

## SHADOW FAMILY JUSTICE BOARD

07 March 2018

### **Attendees:**

Mr Justice O'Hara (Chairman)  
District Judge (DJ) Gilpin  
District Judge (Magistrates' Court ) Prytherch (DJ(MC))  
Master Sweeney  
Laurene McAlpine (Department of Justice (DoJ))  
Peter Luney (Northern Ireland Courts and Tribunals Service (NICTS))  
Paul Andrews (Legal Services Agency (Legal Services Agency (LSA))  
Michael Foster (Department of Finance (DoF))  
Eilis McDaniel (Department of Health (DoH))  
Martin Quinn (Health and Social Care Board(HSCB))  
John Growcott (Health and Social Care Trust (HSCT))  
Kelly Breen (Law Society (LS))  
Peter Reynolds (Northern Ireland Guardian Ad Litem Agency (NIGALA))  
Grainne Murphy BL (Family Bar Association (FBA))  
Mandy Kilpatrick (Principal Private Secretary (PPS) to the Lord Chief Justice)

**Apologies:** None received

**In attendance:** Patricia Radcliffe

### **Minutes of the meeting of 13 December 2017**

Minutes of the meeting were approved with one small amendment to paragraph 5 to record that while FJ77 was not necessarily an agreed recommendation it would be for DOH rather than DOJ to lead on.

### **Action points**

Mrs McAlpine outlined the overlap between the Access to Justice Review (A2J) Part 2 and the Family Justice Review group report and the areas in which the two report recommendations align:

Personal Litigants - Inquisitorial approach - A2J part 2-38 and FJ 150

The Chairman reflected on the current debate about 'inquisitorial approach'. The Board noted that in other jurisdictions inquisitorial is understood in a more developed sense whereby a judge acts as an investigator. It was agreed that a change of rules would be required to facilitate any change and that further

discussion as to what or should be meant by 'inquisitorial' within this jurisdiction was necessary.

Early Educative Programme and Mediation - A2J part 2-73B and FJ 31-34

### Resolutions Outside Court

Mrs McAlpine and Ms McDaniel advised that they are undertaking a scoping exercise in relation to the former and a draft implementation plan and timeline in relation to the latter was shared with the shadow Board (Board to be kept updated on progress).

Ms Murphy referenced the New Zealand model and the Board discussed it and the approach in England. Master Sweeney advised that the New Zealand model incorporates a government funded programme to obviate the need to go to court.

There was brief discussion surrounding funding and the Chairman noted that expenditure at the initial stages could lead to a later reduction in legal costs.

It was agreed that the programme needs to be established first then accessibility determined.

Ms McDaniel shared a copy of a booklet on Separation in Northern Ireland – Family mediation and advised that DOH were in the process of updating the booklet and also considering producing a DVD for online viewing. DJ (MC) Prytherch referenced a video which she will share with Mrs McAlpine and Ms McDaniels.

**ACTION: DJ (MC) Prytherch**

### Open justice

#### Journalist accreditation & Reporting of Family cases

A report on Comparative Reporting in Family Cases was discussed by the Board, relating to restrictions that might apply to the media/press attending.

The view of the shadow Board was that Press should have access to family courts but that this imposed responsibility on them to observe the requisite sensitivities. Ms Murphy reported that the experience within Dublin's Four Courts represented a positive outcome to Press attendance.

Paul Andrews advised that The Association of Chief Police Officers (ACPO) was replaced by the National Police Chiefs Council (NPCC) in 2015 - the NPCC confirmed that if a journalist holds a press card that ACPO would have recognised them as a journalist. The National Union of Journalists (NUJ) had confirmed that

journalists would be recognised as such by the police but that there is no certification or accreditation process.

It was agreed Mandy Kilpatrick would investigate further and provide an update at the next meeting

**ACTION: Mrs Kilpatrick**

### **Problem solving courts**

Mrs McAlpine reported that a Family Drug and Alcohol court commenced in Newry at the start of 2018 and would run until March 2019. Mrs McAlpine advised that she would report back to the Board with anything significant to emerge once it had bedded in.

### **Single tier system**

The Chairman advised that he was in discussion with the Recorder and the Presiding District Judge (Magistrates' Court) regarding the introduction of administrative processes to expedite the transfer of cases until such time as a single tier system, which requires legislation, could be introduced. It was noted that it would be helpful if both the Bar and Law Society also addressed this issue in their training programmes. Removing avoidable delay was considered a high priority and Ms Breen noted that achieving an early listing date for private law cases assisted in progressing the required fresh legal aid application.

Mr Luney reported to the shadow Board that arrangements in place are now working effectively in relation to delivery of case paperwork to judges.

### **Voice of the child and vulnerable adults**

Mrs McAlpine provided a paper to update the shadow Board regarding the NSPCC proposal to pilot a Young Witness Service in the Family Courts. Issues including resourcing, training and the nature of the services to be provided were to be considered. Ms McAlpine undertook to keep the Board informed.

### **Registered Intermediaries**

Mrs McAlpine outlined a paper on the extension of the Registered Intermediaries service to family proceedings. She advised that securing sufficient funding is the

main challenge and until a Minister is in place to determine priorities it will be difficult to progress.

The Chairman noted the lack of a funded structure would be prohibitive however he would seek feedback on what options may be available in the interim.

**ACTION: Chairman to raise the issue at a Family Judges training session on communicating with children on 8 March 2018 to explore what options may be available.**

### **Divorce Proceedings**

Mr Foster advised that this subject matter was subject to Ministerial approval however he was to meet and discuss with Ms McAlpine and Mr Luney what may limited options may be achievable in the interim. Mr Foster undertook to report back at next meeting.

**ACTION: Mr Foster**

### **Care Proceedings Pilot**

It was noted that those routinely involved in the Pilot had an in depth understanding but that to extend this further DOH will run an information session for the legal profession towards the end of April. It was agreed the session could include other interested parties.

### **Practice Guidance in the use of experts in public law**

The Chairman proposed that nominees from the shadow Board should meet to explore how the current Practice Guidance could be updated. Mr Reynolds agreed that nominations including a judicial nominee by the Chairman, should be provided to him to facilitate a meeting before next meeting of the Board in June.

**ACTION: Chairman, Mr Reynolds and shadow Board members**

### **Item 5 Residential Accommodation beyond existing children's homes.**

The Chairman raised the issue of children with disturbed backgrounds being removed from parents and sent to specialist homes in Scotland or Ireland at extensive cost. He queried the availability of a specialist home in Northern Ireland and whether this would sit under the remit of the Trust or the Department.

Ms McDaniel advised that there was a body of work ongoing surrounding a review of specialist provision and that one key recommendation to emerge has been the

establishment of a joint care and justice campus. Further exploration is warranted to address the identification of alternative placement options.

While it was noted this issue sits outside the Board's remit the Chairman asked that the shadow Board was kept informed.

**ACTION: Ms McDaniel**

### **Any other business**

The shadow Family Justice Board agreed that Minutes should be published. It was agreed that once the Board was formally established consideration should be given to the establishment of a Family Justice Young people's Board.

### **Date of next meeting**

The next meeting will take place on **Tuesday 5 June, 2018** at **4.15pm** in the Judges' Assembly Room, Royal Courts of Justice.