

SHADOW FAMILY JUSTICE BOARD

Minutes

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

Attendees: Mr Justice McFarland (Chair)
Judge Crawford
District Judge Logue
Master Sweeney
District Judge Prytherch
Mandy Kilpatrick (PPS to LCJ)
Elaine Topping (NICTS)
Eilis McDaniel (DoH)
Paul Andrews (LSA)
Michael Foster (DoF)
Steven Allison (DoJ)
Janice Spence (Law Society)
Bláithin Cleland (FBA)
Dawn Shaw (NIGALA)
Tom Cassidy (HSCNI)

Secretariat: Catherine Di Maio (LCJO)
Julie McMurray (LCJO)

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

Apologies

3. Apologies were noted from Karen Ward (NICTS) and Brendan Whittle (HSCNI).

Minutes of the sFJB meeting on 25th April 2022.

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

Presentation on the Adoption and Children Act

5. The Chair introduced Julie Stevenson from the Department of Health and thanked her for attending today, an overview paper on the Adoption and Children Act 2022 prepared by Mrs Stevenson was shared with members in advance of the meeting. Mrs Stevenson advised that the Adoption and Children Act will be implemented over 5 years from 2022 to 2027. Phase one has commenced this year and phase two will commence in April 2023 focusing on adoption services which can be implemented within the legislative framework. Mrs Stephenson added that the Department will be required to publish and lay before the Assembly a report on the implementation of the provisions in Parts 1 and 2 of the Act at least once every 3 years, the first report will be due in 2025.

COVID – 19 Business Continuity, Recovery & Modernisation

LCJO Operational Update

6. Mrs McMurray updated members that the Lady Chief Justice's Office issued updated guidance on the Judiciary NI website on 22 June 2022 noting that whilst social distancing has been reduced to 1 metre, pressures on accommodation remain. Mrs McMurray added that current data shows some signs of recovery, provisional figures for April to June 2022 are available on the Department of Justice Website. The figures 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% and for private law there was an increase of 3% from 36.9%.
7. Mrs McMurray noted there has been 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%. It is noted that figures for 2021 may not provide the best comparison and so figures for the same period in 2019 have been set out which shows that there were 1,233 Children Order Applications received during April to June 2019 This was a 2% increase on the 1,210 applications received during April to June 2018. The number of applications disposed has decreased by 2% from 1,267 during April to June 2018, to 1,238 for the same period in 2019 the average waiting time for applications disposed was 48.1 weeks for public law and 26.4 weeks for private law. The average waiting times have increased by 6% for public law applications and decreased by 5% for private law applications, compared to the same quarter last year (45.5 and 27.7 weeks).

Judicial Modernisation & E-Bundles update

8. Mrs McMurray provided an update to members on the new Practice Direction 2/2022 which 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. Mrs McMurray added 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. Plans to extend the use of e-bundles beyond the High Court is subject to resolution of the storage arrangements.

E-Bundles

9. Mrs McMurray provided an update on the draft Electronic Discovery (e-discovery) Checklist which 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).

Judicial Advisory Group

10. Mrs McMurray provided an update on the Judicial Advisory Group and noted 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.

Modernisation update

11. Mrs Topping provided an update to members on the Courtroom Refresh Project, 64 courtrooms have received upgraded audio and visual technology. The three remaining courtrooms will complete once stock becomes available and access to the courtrooms can be secured thereafter. Mrs Topping advised the next phase of the Project will focus on the installation of Public Information Displays across court venues and work has commenced with the supplier to agree delivery plans. Mrs Topping added that 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 DoF and NICTS are now focusing on preparation to begin procurement in coming months.

12. Mrs Topping advised that following engagement and agreement with a range of stakeholders, NICTS has commissioned 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 are currently evaluating their findings and a draft report will be shared with NICTS in October. Mrs Topping outlined 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 due to a delay it will not go live in October. NICTS are also just about to award 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 Topping provided an update on the Estates Programme and advised that NICTS has revised the guidance in relation to COVID mitigations and this enabled an increased capacity within courtrooms to reflect the reduction in social distancing from 2m to 1m. This has also enabled NICTS to move staff out of ancillary spaces and to free up consultation spaces again within court venues. With regard to the RCJ Infrastructure Upgrade Project, work is progressing well. The Integrated Consultancy Team and 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 to restart on the North West Accommodation Project, which will include a revision of the Strategic Outline Case.

Early work has begun on the Estates Strategy and NICTS will engage with stakeholders as this work develops.

Problem-solving courts

Family Drug and Alcohol Court (FDAC)

14. Mr Allison explained that work to finalise the evaluation of the FDAC evaluation is reaching completion. The pilot was a joint DoJ, DoH initiative and next steps will be subject to consideration of both Departments.

DoJ Expert Witnesses pilot scheme

15. Mr Allison advised members that 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 and the extension of the General Authority to other court tiers will be considered as part of the evaluation.

Voice of the Child and Vulnerable Adults

Registered Intermediaries

16. Mr Allison advised that the Departments consultation on the extension of Registered Intermediary support to Civil and Family proceedings closed on 14 June. Work to determine next steps is ongoing. In the interim, the Department continues to provide RI's 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

DoH & DoJ Private Family Law Early Resolution Action Plan

17. Mr Allison noted 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. This is also covered at item 11 under the Litigant in Person update.

Public law system

Guardian Ad Litem (GAL) resources

18. Mrs Shaw advised that NIGALA very much welcomed and appreciated the meeting with the Family Court Judges on the 24th May 2022. The current Court Report Templates developed by the Agency were shared with the Judiciary and it was accepted that this standardised approach for the Guardians reports was to be welcomed. It was also agreed that an annual meeting between the Family Court the Judiciary and NIGALA would be useful.
19. Mrs Shaw updated members that currently the number of cases waiting to be allocated to a Guardian, at 14th October is 54 and Cases continue to be triaged and those most urgent cases where removal is required are allocated as a priority. Mrs Shaw added that NIGALA Board has met with Professor Ray Jones who is the Independent Chair of the Children's Services Review which is currently

underway in NI and it was agreed that a meeting with the Judiciary, Children's services and NIGALA would be helpful in his 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.

Social Worker resources

20. Mrs McDaniel advised that 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. An action plan which aims to increase the pathways into SW training, improve 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. Mrs McDaniel added that the Department 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.

Private law system

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

21. Mr Allison advised members that 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 is continuing 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. The Department has made good progress on the report under section 29 Report 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. Mr Allison added that 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. Mr Allison advised that the Department has a potential framework for fees which they hope to be able to discuss with the profession in the near future. Mr Allison also noted it had been suggested to the Law Society that a group of experienced practitioners could be pulled together to think through the sorts of evidence which might form part of the measures. Mr Andrews and Ms Spence have raised this again with the Law Society to set this group up.

Family Resolution Hearings

22. The Chair updated members on the progress of the Family Resolution Hearing pilot which 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 Chair advised that the purpose is to achieve resolution of disputes in a timely fashion. The resolution hearings will take place one day a month which will be set aside for the exclusive listing of cases for the Resolution Court, with up to four cases per day.

Delays in Children Order Cases/ Performance Monitoring

Review of the COAC Best Practice Guidance

23. Mrs McDaniel provided an update on the review of the COAC guidance. 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. Mrs McDaniel added that whilst 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 (ie. 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.
24. Mrs McDaniel explained that 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. Mrs McDaniel added that 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. 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 NICTS, with input from DoH. Both Departments continue to work closely together and it is expected a draft business case will be shared with Steering Group members for their consideration by the end of November.

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

NIGALA Review Pilot

25. HHJ Crawford updated members on the NIGALA review pilot commenced in December 2021, designed to inform a collective understanding of the factors contributing to delay, and explained 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 (NHSCCT) are working collectively with the five Trust leads in reviewing the data at a monthly meeting where they discuss the findings.

Criminal investigations working group

26. HHJ Crawford provided an update on the working group involving the PSNI and the legal profession. The 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 following documents were prepared by the group and were rolled out to stakeholders to commence on the 30 September 2022.

- PSNI Disclosure Schedule
- Pathway regarding 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 data received.

Litigants in Person

LIP Reference Group

27. Mr Allison provided an update on the work of the Litigant in Person Reference Group, noting that the 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.

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 Topping advised that details have been made available for anyone attending court on the DoJ website Information for Litigants in Person, Department of Justice (justice-ni.gov.uk), and all court staff have been made aware of the availability of this, however staff have not been specifically instructed to advise all attending LiPs about it.

Other Business

Establishment of a Regional Care and Justice Campus

28. Mrs McDaniel provided an overview on the establishment of a Regional Care and Justice Campus and explained that a joint Department of Justice and Department of Health Programme Team is 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 (Lakewood) and Woodlands Juvenile Justice Centre (Woodlands) 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.

Mrs McDaniel advised members that 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.

Any other Business

Open Justice

29. The Chair provided an overview on the Family Division's Transparency Review in England & Wales where a 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. 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 anticipated that the three courts will be publicly identified during early October. The Chair added that it is hoped that the outcomes may assist the DoJ in developing Open Justice recommendations for NI and noted that family judgements are also available on the Judiciary NI website, with 32 judgements having been uploaded this year to date.

Court Children's Officer

30. The Chair explained the availability of Court Children's Officers was raised with the Lady Chief Justice on a visit to the regional court offices by DJ Mullan. The Chair added that DJ Mullan has advised that she will make further enquiries with the Court Children's Service in Londonderry. The Chair enquired if members had experienced any similar issues and HHJ Crawford advised that it is similar to the availability of social workers, that resources are limited. Mrs McDaniel agreed it is a similar situation and said she would make enquiries and update members at the next meeting.

Action: Mrs McDaniel to provide an update on the availability of Court Children's Officers at the next meeting.

Correspondence to Chair of the Protection and Justice Working Group

31. The Chair discussed correspondence that had been received on the 19 May 2022 from the Chair of the Protection and Justice Working Group, Claire Edgar. The correspondence noted concerns in relation to the number of ex-parte non molestation orders being granted in the District Judges Court. It had been agreed in replying correspondence to Claire Edgar that the Shadow Family Justice Board

would keep the matter under review as arrangements settle post covid. Figures for Q1 and Q2 2022 show that 412 (Q1) and 414 (Q2) ex-parte non molestation and occupation applications were received, of these 190 (Q1) and 183 (Q2) were refused or dismissed. The Chair noted the concerns raised and agreed that the Shadow Family Justice Board would continue to monitor the figures.

Action: Secretariat to keep item on the agenda for the next meeting of the Shadow Family Justice Board.

Next Meeting

It was agreed the next meeting of the Shadow Family Justice Board would take place on the 1st March 2023 at 4:15pm.