on a case by case basis, subject to an assessment of need and a direction of the court. To date there has been 18 cases of RI's used with Family and Civil court settings. Support has been provided on the same basis as the criminal scheme, that is, restricted to the giving of evidence.

20. The Chair queried whether the use of RIs would be impacted by the special measures within the Domestic Abuse legislation. He said that there is the possibility we could follow the criminal provision to help with the writing of the court rules and pointed out that as there is a tight timetable for commencement of the provision there will be a requirement for collaboration. Mr O'Connor was content to liaise with parties when required.

Resolutions outside court

DoH & DoJ Private Family Law Early Resolution Action Plan (The Plan)

21. Mr O'Connor described to members how good progress is being made in progressing actions under the Plan. Work on a parenting agreement template and an associated animation is nearing completion. 3D tours of courtroom at each tier and a Masters chambers are also being finalised and should be ready to launch in the next few weeks.

22. He explained that other tools also in progress include a tender for information sessions for separating parents on options for resolving disputes and guidance to help Litigants in Person prepare for attending court for the first time. The feasibility of other potential actions including a mediation pilot remain under consideration. The first meeting of a stakeholder reference group to help shape the Action Plan further is expected to take place shortly. It is anticipated that engagement will help determine other forthcoming actions.

Public law system

Guardian Ad Litem (GAL) & Social Worker resources

23. Ms Shaw clarified that currently there are 52 requests for a Guardian appointment on NIGALA waiting lists for allocation. The number remains consistently around 50. Whilst currently there is a full complement of staff in line with funding, the duration of cases within the Courts has continued to increase. This impacts directly on capacity to take on new referrals. This is a complex situation which, alongside pressures within Trusts, contributes to delay.

24. The Chair asked about current waiting times. Ms Shaw explained that the lists are relatively the same and that they continue to prioritise in terms of greatest need. The solicitor for the GAL is appointed in time for the first court hearing, with the GAL appointed later. She explained there is a longer delay for Article

56 appointments. These can take a considerable amount of time but times can fluctuate and depend on resource capacity.

Social Worker Resources

25. Ms McDaniel noted there are serious pressures in regards to social worker shortages and this is replicated throughout all regions and across all court tiers. In four of the five Trusts, there are 641 unfilled posts, the majority are vacant positions and 40% are a result of absences both covid and non-covid.
26. 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 Northern Ireland Social Care Council (NISCC) register on 23rd December 2021. The appeal was structured in a way which 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. There has been an excellent response to the appeal, with over 963 responses received, 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.
27. Ms McDaniel explained to members a workforce review for Social Work in Northern Ireland has now been completed. 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.
28. Following two workshops in the autumn with key stakeholders, a new Strategic Oversight Group is being established. The group will be chaired by the Chief Social Worker and tasked with ensuring the implementation of the social work workforce action plan.
29. Ms McDaniel said 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.

30. Ms McDaniel also wished to take this opportunity to explain to members that the Health Minister has commissioned a substantial overarching review into Children's Services.

Private law system

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

31. Mr O'Connor explained how work is ongoing to consider all aspects, legislative and operational, required for implementation of the provisions re prohibition of cross-exam in family proceedings. A Project Group co-ordinating work on implementation has met several times and the next meeting is scheduled for February.

32. He informed members that section 28 of DACPA, provides a legal aid waiver of the usual financial eligibility limits for eligibility for civil legal services, it is expected to come into effect from February 2022 in line with the provisions of the Act relating to the domestic abuse offence. The Department is currently working to finalise the list of forms of evidence that will be used on commencement to enable a victim of abuse to demonstrate their eligibility for the waiver. It is expected that, following the commencement of the provisions, this list of acceptable evidence will be progressively built up over time.

33. A tender exercise will shortly be conducted to appoint a consultant to conduct research and stakeholder engagement and to make recommendations to the Department of Justice on the actions that should be included in the report to be provided by the Department to the Assembly on proposed additional forms of support for victims of domestic abuse involved in private family law proceedings. This will be an open competition, and it is hoped that applications might be received from experts in all relevant fields.

Domestic Abuse - Training

Judiciary

34. The Chair said that the DoJ are working together with the Judicial Studies Board to deliver training on the new domestic abuse offence. Some members of the judiciary had taken part in the training in the last week and many found it to be extremely informative, for example looking at the impact the victim encounters

when giving evidence. The training was provided by the Criminal Law Tutor Judge Rafferty and a legal academic from Queen's University Belfast.

All staff

35. The Chair informed members the DOJ have also developed an online training package targeted towards those who may come into contact with a victim, or abuser, during the course of their duties, all staff are encouraged to undergo the training in advance of the legislation coming into force in February.
36. Ms Kilpatrick said that the training package comprises four modules on prevalence, legislative framework, impact and pathways to support. This is part of a programme of awareness raising, as well as training, for use by a wide range of statutory and voluntary sector partners, including those in the criminal justice system, ahead of the new offence coming into force. There is the possibility that this could be accessible to others. The Chair stated that this would be a useful tool that many could benefit from.

Delays in Children Order Cases/ Performance Monitoring

Review of the COAC Best Practice Guidance

37. Ms McDaniel said that the Working Group has now secured two experts from a social work and legal background, with the necessary experience and expertise to lead on a review of the COAC guidance. A meeting with the two leads and steering group members is being scheduled for January (the work is planned to last 6 weeks) after which a revised implementation timeline will be developed and a work plan established.

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

38. Judge Crawford informed members that the ninth meeting of the sub-committee was held on 10 January. Members agreed that it is more productive to identify cases on an ongoing basis rather than a retrospective evaluation. Judge Prytherch has commenced a case review together with her staff with a 30 week parameter which will hopefully highlight any common trends that are causing delay with the Family Proceedings Court (FPC).
39. She explained that NIGALA intend to complete a full examination of cases when they have been in the system longer than 300 days. This will allow for

real time information to be collated over the five Trust leads. The aim of this pilot is to use the 300 days baseline and specifically interrogate Article 60 cases to identify;

- any pre-proceedings;
- where children are at that time;
- the current legal position;
- was the case transferred;
- location of family;
- any issues surrounding case management;
- additional expert witness statements required;
- any staff changes.

40. Judge Crawford explained that this will provide a realistic overview of the current position of cases. The impact of Covid may be reflective in the data but it will provide a meaningful evaluation of where cases are and how to progress them further. The pilot started in December 2021. Collaborative work will commence between the judiciary and NIGALA to ensure that data is shared; to ensure a common focus on delay and to explore how to provide solutions.

Criminal Investigations

41. Judge Crawford highlighted that excellent progress had been made in regards to the working group looking at issues concerning criminal investigations in Public Law Children's Order Proceedings, and the disclosure of information held by the PSNI, this group met on 13th January 2022. The draft template (PSNI Disclosure) and Guidance has been reviewed with Trust representatives and the new process has been met with positive remarks, with the view that many of the Trust's concerns had been addressed. The group has continued to review the draft and members are aiming to finalise the form and guidance and share with members when complete.

Other Areas

Litigant in Person (LiP)

LiP Reference Group

42. Mr O'Connor said that the Reference Group continues to make good progress. LiP members have been very positive about the actions being taken by the

Department under the Private Law Action Plan and NICTS commitment to engage on the transformation agenda. The last meeting of the Reference Group took place mid-January. That meeting helped to shape the Group's forthcoming agenda.

Other Business

Establishment of a Regional Care and Justice Campus

43. Ms McDaniel explained that DoJ and DoH Programme Teams are leading the development and implementation of an integrated Care and Justice Campus, underpinned by more aligned and coordinated interventions in the community. Following the outcome of a consultation between October 2020 and January 2021, the Programme is now at phase 1 of implementation stage. By December 2022 it is envisaged that a number of key outcomes will have been achieved, these include:

- the establishment of a health and therapeutic multi-disciplinary team that will work across both Lakewood Secure Care Centre and Woodlands Juvenile Justice Centre, managed by a Clinical Lead;
- agreement on a standardised provision of education on both sites with associated development work;
- the appointment of the Head of Operations for the secure care centre and;
- provision of joint training for both staff groups at Woodlands Juvenile Justice Centre and Lakewood Secure Care Centre.

44. Ms McDaniel said that development and preparatory work will be progressed in parallel on other key areas. This includes satellite and step-down provision, governance arrangements and standards for the new joint campus along with scoping work for the legislative programme that will be required to establish the Campus.

Adoption and Children Bill

45. Ms McDaniel explained to members that the Adoption and Children Bill 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. 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.

46. She noted that the Bill was introduced in the Assembly on 13 September 2021 and is currently at Committee Stage. The Health Committee is due to conclude its scrutiny and publish its report by 28 January 2022. Publication of that report brings the Committee Stage of the Bill to an end. The Bill will then move to Consideration Stage which is likely to be scheduled for week commencing 14 February 2022. Subject to successful completion of the remaining stages of the Assembly process by 22 March, it is expected that the Bill will receive Royal Assent in May 2022.
47. Ms McDaniel highlighted that further briefing on the Bill, and the implications for the courts where they exist, will be provided to the Board once the Bill is enacted. She explained that implementation of the Bill will run over a number of years.
48. The Chair asked whether there were training plans for those elements to be introduced first. Ms McDaniel said there will be three phases of implementation. Some adoption support services will commence in 2023/24 and there is a phasing development plan which can be shared with members. The Chair accepted the offer and highlighted that there will be significant training requirements on the basis of this Bill. As a major reform it would be helpful to have a draft timetable.

Action point: Ms McDaniel to provide draft timetable in time for the next meeting.

Any Other Business

49. Nothing to note.

Next Meeting

50. The date of the next meeting is Monday 25th April 2022 at 4:15pm.